

ELECTION PROCEDURES BYLAW

A BYLAW OF THE CITY OF VICTORIA

The purpose of this Bylaw is to regulate the conduct of City elections and other voting, including the use of automated voting machines and mail ballots.

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Under its statutory powers, including sections 8(4) and 65 of the *Community Charter* and Parts 3 and 4 of the *Local Government Act*, the Council of The Corporation of the Corporation of the City of Victoria in an open meeting enacts the following provisions:

PART 1 – INTERPRETATION

Title

1 This Bylaw may be cited as the “Election Procedures Bylaw”.

Definitions & interpretation

2 (1) In this Bylaw

“acceptable mark”

means a mark that is identifiable by the vote tabulating unit, and is made by an elector in the space provided on the ballot opposite the name of any candidate or opposite either ‘yes’ or ‘no’ on a question.

“automated vote counting system”

means a system that counts and records votes, processes and stores election results, and is comprised of the following equipment having the functions indicated:

(a) a number of ballot-scanning vote tabulating units, each of which rests on a ballot box, and

(b) a number of portable ballot boxes;

“ballot”

means a single automated ballot card designed for use in an automated vote counting system, which shows

(a) the names of all of the candidates for the office of Mayor and each office of councillor, and

(b) all of the choices on all of the questions on which the opinion or assent of the electors is sought;

“ballot return override procedure”

means the use, by an election official, of a device on a vote tabulating unit, that causes the unit to accept a returned ballot;

“election headquarters”

means City Hall, located at #1 Centennial Square, Victoria, British Columbia;

“election”

means an election for the number of persons required to fill an office on the City Council;

“elector”

means a resident elector or non-resident property elector of the City;

“general local election”

means the election held in 2022 and in every 4th year after 2022 for the mayor and councillors of the City.

“general voting day”

means

- (a) for a general local election, the 3rd Saturday of October in the year of the election,
- (b) for elections other than a general local election, the date set under sections 54, 55 or 152 of the *Local Government Act*,
- (c) for other voting, the date set under section 174 of the *Local Government Act*;

“memory card”

means the storage device that stores all of the permanent results for the vote tabulating unit;

“other voting”

means voting on a matter referred to in section 170 of the *Local Government Act*;

“portable ballot box”

means a ballot box that is used as a voting place where a vote tabulating unit is not being used or is not functioning;

“question”

means the bylaw or other matter on which the assent or the opinion of the electors is sought by other voting;

“register tape”

means the printed record, generated from a vote tabulating unit at the close of voting on general voting day, that shows the number of votes

(a) for each candidate for the office of Mayor and each office of councillor, and

(b) for and against each question;

“returned ballot”

means a voted ballot, inserted into a vote tabulating unit, that is not accepted and is returned by the unit to the elector with an explanation of the marking error that caused the ballot to be unacceptable;

“secrecy sleeve”

means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector;

“vote tabulating unit”

means a device into which voted ballots are inserted, and that scans each ballot and records the number of votes for each candidate and for and against each question.

- (2) Each provision of this Bylaw is intended to be independent of all other provisions to the extent that if any provision is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw remain valid and enforceable.

Application

- 3 This Bylaw applies to all elections and all other voting.

PART 2 – CONDUCT OF ELECTIONS & OTHER VOTING

Nomination deposits

- 4 (1) A nomination for election to hold office as a member of Council must be accompanied by the following nomination deposits:

- (a) \$100.00 for each candidate for the office of Mayor;
 - (b) \$100.00 for each candidate for the office of councillor.
- (2) A nomination deposit must be held and dealt with by the chief election officer in accordance with section 88 of the *Local Government Act*.

Number of nominators

- 5 A nomination for election to hold office as a member of Council must be made by at least the following number of qualified nominators:
- (1) 25 for each candidate for the office of Mayor;
 - (2) 25 for each candidate for the office of councillor.

Signage

- 6 An election sign for an election or municipal referendum is permitted on property only in accordance with the specifications and requirements in Schedule A of this Bylaw.

Provincial list of voters

- 7
- (1) As authorized under section 76 of the *Local Government Act*, the most current Provincial list of voters prepared under the *Election Act*, available at the time an election or other voting is to be held, is the register of resident electors for the City.
 - (2) The Provincial list of voters becomes the register of resident electors no later than 52 days before general voting day for each election or other voting.
 - (3) A person who, on the basis of the Provincial list of voters, appears to meet the qualifications to be registered as a resident elector of the City is deemed to be registered as a resident elector of the City.

