

TOWN OF COMOX

BYLAW NO. 1888

**A BYLAW TO ESTABLISH PROCEDURES FOR
THE CONDUCT OF ELECTIONS AND ASSENT VOTING
AND TO PROVIDE FOR THE USE OF AUTOMATED VOTING MACHINES**

WHEREAS the *Local Government Act* provides that the Council of the Town of Comox may establish, by bylaw, various procedures and requirements to be applied in the conduct of elections and assent voting;

AND WHEREAS under the *Local Government Act*, the Council of the Town of Comox may provide for, by bylaw, the use of automated voting machines, voting recorders or other devices for voting in elections and assent voting;

AND WHEREAS the Council of the Town of Comox wishes to establish voting procedures and requirements under those authorities, and use automated voting machines in elections and assent voting;

NOW THEREFORE, the Council of the Town of Comox, in open meeting assembled, enacts as follows:

PART 1 -- INTERPRETATION

1. Title

- (1) This Bylaw may be cited for all purposes as the "Comox Election and Assent Voting Bylaw No. 1888, 2018".

2. Definitions

- (1) In this Bylaw, the following terms have the following meanings:
 - (a) "Acceptable mark" means a completed mark that the vote counting unit is able to identify, and that has been made by an elector in the space provided on the ballot opposite the name of any candidate or opposite the choices of any questions on which the assent or opinion of the electors is sought.
 - (b) "Automated vote counting system" means a system that counts and records votes, processes and stores election and assent voting results and is comprised of the following:
 - (i) a number of vote counting units, each of which electronically records votes and deposits the voted ballots into a ballot box;
 - (ii) a number of ballot boxes into which voted ballots are deposited from the vote counting unit; and

- (iii) a number of portable and temporary ballot boxes, to be used during such time as the vote counting unit is not used or is not functioning.
- (c) “Ballot” means a single automated ballot card designed for use in an automated vote counting system, which shows
 - (i) the names of all candidates for each of the offices of Mayor, Councillor and, if applicable, School Trustee; and
 - (ii) all of the choices on all of the questions on which the assent or opinion of the electors is sought.
- (d) “Ballot return override procedure” means the use, by an election official, of a device on a vote counting unit that causes the unit to accept a returned ballot.
- (e) “Ballot box” means a container for voted ballots.
- (f) “Election” means an election for the number of persons required to fill a local government office.
- (g) “Election headquarters” means Comox Town Hall, 1809 Beaufort Avenue, Comox BC.
- (h) “Election materials box” means the container(s) containing election materials that are to be transported to and from voting places.
- (i) “General local election” means an election held in 2018 and in every fourth (4th) year after 2018 for the offices of Mayor, Councillors and, if applicable, School Trustee;
- (j) “General voting day” means:
 - (i) for a general local election, the third (3rd) Saturday of October in the year of the election;
 - (ii) for other elections, the date set under Sections 54 or 55 of the *Local Government Act*; and
 - (iii) for assent voting, the date set under Section 174 of the *Local Government Act*.
- (k) “Memory pack” means a computer software cartridge that plugs into the vote counting unit that contains
 - (i) the names of all of the candidates for each of the offices of Mayor, Councillor and, if applicable, School Trustee;

- (ii) all of the choices on all of the bylaws or other matters on which the opinion or assent of the electors is sought; and
 - (iii) a mechanism to record and retain information on the number of acceptable marks made for each.
- (l) “Portable ballot box” means a ballot box that is used at a voting place where a vote counting unit is not being used.
- (m) “Results tape” means the printed record generated from a vote counting unit at the close of voting on general voting day, which shows
 - (i) the number of votes for each candidate for each of the office of Mayor, Councillor and, if applicable, School Trustee; and
 - (ii) the number of votes for each choice on all of the bylaws or other matters on which the opinion or assent of the electors is sought.
- (n) “Returned ballot” means a voted ballot that was inserted into the vote counting unit by the elector but was not accepted and was returned to the elector with an explanation of the ballot marking error that caused the ballot not to be accepted.
- (o) “Secrecy sleeve” means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector.
- (p) “Temporary ballot box” means a ballot box that is used to temporarily deposit voted ballots in the event that the vote counting unit ceases to function or is not being used.
- (q) “Town” means the Town of Comox.
- (r) “Vote counting unit” means the device into which voted ballots are inserted, and that scans each ballot and records the
 - (i) the number of votes for each candidate for each of the office of Mayor, Councillor and, if applicable, School Trustee; and
 - (ii) the number of votes for each choice on all of the bylaws or other matters on which the opinion or assent of the electors is sought.
- (s) “Voting book” means the book for recording the names of electors.
- (t) “Voting compartment” means an area that is arranged in such a manner that electors may mark their ballots screened from observation by others and without interference.

