

UNOFFICIAL CONSOLIDATION

CITY OF BURNABY

BYLAW NO. 10415

A BYLAW to authorize an automated vote counting system

(Consolidated for your convenience with Bylaw No. 12487 and 13909)

The Council of the City of Burnaby ENACTS as follows:

1. This Bylaw may be cited as **BURNABY AUTOMATED VOTE COUNTING SYSTEM BYLAW**.

2. (1) In this Bylaw, unless the context otherwise requires,

"acceptable mark" means a filled oval or oval marked with an "x" that the vote tabulating 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 either "yes" or "no" on any voting question; (BYLAW #13909)

"automated vote counting system" means a system that counts and records votes, and processes and stores election results and is comprised of the following:

(a) a number of ballot scan vote tabulating units, each of which rests on a two compartment ballot box, one compartment of which is for:

(i) voted ballots, and

(ii) 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

(b) 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;

"Ballot" means a single automated ballot card that is designed for use in an automated vote counting system and shows

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- (a) the names of all of the candidates for each of the offices of Mayor, Councillor, and School Trustee, and
- (b) all of the choices on all of the bylaws or other matters on which the 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 Burnaby City Hall, 4949 Canada Way, Burnaby.

“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;

“memory pack” means a computer software cartridge that plugs into the vote tabulating unit and into which is programmed

- (a) the names of all of the candidates for each of the offices of Mayor, Councillor, and School Trustee, and with written consent of the candidate, an elector organization endorsement for the candidate, and (BYLAW #13909)
- (b) the alternatives of “yes” and “no” for each bylaw or other matter on which the assent of the electors is sought

And a mechanism to record and retain information on the number of acceptable marks mad for each;

“portable ballot box” means a ballot box that is used at a voting place in the election, where a vote tabulating unit is not being used;

“register tape” means the printed record generated from a vote tabulating unit at the close of voting on general voting day, which shows the number of votes for each candidate for each of the offices of Mayor, Councillor and School Trustee, and the number of votes for and against each bylaw or other matter on which the assent of the electors is sought;

“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;

“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 the device into which voted ballots are inserted and that scans each ballot and records the number of votes for each candidate for and against each bylaw or other matter on which the assent of the electors is sought.

3. Council hereby authorizes the conducting of general local elections in the City of Burnaby using an automated vote counting system.

VOTING PROCEDURES

4. (1) An election official may and, if requested by an elector, must explain to an elector the proper method for voting by ballot and provide a demonstration to an elector of how to vote using an automated vote counting system.
(BYLAW #13909)
- (2) Upon completion of the voting demonstration, if any, the elector shall proceed as instructed to the election official responsible for the issuing ballots, who:
 - (a) shall ensure that the elector
 - (i) is qualified to vote in the election,
 - (ii) Repealed. (BYLAW #13909)
 - (iii) completes the voting book as required by the *Local Government Act*; and (BYLAW #13909)
 - (b) upon fulfilment of the requirements of paragraph (a), shall provide a ballot to the elector, a secrecy sleeve if requested by the elector,

And any further instructions the elector requests.
- (3) Upon receiving a ballot and secrecy sleeve if so requested, 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 School Trustee, and
 - (b) beside either “yes” or “no” in the case of each bylaw or other matter on which the assent of the elector is sought.
- (5) When the elector has finished marking the ballot the elector must place the ballot into the secrecy sleeve, if applicable, proceed to the voting tabulating unit and under the supervision of the election official in attendance insert the ballot

directly from the secrecy sleeve, if applicable, 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 or she made a mistake when marking the ballot, the elector may request a replacement ballot by advising the election official in attendance. (BYLAW #12487)
- (7) If a ballot is returned by the vote tabulating unit, the election official shall state the reason for the rejection as shown on the vote tabulating unit and give the elector the option of:
 - (a) completing a replacement ballot; or
 - (b) reinserting the returned ballot into the vote tabulating unit using the ballot return override procedure to count any marks that have been made correctly;

and the election official shall proceed in accordance with the elector's choice. (BYLAW #12487)

- (8) Upon being advised of the replacement ballot request under subsections (6) or (7) (a) the election official shall direct the elector to the presiding election official who shall issue a replacement ballot to the elector and mark the returned ballot "spoiled" and shall retain all such spoiled ballots separately from all other ballots and they shall not be counted in the election. (BYLAW #12487)
- (8A) An election official shall not visually inspect a returned ballot. (BYLAW #12487)
- (8B) The presiding election official may assist an elector if requested by the elector but only if the elector appears to be unable to understand the ballot instructions because of difficulties with reading or writing or other disability. (BYLAW #12487)
- (9) Any ballot counted by the vote tabulating unit is valid and any acceptable marks contained on such ballots will 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 insert all ballots delivered by the electors during

this time into the emergency ballot compartment, and such ballots shall be counted after the close of voting in accordance with section 7(1) (a).
(BYLAW #12487)

- (12) Any ballots that were temporarily stored in the emergency ballot compartment 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.
- (13) A sample ballot that may be used in an automated vote counting system is attached as Schedule “A” to this Bylaw.