Voter identification

- 8
- (1) The chief election officer or the presiding election official is authorized to require an elector to produce identification in the form of any class of document set out in section 3 of B.C. Regulation 380/93 [*Local Government Elections Regulation*].
 - (2) The chief election officer or the presiding election official may take other reasonable precautions to ensure that an elector is qualified to vote and votes only once in an election.

Additional general voting opportunities

- 9 As authorized under sections 106 and 170 of the *Local Government Act*, the Council authorizes its chief election officer to
- (a) establish additional voting opportunities for general voting day for each election and other voting; and

- (b) designate the voting places and voting hours for the voting opportunities under subsection (a), within the notice requirements and limits set out in section 106(2)-(4) of the *Local Government Act*.

Required advance voting opportunities

- 10 As required under sections 107, 170 and 175 of the *Local Government Act*, advance voting opportunities must be held, for each election and for other voting, on the following days before general voting day:
 - (a) on the 10th day before general voting day; and
 - (b) on the Monday immediately preceding general voting day, or, if the Monday immediately preceding general voting day is a holiday, on the next day that is not a holiday.

Additional advance voting opportunities

- 11 As authorized under section 108, 170 and 175 of the *Local Government Act*, the chief election officer is authorized to establish dates for additional advance voting opportunities and to designate the voting places and set the dates and voting hours for those additional advance voting opportunities.

Special voting opportunities

- 12
 - (1) The chief election officer must establish the dates and voting hours when and the places where special voting opportunities will be conducted for each election or other voting in accordance with this section and any additional requirements under the *Local Government Act*.
 - (2) The only electors who may vote at a special voting opportunity are electors who, on the date on which the special voting opportunity is held and before the end of the voting hours for that special voting opportunity, have been admitted as patients to the hospital at which the special voting opportunity is held, or are residents at a care facility with at least 50 residents for a which a special voting opportunity is being conducted.
 - (3) The voting hours for a special voting opportunity must not be earlier than 9:00 a.m. or later than 4:00 p.m. of the day on which the special voting opportunity takes place.
 - (4) The chief election officer may limit the number of candidates' representatives who may be present at a special voting opportunity, subject to section 109(3) of the *Local Government Act*.

PART 3 – AUTOMATED VOTING

Use of voting machines

- 13 Voting may be conducted in a general local election and other voting in the City by using an automated vote counting system.

Automated voting procedures

- 14 (1) When an elector enters a voting place, and before a ballot is issued to the elector, the presiding election official must direct an election official to provide a demonstration of the method for voting by using an automated vote counting system to the elector, if requested by the elector.
- (2) After receiving a demonstration under subsection (1), if applicable, an elector must proceed to the election official responsible for issuing ballots.
- (3) The election official responsible for issuing ballots
 - (a) must ensure that the elector
 - (i) is qualified to vote in the election, and
 - (ii) completes the voting book as required by the *Local Government Act*; and
 - (b) after satisfying paragraph (a), must give to the elector a ballot, a secrecy sleeve if the elector requests it, and any further instructions requested by the elector.
- (4) After receiving a ballot, an elector
 - (a) must proceed immediately to a voting compartment;
 - (b) may vote only by making an acceptable mark on the ballot
 - (i) beside the name of each candidate of choice up to the maximum number of candidates to be elected for the office of mayor and for each office of councillor, and
 - (ii) beside either 'yes' or 'no' in the case of each question;
 - (c) must place the marked ballot into a secrecy sleeve, if applicable, proceed to the vote tabulating unit, and under the supervision of the election official in attendance, insert the ballot directly into the vote tabulating unit; and
 - (d) may request a replacement ballot from the election official in attendance if
 - (i) before inserting a ballot into the vote tabulating unit the elector decides that they made a mistake when marking the ballot, or
 - (ii) a ballot is returned by the vote tabulating unit.
- (5) The presiding election official or alternate presiding election official must carry out the following procedures if an elector requests a replacement ballot in accordance with subsection (4)(d):
 - (a) issue the replacement ballot to the elector;

