

TOWN OF COMOX

CONSOLIDATED BYLAW NO. 1458

(Consolidated to July 2008)

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**A BYLAW TO PROVIDE FOR THE USE OF AUTOMATED VOTING MACHINES AND
THE ESTABLISHMENT OF VARIOUS PROCEDURES IN THE CONDUCT OF
LOCAL GOVERNMENT ELECTIONS AND OTHER VOTING**

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 local government elections and other 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 an election;

AND WHEREAS the Council of the Town of Comox wishes to establish voting procedures and requirements under that authority, and use automated voting machines in local government elections and other voting;

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

1. Title

- (1) This Bylaw may be cited for all purposes as the "Comox Election Procedures Bylaw, 2005".

2. Definitions

- (1) In this Bylaw all definitions shall be in accordance with the Local Government Act, except for the following:
 - (a) "Acceptable mark" means a completed arrow that the vote tabulating unit is able to identify, and that has been made by an elector in the space provided

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on the ballot opposite the name of any candidate or opposite either 'yes' or 'no' on any other voting question.

- (b) "Automated vote counting system" means a system that counts and records votes, processes and stores election results and is comprised of the following:
- (i) a number of ballot scan vote tabulating units, each of which rests on a two compartment ballot box, one compartment of which is for
 - (A) voted ballots, and
 - (B) returned ballots that have been reinserted using the ballot override procedure and the other for the temporary storing of voted ballots during such time as the vote tabulating unit is not functioning; and
 - (ii) a number of portable ballot boxes into which voted ballots are deposited where a vote tabulating unit is not being used, for counting after the close of voting on general voting day.
- (c) "Ballot" means a single automated ballot card designed for use in an automated vote counting system, which shows
- (i) the names of all of the candidates for each of the offices of Mayor, Councillor and, if applicable, School Trustee; and
 - (ii) all of the choices on all of the bylaws or other matters on which the opinion or assent of the electors is sought.
- (d) "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.
- (e) "Election headquarters" means the location used for the preparation and operation of the election.
- (f) "Emergency ballot compartment" means one of two separate compartments in the ballot box under each vote tabulating unit into which voted ballots are temporarily deposited in the event that the unit ceases to function.
- (g) "Memory pack" means a computer software cartridge that plugs into the vote tabulating unit that contains
- (i) the names of all of the candidates for each of the offices of Mayor, Councillor and, if applicable, School Trustee;

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- (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.
- (h) “Portable ballot box” means a ballot box that is used as a voting place where a vote tabulating unit is not being used.
- (i) “Register tape” means the printed record generated from a vote tabulating 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 and against each bylaw or other matter on which the assent or opinion of the electors is sought.
- (j) “Returned ballot” means a voted ballot that was inserted into the vote tabulating 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.
- (k) “Vote tabulating 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 and against each bylaw or other matter on which the assent or opinion of the electors is sought.

3. Register of Resident Electors

- (1) For the purposes of all local elections and submissions to the electors, 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 submissions to the electors.

4. Public Access to Election Documents [added July 30, 2008]

- (1) In addition to public access to election documents required under the Local Government Act, Council authorizes the publication on the Town Internet of

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- (a) nomination documents under section 73 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) disclosure statements and signed declarations under section 90 of the Local Government Act and the supplementary reports and signed declarations under section 90.1 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. Use of Voting Machines

- (1) Council hereby authorizes the conduct of general local elections and other voting in the Town of Comox using an automated vote counting system.

6. Automated Voting Procedures

- (1) The presiding election official for the voting place and at each advance voting opportunity shall, if requested, ensure that a demonstration is provided on how to vote using an automated vote counting system 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 a ballot to the elector, and any further instructions the elector requests, upon fulfillment of the requirements of subsection 2(a) above
- (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

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- (b) beside either 'yes' or 'no' in the case of each bylaw or other matter on which the assent or opinion of the electors is sought.
- (5) Once the elector has finished marking the ballot, the elector must 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 without the acceptable marks on the ballot being exposed.
- (6) If, before inserting the ballot into the vote tabulating unit, an elector determines that he has made a mistake when marking a ballot, or if the ballot is returned by the vote tabulating 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 presiding election official 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 tabulating unit, the election official shall, using the ballot return override procedure, reinsert the returned ballot into the vote tabulating unit to count any acceptable marks that have been made correctly.
- (9) Any ballot counted by the vote tabulating 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 tabulating 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 tabulating unit is not functioning, the election official supervising the unit shall direct electors to insert all ballots into the emergency ballot compartment on the understanding that if the vote tabulating unit
 - (a) becomes operational, or
 - (b) is replaced with another vote tabulating unit

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then the ballots in the emergency ballot compartment shall, as soon as reasonably possible, be removed by an election official and under the supervision of the presiding election official, be inserted into the vote tabulating unit to be counted.

- (12) Any ballots that were temporarily stored in the emergency ballot compartment during a period when the vote tabulating unit was not functioning and are returned by the vote tabulating unit when being counted shall, through the use of the ballot return override procedure and under the supervision of the presiding election official, be reinserted into the vote tabulating unit to ensure that any acceptable marks are counted.

7. Advance Voting Opportunities and Procedures

- (1) Pursuant to section 97 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 98 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.
- (3) Vote tabulating 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 4 of this Bylaw.
- (4) At the close of voting at each advance voting opportunity the presiding election official in each case shall ensure that
- (a) no additional ballots are inserted in the vote tabulating unit,
 - (b) the emergency ballot compartment is sealed to prevent insertion of any ballots,
 - (c) the register tapes in the vote tabulating unit are not generated, and
 - (d) the memory pack of the vote tabulating unit is secured.

- (5) At the close of voting at the final advance voting opportunity the presiding election official shall
 - (a) ensure that any remaining ballots in the emergency ballot compartment 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.

8. Special Voting Opportunities and Procedures

- (1) Pursuant to section 99 of the Local Government Act, in order to give electors who may otherwise be unable to vote an opportunity to do so, the Chief Election Officer is hereby authorized to
 - (a) establish one or more special voting opportunities;
 - (b) designate the location, the date and the voting hours within the limits set out in the Local Government Act;
 - (c) establish procedures for voting and for conducting the voting proceedings that may differ from those of section 4 of this Bylaw;
 - (d) establish restrictions on persons who may vote at the special voting opportunity; and
 - (e) limit the number of candidate representatives who may be present at the special voting opportunity.

9. Mail Ballot Voting [added July 30, 2008]

- (1) As authorized under section 100 of the Local Government Act, voting may be done by mail for each election or other voting for those electors who meet the criteria in subsection 9(2).
- (2) The following electors are permitted to vote by mail ballot:
 - (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 municipality on general voting day and at the times of all advance voting opportunities.

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- (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 mail ballot packages before the deadline, the Chief Election Officer shall record the time and date of its receipt and shall mark the certification envelopes 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;

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- (c) open the secrecy envelopes and remove the ballot within; and
- (d) insert the ballot into the vote tabulating 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.”

10. 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 the emergency ballot compartment 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,
 - (d) remove the memory from the vote tabulating unit,
 - (e) deliver one copy of the register tape along with the memory pack from the vote tabulating unit to election headquarters;
 - (f) 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];
 - (g) complete the ballot account and place the duplicate copy in the election materials transfer box;
 - (h) seal the election materials transfer box;
 - (i) 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
 - (j) transport all equipment and materials to election headquarters.
- (2) After the close of voting on general voting day, the Chief Election Officer shall 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 7(1)(c) to (j) of this Bylaw.

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- (3) After the close of voting on general voting day, all portable ballot boxes used in the election will be opened under the direction of the Chief Election Officer and all ballots shall be removed and inserted into a vote tabulating unit to be counted, after which the provisions of subsections 7(1)(c) to (j), so far as applicable, shall apply.

11. 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 tabulating units will be cleared;
 - (b) vote tabulating units will be designated for each voting place;
 - (c) all ballots will be removed from the sealed ballot boxes;
 - (d) all ballots, except spoiled ballots, will be reinserted in the appropriate vote tabulating units under the supervision of the chief election officer; and
 - (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.

12. Resolution of Tie Vote after Judicial Recount

- (1) 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 141 of the Local Government Act.

13. Order of Names on Ballot [amended July 30, 2008]

- (1) Pursuant to section 107 of the Local Government Act, the order of names of candidates on the ballot shall be determined by lot.

14. Number of Scrutineers at Voting Places

- (1) Pursuant to section 110(3) of the Local Government Act, the number of scrutineers for each candidate that may attend at an election is a maximum of one for each automated vote counting system in use.