PART 2 -- ELECTION PROCEDURES

3. Register of Resident Electors

For the purposes of all local elections and assent voting, the most current available Provincial list of voters prepared under the *Election Act* shall become the register of resident electors on the 52nd day prior to the general voting day for such elections and assent voting.

4. Public Access to Election Documents

- (1) In addition to public access to election documents required under the *Local Government Act*, Council authorizes the publication on the Town Internet of
 - (a) nomination documents under section 89(7) of the *Local Government Act* from as soon as possible after the time of delivery to the Chief Election Officer until 30 days after the declaration of the election results; and
 - (b) elector organization endorsement documents under section 93 of the *Local Government Act* from as soon as possible after filing with the Chief Election Officer until six months after general voting day for the election to which they relate.

5. Advance Voting Opportunities

- (1) Pursuant to section 107 of the *Local Government Act*, the following advance voting opportunities will be held:
 - (a) one on the 10th day before general voting day, and
 - (b) one on the 3rd day before general voting day.
- (2) Pursuant to section 108 of the *Local Government Act*, the Chief Election Officer is hereby authorized to
 - (a) establish additional advance voting opportunities, and
 - (b) designate the voting places and set the voting hours for the additional advance voting opportunities.

6. Mail Ballot Voting

- (1) Voting by mail ballot is hereby authorized for those electors who meet the criteria in subsection 6(2).
- (2) The only electors who may vote by mail ballot are the following:
 - (a) those persons who have a physical disability, illness or injury that affects their ability to vote at another voting opportunity; and

- (b) persons who expect to be absent from the Town on general voting day and at the times of all advance voting opportunities.
- (3) A mail ballot package may be requested by an elector who is registered and who, in person, by mail, by courier or by fax, presents the Chief Election Officer with a written request for a mail ballot package.
- (4) The Chief Election Officer may deliver mail ballot packages by hand to electors who request in person or the Chief Election Officer may deliver mail ballot packages by mail, by courier or by hand to electors who request the package by mail, by courier, by fax or in person.
- (5) The Chief Election Officer shall keep a written record of all persons who request a mail ballot package and their addresses (unless the request for the package has requested that the address be obscured) and that record may be inspected by any person who signs a statement that the record is being inspected only for the purposes of the election or other voting.
- (6) Between the time an elector requests a mail ballot package and the time that the mail ballot package is hand delivered, mailed or couriered to the elector requesting, the elector requesting can be challenged under section 116 of the *Local Government Act*.
- (7) The time limits in relation to voting by mail ballot may be determined by the Chief Election Officer, including the time limit to apply for a mail ballot package.
- (8) To vote using a mail ballot, the elector shall mark the ballot in accordance with the instructions contained in the mail ballot package provided by the Chief Election Officer.
- (9) Upon receipt of a mail ballot package before the deadline, the Chief Election Officer shall record the time and date of its receipt and shall mark the certification envelope as accepted or rejected, and where the certification envelope has been accepted, the voting book shall be marked to indicate that the elector has voted.
- (10) The unopened certification envelopes shall remain in the custody of the Chief Election Officer until the close of voting on general voting day at which time the Chief Election Officer shall, in the presence of at least one other election official and scrutineers, if any:
 - (a) open the accepted certification envelopes;
 - (b) place the unopened secrecy envelopes together into a ballot box;
 - (c) open the secrecy envelopes and remove the ballot within; and
 - (d) insert the ballot into the vote counting unit.

(11) The Chief Election Officer shall retain all certification envelopes together with the voting books and for the purposes of document retention and destruction shall treat the certification envelope in the same manner as a voting book.”

7. Order of Names on Ballot

Pursuant to section 117 of the *Local Government Act*, the order of names of candidates on the ballot shall be determined by lot.

8. Number of Scrutineers at Voting Places

- (1) Pursuant to section 120 of the *Local Government Act*, the number of scrutineers for each candidate that may attend at each voting place is one scrutineer for each ballot box in use.
- (2) Pursuant to section 181 of the *Local Government Act*, for assent voting, the number of scrutineers for the question and the number of scrutineers against the question, in assent voting, that may attend each voting place is one scrutineer.

9. Resolution of Tie Vote after Judicial Recount

In the event of a tie vote after a judicial recount, the tie vote will be resolved by conducting a lot in accordance with section 151 of the *Local Government Act*.

PART 3 -- AUTOMATED VOTE COUNTING SYSTEM

10. Use of Automated Vote Counting System

Council hereby authorizes the use of an automated vote counting system for the conduct of general local elections and assent voting in the Town.

11. Automated Voting Procedures

- (1) At voting places where a vote counting unit is being used, the Chief Election Officer shall, if requested, ensure that a demonstration is provided on how to vote using a vote counting unit as soon as an elector enters the voting place and before a ballot is issued.
- (2) Upon completion of the voting demonstration, if any, the elector shall proceed as instructed to the election official responsible for issuing ballots, who shall
 - (a) 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 then

- (b) provide, upon fulfilment of the requirements of subsection (a), a ballot to the elector, a secrecy sleeve if requested by the elector, the ballot marking instrument, and any further instructions the elector requests.
- (3) Upon receiving a ballot, the elector shall immediately proceed to a voting compartment to vote.
- (4) The elector may vote only by making an acceptable mark on the ballot
 - (a) beside the name of each candidate of choice up to the maximum number of candidates to be elected for each of the offices of Mayor, Councillor and, if applicable, School Trustee; and
 - (b) beside the choices of any questions on which the assent or opinion of the electors is sought.
- (5) Once the elector has finished marking the ballot, the elector must
 - (a) either place the ballot into the security sleeve, if one has been requested, or turn the ballot upside down, and
 - (b) proceed to the vote counting unit and, under the supervision of the election official in attendance, insert the ballot directly into the vote counting unit without the acceptable marks on the ballot being exposed.
- (6) If, before inserting the ballot into the vote counting unit, an elector determines that a mistake has been made when marking a ballot, or if the ballot is returned by the vote counting unit, the elector may request a replacement ballot by advising the election official in attendance.
- (7) Upon being advised of the replacement ballot request, the Chief Election Officer or Deputy Chief Election Officer shall
 - (a) issue a replacement ballot to the elector and mark the returned ballot "spoiled", and
 - (b) retain all such spoiled ballots separately from all other ballots and they shall not be counted in the election.
- (8) If the elector declines the opportunity to obtain a replacement ballot and has not damaged the ballot to the extent that it cannot be reinserted into the vote counting unit, the election official shall, using the ballot return override procedure, reinsert the returned ballot into the vote counting unit to count any acceptable marks that have been made correctly.
- (9) Any ballot counted by the vote counting unit is valid, and any acceptable marks contained on such ballots will be counted in the election subject to any determination made under a judicial recount.

