

THE CORPORATION OF THE CITY OF VERNON

BYLAW NUMBER 4539

A bylaw to provide for the use of
automated voting machines for
general local elections and other voting

WHEREAS under the *Municipal Act*, the Council may, by bylaw, provide for the use of automated voting machines, voting recorders or other devices for voting in an election;

AND WHEREAS the Council of The Corporation of the City of Vernon wishes to establish various procedures and requirements under that authority;

NOW THEREFORE, the Council of The Corporation of the City of Vernon, in open meeting assembled, enacts as follows:

1. CITATION

1.1 This Bylaw may be cited as "Automated Voting Machines Authorization Bylaw Number 4539, 1999."

2. DEFINITIONS

2.1 In this Bylaw all definitions shall be in accordance with the *Municipal Act*, except for the following:

Acceptable mark means a completed oval which the vote tabulating unit is able to identify, which 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 other voting question.

Automated vote counting system means a system that counts and records votes and processes and stores election results which comprises:

- (a) a number of ballot scan vote tabulating units, each of which rests on a ballot box; and
- (b) a number of portable ballot boxes into which voted ballots are deposited where a vote tabulating unit is not functioning or being used which will therefore be counted after the close of voting on general voting day.

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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 each of the offices of Mayor and Councillors; and
- (b) all of the choices on all of the bylaws or other matters 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, which causes the unit to accept a returned ballot.

Election headquarters means City Hall, 3400 – 30th Street, Vernon, B.C.

Memory card means the storage device which stores all the permanent results for the vote tabulating unit.

Portable ballot box means a ballot box which is used as a voting place where a vote tabulating unit is not being used or is not functioning.

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/or 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 which was inserted into the vote tabulating unit by the elector but which was not accepted and which was returned to the elector with an explanation of the ballot marking error which 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 which scans each ballot and records the number of votes for each candidate and for and against each other voting question.

3. USE OF VOTING MACHINES

- 3.1 Council of The Corporation of the City of Vernon hereby authorizes the conducting of general local elections and other voting in the City of Vernon using an automated vote counting system.

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4. AUTOMATED VOTING PROCEDURES

- 4.1 The presiding election official for each voting place and at each advance voting opportunity shall, as soon as the elector enters the voting place and before a ballot is issued, offer and if requested, direct an election official to provide a demonstration to an elector of how to vote using an automated vote counting system.
- 4.2 Upon completion of the voting demonstration, if any, the elector shall proceed as instructed, to the election official responsible for issuing ballots, who:
- (a) shall ensure that the elector:
 - (i) is qualified to vote in the election; and
 - (ii) completes the voting book as required by the *Municipal Act*, and
 - (b) upon fulfilment of the requirements of subsection (a), shall provide a ballot to the elector, a secrecy sleeve if requested by the elector, and any further instructions the elector requests.
- 4.3 Upon receiving a ballot, and secrecy sleeve if so requested, the elector shall immediately proceed to a voting compartment to vote.
- 4.4 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/or School Trustee; and
 - (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.
- 4.5 Once the elector has finished marking the ballot, the elector must place the ballot into the secrecy sleeve, if applicable, proceed to the vote 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.
- 4.6 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.
- 4.7 Upon being advised of the replacement ballot request, the presiding election official [or alternate presiding election official] 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.

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- 4.8 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 which have been made correctly.
- 4.9 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.
- 4.10 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.
- 4.11 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 a portable ballot box, provided that if the vote tabulating unit:
- (a) becomes operational, or
 - (b) is replaced with another vote tabulating unit,
- the ballots in the portable ballot box 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.
- 4.12 Any ballots which were temporarily stored in a portable ballot box which 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.
- 4.13 A sample ballot that may be used in an automated vote counting system is attached as Schedule "A" to this Bylaw.

5. 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.
- 5.2 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;

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- (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.

5.3 At the close of voting at the final advance voting opportunity the presiding election official shall:

- (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.

6. SPECIAL VOTING OPPORTUNITY PROCEDURES

6.1 Unless the chief election officer determines it is practical to use a vote tabulating unit, a portable ballot box as defined herein, shall be used for all special voting opportunities. The presiding election official appointed to attend at each special voting opportunity shall proceed in accordance with Sections 4.2, 4.3, 4.4 and 4.5 of this Bylaw so far as applicable, except that the voted ballots shall be deposited into the portable ballot box supplied by the presiding election official.

6.2 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 and return it together with all other election materials to the custody of the chief election officer.

6.3 If a vote tabulating unit is in use at a special voting opportunity, the presiding election official appointed to attend the special voting opportunity shall follow the procedures outlined in Section 5 of this Bylaw as if it were an advance voting opportunity.

7. PROCEDURES AFTER 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:

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- (i) ensure that any remaining ballots in the portable ballot box 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; and
 - (iv) deliver one copy of the register tape along with 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 (if applicable), keys and all completed administrative forms into the chief election officer portfolio; and
 - (v) transport all equipment and materials to election headquarters.

7.2 At 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 Section 7.1 of this Bylaw.

7.3 At 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 Sections 7.1, so far as applicable, shall apply.

8. RECOUNT PROCEDURE

8.1 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 cards 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; and
- (d) all ballots, except spoiled ballots, will be reinserted in the appropriate vote tabulating units under the supervision of the chief election officer.

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9. GENERAL

- 9.1 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.
- 9.2 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.

READ A FIRST TIME the third day of August, 1999.

READ A SECOND TIME the third day of August, 1999.

READ A THIRD TIME the third day of August, 1999.

ADOPTED the fifth day of August, 1999.

“WAYNE MCGRATH”

Mayor:

“MARG BAILEY”

City Clerk: