

CITY OF WEST KELOWNA

BYLAW NO. 0248

A bylaw to provide for the determination of various procedures for the conduct of local government elections, other voting, and mail ballot voting, and to authorize the use of an automated vote counting system and procedure.

<p style="text-align: center;">CONSOLIDATED FOR CONVENIENCE TO INCLUDE BYLAW 0248.01</p>

WHEREAS under the *Local Government Act*, Council may, by bylaw, determine various procedures and requirements to be applied to the conduct of local government elections and other voting;

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

AND WHEREAS Council may, by bylaw, permit voting by mail ballot;

AND WHEREAS Council wishes to establish voting procedures and requirements under that authority;

NOW THEREFORE, the Council of the City of West Kelowna, in open meeting assembled, enacts as follows:

1. **CITATION:**

This Bylaw may be cited for all purposes as “City of West Kelowna Local Government Election Bylaw No. 0248, 2018.”

2. **DEFINITIONS:**

In this Bylaw the following terms have the following meanings:

Acceptable Mark means a completed oval which the vote counting 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 of:

- (a) a number of ballot scan vote counting units, each of which rests on a two-compartment ballot box, one compartment of which is for:
 - (i) voted ballots; and
 - (ii) returned ballots which have been reinserted using the ballot override procedure;and the other compartment is for the temporary storage of voted ballots during such time as the vote counting unit is not functioning; and
- (b) a number of storage ballot compartments into which voted ballots are deposited where a vote counting unit is not functioning or being used which will therefore be counted after the close of voting on general voting day.

Ballot means a single 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 to be filled; 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 counting unit, which causes the unit to accept a returned ballot.

Election Headquarters means the City of West Kelowna Municipal Hall located at 2760 Cameron Road, West Kelowna, BC V1Z 2T6 or other location of headquarters.

Memory Pack means a computer software cartridge which is inserted into the vote counting unit and into which is pre-programmed the names of all the candidates for each of the offices to be filled, and the alternatives of “yes” or “no” for each question on the ballot, or the choices on other matters on which the opinion or assent of the electors is sought which records and retains information on the number of acceptable marks made for each.

Results Tape means the printed record generated from a vote counting unit at the close of voting on general voting day, which shows the number of votes for each candidate for each of the offices to be filled, and the number of votes for and against each bylaw or other matter on which the assent or opinion of the electors is sought.

Returned Ballot means a voted ballot which was inserted into the vote counting unit, 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.

Storage Ballot Compartment means a designed compartment in the ballot box under each vote counting unit into which voted ballots are temporarily deposited in the event that the unit ceases to function.

Vote Counting 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 or other matter on which the assent or opinion of the electors is sought.

3. **MINIMUM NUMBER OF NOMINATORS:**

As authorized under Section 86 of the *Local Government Act*, the minimum number of qualified nominators required to make a nomination for office as a member of Council shall be 25.

4. **ACCESS TO NOMINATION DOCUMENTS:**

As authorized under Section 89(7) of the *Local Government Act*, public access to nomination documents will be provided on the Internet or other electronic means from the time of delivery to the Chief Election Officer until 30 days after the declaration of the election results (34 days after general voting day) under Section 146 of the *Local Government Act*.

A person who inspects or otherwise accesses nomination documents under this section must not use the information included in them except for the purposes of the *Local Government Act*.

5. **ORDER OF NAMES ON BALLOT:**

The order of names of candidates on the ballot will be alphabetical.

6. **ELECTOR REGISTRATION:**

Pursuant to Section 69 of the *Local Government Act*, Council wishes to limit registration of electors to registration at the time of voting for all elections or matter on which the opinion of the electors is being sought at the time of voting under Part 3 and 4 of the *Local Government Act*;

7. **USE OF AUTOMATED VOTING COUNTING SYSTEM:**

Council hereby provides for the use of an automated vote counting system for the conduct of elections, other voting, and other matters on which the assent or opinion of the electors is sought that may, from time to time, be required.

AUTOMATED VOTING PROCEDURES:

- 7.1 The presiding election official for each voting place shall offer, and if requested, ensure that a demonstration of how to vote using a vote counting unit is provided to an elector, as soon as such elector enters the voting place and before a ballot is issued.
- 7.2 Upon completion of the voting demonstration, if any, the elector shall proceed as instructed, to the election official responsible for issuing ballots, who, upon fulfillment of the requirements of the *Local Government Act*, shall then provide a ballot to the elector, a secrecy sleeve if requested by the elector, and any further instructions the elector requests.
- 7.3 Upon receiving a ballot the elector shall immediately proceed to a voting compartment to vote.
- 7.4 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 to be filled; 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;
- 7.5 Once the elector has finished marking the ballot, the elector must either place the ballot into the secrecy sleeve, if one has been requested, or turn the ballot upside down and proceed to the vote counting unit, and under the supervision of the election official in attendance, insert the ballot directly from the secrecy sleeve, if applicable, into the vote counting unit without the acceptable marks on the ballot being exposed.
- 7.6 If, before inserting the ballot into the vote counting unit, an elector determines that a mistake has been made when marking the ballot, or if the ballot is returned by the vote counting unit, the elector may return to the voting compartment to correct the ballot or request a replacement ballot by informing the election official in attendance.
- 7.7 Upon being informed of the replacement ballot request, the 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.
- 7.8 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 which have been made correctly.

- 7.9 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.
- 7.10 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.
- 7.11 During any period that a vote counting unit is not functioning, the Elector shall insert the ballot into the storage ballot compartment, on the understanding that if the vote counting unit:
- (a) becomes operational, or
 - (b) is replaced with another vote counting unit,
- the ballots in the storage ballot compartment shall, as soon as reasonably possible, be removed by an election official and, under the supervision of the presiding election official, shall be inserted into the vote counting unit to be counted.
- 7.12 Any ballots which were temporarily stored in the storage ballot compartment during a period when the vote counting unit was not functioning, which 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 presiding election official, be reinserted into the vote counting unit to ensure that any acceptable marks are counted.
- 7.13 A sample ballot that may be used in an automated vote counting system is attached as Schedule "A" to this Bylaw.

Bylaw No. 0248.01, adopted April 19, 2022, deleted the Title of Section 8 in its entirety and replaced it with the following Title for Section 8:

8. ADVANCE VOTING OPPORTUNITIES:

In addition to the required advance voting opportunity on the 10th day before general voting day, the 4th day before general voting day will be designated as a second advance voting opportunity, except when that day falls on a statutory holiday. In these cases, the second advance voting opportunity will be held on the third day before general voting day.

Advance voting opportunities on the dates specified above shall be available between the hours of 8:00 a.m. and 8:00 p.m.

Bylaw No. 0248.01, adopted April 19, 2022, added the following to Section 8:

8(i) Additional Advance Voting Opportunities

As authorized under Section 108 of the *Local Government Act*, the Council authorizes the Chief Election Officer to establish additional voting opportunities to be held in advance of general voting day; and to designate the

voting places, establish the dates, and set the voting hours for these voting opportunities.

ADVANCE VOTING OPPORTUNITY PROCEDURES

- 8.1 Vote counting units shall be used at all advance voting opportunities and voting procedures at the advance voting opportunities shall follow, as closely as possible, those described in Section 7 of this Bylaw.
- 8.2 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 counting unit;
 - (b) the storage ballot compartment is locked or sealed to prevent insertion of any ballots;
 - (c) the results tapes in the vote counting unit are not generated; and
 - (d) the memory pack of the vote counting unit is secured.
- 8.3 At the close of voting at the final advance voting opportunity, the presiding election official shall:
 - (a) ensure that any remaining ballots in the storage ballot compartment are inserted into the vote counting unit;
 - (b) secure the vote counting unit so that no more ballots can be inserted; and
 - (c) deliver the vote counting unit together with the memory pack and all other materials used in the election to the chief election officer at election headquarters.

9. SPECIAL VOTING OPPORTUNITIES:

- 9.1 To give electors who may otherwise be unable to vote an opportunity to do so, the Council will provide a special voting opportunity as authorized under Section 109 of the *Local Government Act* for each election and authorizes the chief election officer to establish a special voting opportunity for each election and to designate the location, the date and the voting hours within the limits set out in Section 109 of the *Local Government Act*, for the special voting opportunity.
- 9.2 Persons who may vote at a special voting opportunity shall be either qualified electors who are residents or patients at the facility being used as a special voting opportunity or qualified electors who are employed at the facility being used as a special voting opportunity.
- 9.3 Council authorizes the chief election officer to limit the number of candidate representatives who may be present at the special voting opportunity.

SPECIAL VOTING OPPORTUNITY PROCEDURES

- 9.4 Unless the chief election officer determines it is practical to use a vote counting unit, a storage ballot compartment 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 7.2, 7.3, 7.4 and 7.5 of this Bylaw so far as applicable, except that the voted ballots shall be deposited into the storage ballot compartment supplied by the presiding election official.
- 9.5 The presiding election official at a special voting opportunity shall ensure that the storage ballot compartment 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 storage ballot compartment and return it together with all other election materials to the custody of the chief election officer.
- 9.6 If a vote counting 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 8 of this Bylaw as if it were an advance voting opportunity.

10. MAIL BALLOT VOTING:

Bylaw No. 0248.01, adopted April 19, 2022, deleted Section 10.1 in its entirety and replaced it with the following 10.1:

- 10.1 As authorized under Section 110 of the *Local Government Act*, voting may be done by mail ballot and in relation to this, elector registration may be done by mail in conjunction with mail ballot voting.

Bylaw No. 0248.01, adopted April 19, 2022, deleted Section 10.2 in its entirety.