- (10) Once the ballot has been inserted into the vote counting unit and the unit indicates that the ballot has been accepted, the elector must immediately leave the voting place.
- (11) During any period that a vote counting unit is not functioning, the election official supervising the unit shall direct electors to insert all voted ballots into a temporary ballot box on the understanding that if the vote counting unit
 - (a) becomes operational, or
 - (b) is replaced with another vote counting unitthen the ballots in the temporary ballot box shall, as soon as reasonably possible, be removed by an election official and under the supervision of the Chief Election Officer or Deputy Chief Election Officer, be inserted into the vote counting unit to be counted.
- (12) Any ballots that were temporarily stored in a temporary ballot box during a period when the vote counting unit was not functioning and that are returned by the vote counting unit when being counted shall, through the use of the ballot return override procedure and under the supervision of the Chief Election Officer or Deputy Chief Election Officer, be reinserted into the vote counting unit to ensure that any acceptable marks are counted.

12. Advance Voting Opportunity Procedures

- (1) Vote counting units shall be used to conduct the vote at all advance voting opportunities, and voting procedures shall follow as closely as possible those described in section 11 of this Bylaw.
- (2) At the close of voting at each advance voting opportunity, the Chief Election Officer or Deputy Chief Election Officer in each case shall ensure that
 - (a) no additional ballots are inserted in the vote counting unit,
 - (b) the results tapes in the vote counting unit are not generated, and
 - (c) the memory pack of the vote counting unit is secured.
- (3) At the close of voting at the final advance voting opportunity the Chief Election Officer or Deputy Chief Election Officer shall
 - (a) secure the vote counting unit so that no more ballots can be inserted, and
 - (b) deliver the vote counting unit, together with the memory card and all other materials used in the election, to the Chief Election Officer at election headquarters.

13. Procedures after the Close of Voting on General Voting Day

- (1) After the close of voting on general voting day, the Chief Election Officer shall
 - (a) ensure that any remaining ballots in any temporary ballot boxes are inserted into the vote counting unit;
 - (b) secure the vote counting unit so that no more ballots can be inserted;
 - (c) seal the ballot boxes;
 - (d) generate three copies of the results tape from each vote counting unit; and
 - (i) place one copy in the results box,
 - (ii) place one copy in the election materials box, and
 - (iii) retain one copy to calculate the election results;
 - (e) remove the memory packs from the vote counting units and place in the results box;
 - (f) place spoiled ballots into an envelope, seal the envelope and place in the results box;
 - (g) complete duplicate ballot accounts and place
 - (i) one copy in the results box, and
 - (ii) one copy in the election materials box;
 - (h) seal the results box;
 - (i) place completed registration cards, keys and all completed administrative forms into the election materials box; and
 - (j) transport vote counting units, unused ballots, sealed ballot boxes, voting books, results box, election materials box and all other equipment and materials to election headquarters.
- (2) At the close of voting on general voting day, the Chief Election Officer shall proceed in accordance with subsection 13(1) of this bylaw, so far as applicable, for each advance voting opportunity where vote counting units were used.
- (3) All portable ballot boxes used in the election will be opened, under the direction of the Chief Election Officer, at the close of voting on general election day, and all ballots shall be removed and inserted into a vote counting unit to

be counted, after which the provisions of subsection 13(1), so far as applicable, shall apply.

14. Recount Procedure

- (1) If a recount is required it shall be conducted under the direction of the Chief Election Officer using the automated vote counting system and generally in accordance with the following procedure:
 - (a) the memory packs of all vote counting units will be cleared;
 - (b) a vote counting unit will be designated for each voting place;
 - (c) all voted ballots will be removed from the sealed ballot boxes;
 - (d) all ballots, except spoiled ballots, will be reinserted in the appropriate vote counting units under the supervision of the Chief Election Officer;
 - (e) any ballots returned by the vote counting unit during the recount process shall, through the use of the ballot return override procedure, be reinserted into the vote counting unit to ensure that any acceptable marks are counted; and

PART 4 --GENERAL AND REPEAL

15. General

- (1) Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time.
- (2) If any part, section, sentence, clause, phrase or word of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder, which shall continue in full force and effect and be construed as if the Bylaw had been adopted without the invalid portion.

16. Repeal

Bylaw No. 1458 is hereby repealed.

17. Adoption

(1) READ a FIRST, SECOND and THIRD
time this

6th day of June , 2018

(2) ADOPTED this

20th day of June , 2018

MAYOR



CORPORATE OFFICER