ADVANCE VOTING OPPORTUNITY PROCEDURES

5. (1) Vote tabulating units shall be used to conduct the vote at all advance voting opportunities, and voting procedures at the advance voting opportunities shall follow as closely as possible those described in section 4 of this Bylaw.
- (2) At the close of voting at each advance voting opportunity the presiding election official in each case shall ensure
 - (a) that no additional ballots are inserted in the vote tabulating unit,
 - (b) that the emergency ballot box is locked to prevent insertion of any ballots,
 - (c) that the register tapes in the vote tabulating unit are not generated,
 - (d) that the memory pack in the vote tabulating unit is secured thereto and sealed in such a manner that it cannot be accessed without breaking the seal. (BYLAW #12487)
- (3) The presiding election official shall, at the close of voting at the final advance voting opportunity
 - (a) ensure that any remaining ballots in the emergency ballot compartment are inserted into the vote tabulating unit,
 - (b) secure and seal the vote tabulating unit so that ballots cannot be added or withdrawn without breaking the seal, and (BYLAW #12487)
 - (c) deliver the vote tabulating unit together with the memory pack and all other materials used in the election to the chief election officer at election headquarters.

SPECIAL VOTING OPPORTUNITY PROCEDURES

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6. (1) A portable ballot box shall be used for all special voting opportunities, and the presiding election official appointed to attend at each special voting opportunity shall proceed in accordance with subsections (2), (3), (4) and (5) of section 4 so far as applicable, except that the voted ballots shall be deposited into the portable ballot box supplied by the presiding election official. (BYLAW #12487)
 - (2) The presiding election official at a special voting opportunity shall ensure that the portable ballot box is secured when not in use and at the close of voting at the final special voting opportunity the presiding election official shall seal the portable ballot box so that ballots cannot be added or withdrawn without breaking the seal and return it, together with all other election materials, to the custody of the chief election officer. (BYLAW #12487)

PROCEDURES AFTER THE CLOSE OF VOTING ON GENERAL VOTING DAY

7. (1) After the close of voting on general voting day at voting opportunities where a vote tabulating unit was used in the election, but excluding advance and special voting opportunities
 - (a) each presiding election official shall
 - (i) ensure that any remaining ballots in the emergency ballot compartment are inserted into the vote tabulating unit,
 - (ii) secure the vote tabulating unit so that no more ballots can be inserted,
 - (iii) generate three copies of the register tape from the vote tabulating unit,
 - (iv) deliver one copy of the register tape, along with the memory pack from the vote tabulating unit, to the chief election officer at election headquarters;
and
 - (b) each alternate presiding election official shall
 - (i) 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,
 - (ii) complete the ballot account and place the duplicate copy in the election materials transfer box,
 - (iii) seal the election materials transfer box,
 - (iv) place the voting books, the original copy of the ballot account, one copy of the register tape, completed registration cards, keys and completed administrative forms into the chief election officer portfolio,

- (v) transport all materials and equipment to election headquarters.
- (2) At the close of voting on general voting day the chief election officer shall direct an election official for the advance voting opportunity to proceed in accordance with clauses 7.(1)(a)(iii) and (iv) and clauses 7.(1)(b)(i) to (iv).
- (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 voting day and all ballots shall be removed and inserted into a vote tabulating unit to be counted after which the provisions of subsections 7.(1), so far as applicable, shall apply.

APPLICATION FOR JUDICIAL RECOUNT (BYLAW #13909)

- 8. (1) An application may be made in accordance with Section 148 of the *Local Government Act* for a judicial recount, to be undertaken by the Provincial Court of British Columbia, of some or all of the votes in the election.
- (2) An application for judicial recount must be made by the chief election officer if, at the end of the determination of official election results, a candidate cannot be declared elected because there is an equality of valid votes for 2 or more candidates.
- (3) In addition to an application pursuant to subsection (2), an application for judicial recount may be made on one or more of the following bases:
 - (a) that votes were not correctly accepted or ballots were not correctly rejected as required by the rules of section 139 of the *Local Government Act*;
 - (b) that a ballot account does not accurately record the number of valid votes for a candidate;
 - (c) that the final determination of official election results did not correctly calculate the total number of valid votes for a candidate.
- (4) An application for judicial recount pursuant to subsection (3) may be made by:
 - (a) an elector;
 - (b) a candidate or a candidate representative of a candidate in the election; or
 - (c) the chief election officer.

RESOLUTION OF TIE VOTE AFTER JUDICIAL RECOUNT

9. In the event of an equality of valid votes for two or more candidates following a judicial recount, the results will be determined by lot in accordance with section 151 of the *Local Government Act.*” (BYLAW #13909)

Read a first time this 24th day of JUNE 1996

Read a second time this 24th day of JUNE 1996

Read a third time this 24th day of JUNE 1996

Received the approval of the Minister of Municipal Affairs, pursuant to section 102(3) of the *Municipal Act*, this 11th day of JULY 1996

Reconsidered and adopted this 22nd day of July 1996

W.J. Copeland
MAYOR

D.R. Comis
CLERK