- (b) mark as “spoiled” the ballot that is being replaced; and
 - (c) retain all spoiled ballots separately from all other ballots.
- (6) Spoiled ballots must not be included in the counting of votes on ballots.
- (7) For the purpose of counting acceptable marks, the presiding election official must reinsert a returned ballot into the vote tabulating unit by using the ballot return override procedure if the elector
 - (a) has not damaged the returned ballot to the extent that it cannot be reinserted; and
 - (b) does not want a replacement ballot.
- (8) A ballot counted by the vote tabulating unit is valid and all acceptable marks contained on that ballot must be counted subject to a determination made under a judicial recount.
- (9) An elector must immediately leave the voting place after the vote tabulating unit indicates that the elector’s ballot has been accepted.
- (10) The election official supervising a vote tabulating unit must insert into a portable ballot box all ballots delivered by electors during a time when the vote tabulating unit is not functioning and is not replaced.
- (11) An election official must carry out the following procedures under the supervision of the presiding election official as soon as is reasonably possible after a nonfunctioning vote tabulating unit becomes operational or is replaced with another vote tabulating unit:
 - (a) remove the ballots contained in the portable ballot box that temporarily replaced the nonfunctioning vote tabulating unit; and
 - (b) insert into the functioning vote tabulating unit the ballots removed under paragraph (a).
- (12) For the purpose of counting acceptable marks after the close of voting on general voting day, and under the supervision of the presiding election official, an election official must use the ballot return override procedure to reinsert into a vote tabulating unit ballots that were temporarily stored in a portable ballot box under subsection (10) and that are treated as returned ballots by the vote tabulating unit into which they were placed under subsection (11).

Advance voting opportunity procedures

- 15 (1) Vote tabulating units must be used to conduct the vote at all advance voting opportunities.
- (2) Voting procedures at advance voting opportunities must follow as closely as possible those described in section 14.

- (3) At the close of voting at each advance voting opportunity the presiding election official must ensure that
 - (a) no additional ballots are inserted in the vote tabulating unit;
 - (b) the portable ballot box is sealed to prevent insertion of any ballots;
 - (c) the register tapes in the vote tabulating unit are not generated; and
 - (d) the memory card of the vote tabulating unit is secured.
- (4) At the close of voting at the final advance voting opportunity the presiding election official must
 - (a) ensure that any remaining ballots in the portable ballot box are inserted into the vote tabulating unit;
 - (b) secure the vote tabulating unit so that no more ballots can be inserted; and
 - (c) deliver the vote tabulating unit together with the memory card and all other materials used in the election to the chief election officer at election headquarters.

Special voting opportunity procedures

- 16 (1) A portable ballot box must be used for all special voting opportunities unless the chief election officer determines that it is practical to use a vote tabulating unit.
- (2) The presiding election official at a special voting opportunity must proceed in accordance with
 - (a) sections 14(2), (3), and (4)(a), (b), and (c) to the extent that they are applicable when a portable ballot box is being used; and
 - (b) section 15 when a vote tabulating unit is being used.
- (3) The presiding election official at a special voting opportunity
 - (a) must ensure that a portable ballot box is secured when not in use; and
 - (b) at the close of voting at the final special voting opportunity must seal a portable ballot box and return it together with all other election materials to the chief election officer.

PART 4 – MAIL BALLOTS

Mail ballot voting and registration authorized

- 17 (1) Voting by mail ballot and elector registration by mail in conjunction with mail ballot voting are authorized.

- (2) All electors may apply to vote by mail ballot in accordance with section 18.
- (3) Once a mail ballot package has been accepted by the chief election officer, that elector may only vote by mail ballot.

Application procedure for mail ballot

- 18 (1) An elector must only apply to vote by mail ballot in the manner and form required by the chief election officer, within the time limits established by the chief election officer.
- (2) The chief election officer must make mail ballot applications available at least 21 days in advance of an election.
- (3) Upon receipt of a request for a mail ballot and as soon as practicable, the chief election officer or designated election official must:
 - (a) make available to the applicant, a mail ballot package as specified in section 110(7) of the *Local Government Act*, together with an elector registration application where required; and
 - (b) record and, upon request, make available for inspection:
 - (i) the name and address of the person to whom the mail ballot package was issued; and
 - (ii) information as to whether or not the person is registered as an elector.

Voting procedure for mail ballot

- 19 (1) In order to vote using a mail ballot, the elector must mark the ballot in accordance with the instructions contained in the mail ballot package provided by the chief election officer.
- (2) After marking the mail ballot, the elector must:
 - (a) place the mail ballot in the secrecy sleeve, and seal the secrecy sleeve;
 - (b) place the secrecy sleeve in the certification envelope, and complete and sign the certification on such envelope, and then seal the certification envelope;
 - (c) place the certification envelope, together with a completed elector registration application, if required, in the outer envelope, and then seal the outer envelope; and
 - (d) return the outer envelope and its contents to the chief election officer at the address specified so that it is received no later than the close of voting on general voting day.

Mail ballot acceptance or rejection

- 20 (1) The chief election officer or designated election official must:
- (a) record the date a mail ballot package is received;
 - (b) examine the certification envelope and elector registration application, if applicable, and make a mark on the certification envelope as “accepted” if satisfied or “rejected” if not satisfied as to:
 - (i) the identity and entitlement to vote of the elector;
 - (ii) the completeness of the certification envelope;
 - (iii) the completeness of the elector registration application, if applicable;
 - (iv) whether the mail ballot has been received before the close of general voting day; and
 - (c) retain certification envelopes to deal with a challenge of an elector under section 22.
- (2) If a certification envelope is marked as rejected under subsection 1(b), the chief election officer or designated election official must note the reasons for the rejection and the mail ballot must not be counted in the election.

Counting of mail ballots through vote tabulating unit

- 21 (1) The following procedures must be followed in counting mail ballots accepted under section 20(1):
- (a) certification envelopes must only be opened by the chief election officer or designated election official in the presence of at least one other person, including any scrutineers present;
 - (b) the chief election officer or designated election official must place all secrecy envelopes into a designated ballot box;
 - (c) under the direction of the chief election officer, after the secrecy envelopes have been placed in the designated ballot box, then:
 - (i) the ballot box containing the secrecy envelopes must be opened;
 - (ii) the secrecy envelopes must be removed and opened; and
 - (iii) the ballots contained in the secrecy envelopes must be inserted into a vote tabulating unit.

- (2) The chief election officer must initiate the process in subsection (1) at least two days before the general voting day but, in order to process a high volume of mail ballots, may carry out the process every day between 9:00 a.m. to 6:00 p.m. beginning on the Monday five days prior to general voting day until the close of general voting day.
- (3) The chief election officer or a designated election official must notify candidates of the scheduled dates and times for counting mail ballots by vote tabulating units at least 24 hours prior to the count.

Challenge of elector: mail ballots

- 22 (1) A person exercising the right to vote by mail ballot may be challenged in accordance with, and on the grounds specified in section 126 of the *Local Government Act* from the time a mail ballot package is requested up until 4 p.m. on the day the mail ballot package is received by the chief election officer or designated election official.
- (2) The provisions of section 126(2) to (5) of the *Local Government Act* apply when challenging a person's right to vote.
- (3) If a challenge has been resolved and the person is permitted to vote, the chief election officer must process the mail ballot package in accordance with section 21(1) and keep a record in accordance with section 126(5) of the *Local Government Act*.

Elector's name already used

- 23 Where, upon receiving a request for a mail ballot, the chief election officer determines that another person has voted or has already been issued a mail ballot in that elector's name, the provisions of section 127 of the *Local Government Act* apply.

Replacement of spoiled mail ballot

- 24 (1) Where an elector unintentionally spoils a mail ballot before returning it to the chief election officer, the elector may request a replacement ballot by advising the chief election officer or designated election official and returning the spoiled ballot to the chief election officer or designated election official.
- (2) Where a request has been made in accordance with subsection (1), the chief election officer or a designated election official must issue a new mail ballot package in accordance with subsection (1) until the close of general voting day.
- (3) The chief election officer must keep a record of returned spoiled mail ballot packages.

PART 5 – POST-ELECTION PROCEDURES

Procedures after close of voting on general voting day

- 25 (1) After the close of voting on general voting day, each presiding election official at a voting opportunity, other than advance and special voting opportunities in an election must
- (a) ensure that any remaining ballots in the portable ballot box are inserted into the vote tabulating unit;
 - (b) secure the vote tabulating unit so that no more ballots can be inserted;
 - (c) generate three copies of the register tape from the vote tabulating unit; and
 - (d) deliver one copy of the register tape together with the vote tabulating unit to the chief election officer at election headquarters.
- (2) After the close of voting on general voting day, each alternate presiding election official at a voting opportunity, other than advance and special voting opportunities, must
- (a) account for the unused, spoiled and voted ballots and place them, packaged and sealed separately, into the election materials transfer box along with one copy of the register tape;
 - (b) complete the ballot account and place the duplicate copy in the election materials transfer box;
 - (c) seal the election materials transfer box;
 - (d) place the voting books, the original copy of the ballot account, one copy of the register tape, completed registration cards, keys and all completed administrative forms into the chief election officer portfolio; and
 - (e) transport all equipment and materials to election headquarters.
- (3) At the close of voting on general voting day the chief election officer must direct the presiding election official for the advance voting opportunity and any special voting opportunities where vote tabulating units were used, to proceed in accordance with subsections (1) and (2).
- (4) Under the direction of the chief election officer, at the close of voting on general voting day the following procedures must be followed:
- (a) all portable ballot boxes used in the election must be opened;
 - (b) all ballots in portable ballot boxes must be removed and for counting be inserted into a vote tabulating unit;

- (c) after the procedures set out in paragraphs (a) and (b), the procedures set out in subsections (1) and (2) must be followed to the extent that they are applicable.

Recount procedure

- 26 If a recount is required, it must be conducted under the direction and supervision of the chief election officer using the automated vote counting system and in accordance with the following procedures:
- (a) the memory cards of all vote tabulating units must be cleared;
 - (b) vote tabulating units must be designated for each voting place;
 - (c) all ballots must be removed from the sealed ballot boxes; and
 - (d) all ballots, except spoiled ballots, must be reinserted in the vote tabulating units.

Tie votes after judicial recount

- 27 A tie vote that exists after a judicial recount will be resolved by conducting a lot in accordance with section 151 of the *Local Government Act*.

PART 6 – GENERAL

Electronic disclosure of nomination documents

- 28 The chief election officer is authorized to provide public access to nomination documents referred to in section 89(8) of the *Local Government Act* by electronic means and publish the nomination documents on the City's website from the time of filing until 30 days after the declaration of election results.

Repeal

- 29 Bylaw No. 02-013, the Election Procedures Bylaw, is repealed.

Effective date

- 30 This Bylaw comes into force on adoption.

READ A FIRST TIME the	12th	day of	May	2022
READ A SECOND TIME the	12th	day of	May	2022
READ A THIRD TIME the	12th	day of	May	2022
ADOPTED on the		day of		2022

CITY CLERK

MAYOR

Schedule A

Election Signage

GENERAL REQUIREMENTS

- Sign permits are not required.
- Signs must not be visible from any voting place.
- Signs must not be illuminated, animated, rotating, flashing or have moving lights or other electrical features.
- Signs must meet the requirements of the *Local Election Campaign Financing Act*.
- Elections signs for municipal or school trustee elections or by-elections, or referenda are permitted only within the municipal election period, beginning with the first day of the nomination period.
- Signs must be removed within four (4) days after the election or referendum vote.

GENERAL PROHIBITIONS

- Signs are prohibited on:
 - medians and traffic islands, and in municipal planting beds;
 - boulevard trees, or within one (1) metre of a boulevard tree;
 - all City facilities or structures, parks, and playing fields, including the adjoining boulevard area.
- Signs are prohibited on public or private property that:
 - are within one (1) metre of a fire hydrant;
 - obstruct or detract from any traffic control device or signage;
 - obstruct the line of vision at an intersection; or
 - are placed in a manner that may constitute a hazard to pedestrians, cyclists or vehicles.

GENERAL ENFORCEMENT

- Signs installed in prohibited areas will be removed by City staff if not removed or relocated within 24 hours notice to the applicable candidate or campaign office.
- Where there are immediate safety concerns or damage to municipal property, City staff will immediately remove the signs and then contact the candidate or campaign office.
- The City will assume no responsibility for any damage to election signs where they are removed by city staff in prohibited locations.

ADDITIONAL CANDIDATE RESPONSIBILITIES

- Persons installing signs on municipal property must be aware of the risk of damage to underground utilities. A call must be made by the candidate or their agent to the City at least 48 hours in advance of the installation in order to confirm that the location chosen is safe.
- Any damage to underground utilities or services as a result of election signs being placed on municipal property is the responsibility of the candidates and their agents.
- Candidates and their agents are liable for any damage done to City property in placement of election signs on municipal property.
- Candidates and their agents should also reference applicable Provincial and Federal statutes and regulations for additional requirements.