MAIL BALLOT VOTING PROCEDURES:

The following procedures for voting and registration must apply:

Bylaw No. 0248.01, adopted April 19, 2022, deleted Section 10.3 in its entirety and replaced it with the following 10.3:

10.3 Application Procedure:

- (a) A person wishing to vote by mail shall apply by giving their name and address to the Chief Election Officer or to the person designated by the Chief Election Officer for such purposes, during the period commencing 30 days before the first day of advance voting and ending at 4:00 p.m. on the Thursday, two days before general voting day.

- (b) Upon the applicant making a request for a mail ballot, the Chief Election Officer or designate shall, as soon as possible once the printed ballots are ready, and by 4:00 p.m. on the Thursday, two days before general voting day:
 - (i) make available to the applicant, a mail ballot package as specified in Section 110(7) of the *Local Government Act*, together with a statement advising the elector that the elector must meet the eligibility to vote criteria, and that they must attest to such fact; and
 - (ii) record the Elector's name and address in the Register of Mail Ballots so that challenges of the elector's right to vote may be made in accordance with the intent of Section 126 of the *Local Government Act*.

10.4 Voting Procedure:

- (a) 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;
- (b) After marking the ballot, the elector shall:
 - (i) place the ballot in the secrecy envelope provided and seal the secrecy envelope;
 - (ii) place the secrecy envelope in the certification envelope, and complete and sign the certification printed on such envelope, and then seal the certification envelope;
 - (iii) place the certification envelope, together with a completed elector registration application in the outer envelope, and then seal the outer envelope;
 - (iv) mail, or have delivered, the outer envelope and its contents to the chief election officer at the address specified so that it is received not later than the close of voting on general voting day.

10.5 Ballot Acceptance or Rejection:

- (a) Until 4:00 p.m. on the Thursday two days before general voting day, upon receipt of the outer envelope and its contents, the chief election officer or designate shall immediately record the date of such receipt and shall then open the outer envelope and remove and examine the certification envelope and the completed elector registration application, if applicable, and if satisfied as to:
 - (i) the identity and entitlement to vote of the elector whose ballot is enclosed;
 - (ii) the completeness of the certification; and
 - (iii) the fulfilment of the requirements of Section 70 of the *Local Government Act* in the case of a person who is registering as a new elector;

The chief election officer or designate shall mark the certification envelope as “accepted” and shall retain in his or her custody all such certification envelopes in order to deal with any challenges made in accordance with Section 10.6 of this bylaw.

- (b) The unopened certification envelopes shall remain in the custody of the chief election officer or designate until 4:00 p.m. on the Thursday two days before general voting day, at which time the certification envelopes containing the secrecy envelopes shall be opened in the presence of at least one other person, including any scrutineers present.
- (c) At 4:00 p.m. on the Thursday two days before general voting day, the chief election officer or designate shall place all secrecy envelopes received up until that time into a ballot box specified for such purpose, where such secrecy envelopes were received from persons who rights to vote using a mail ballot has not been challenged, or where such challenge has been resolved and the challenged person permitted to vote.
- (d) Where an outer envelope and its contents are received by the chief election officer or designate between 4:00 p.m. on the Thursday two days before general voting day and the close of voting on general voting day, the provisions of Section 10.5 (a) of this bylaw regarding ballot acceptance shall apply and the chief election officer or designate shall retain such envelopes in their possession until the close of voting and at that time shall open such certification envelopes in the presence of at least one other person, including any scrutineers present, and place the secrecy envelope containing the ballot into the ballot box containing the other unopened secrecy envelopes.
- (e) As soon as possible after all of the secrecy envelopes have been placed in the ballot box designated for that purpose, the ballot box shall be opened under the supervision of the chief election officer or designate, and in the presence of at least one other person and any scrutineers present, the secrecy envelopes shall be opened and the ballots contained therein counted in accordance with the provisions of the *Local Government Act*.
- (f) Where:
 - (i) upon receipt of an outer envelope, the chief election officer is not satisfied as to the identify of the elector whose ballot is enclosed, or
 - (ii) in the case of a person required to complete an application for registration as an elector, such application has not been completed in accordance with Section 71 of the *Local Government Act*; or

- (iii) the outer envelope is received by the chief election officer or designate after the close of voting on general voting day,

the certification envelope shall remain unopened and the chief election officer shall mark such envelope as “rejected”, and shall note the reasons therefore, and the ballot contained therein shall not be counted in the election.

- (g) Any certification envelopes and their contents rejected in accordance with Section 10.5 (f) of this bylaw shall remain unopened and shall be subject to the provisions of Section 160(2) of the *Local Government Act* regarding their destruction.

10.6 Challenge of Elector:

- (a) A person exercising the right to vote under the provisions of this bylaw may be challenged in accordance with and on the grounds specified in Section 116 of the *Local Government Act* until 4:00 p.m. on the Thursday two days before general voting day.
- (b) The provisions of Section 126(2) to (5) inclusive of the *Local Government Act* shall apply where a challenge of an elector using a mail ballot has been made.

10.7 Elector's Name Already Used:

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 the elector's name, the provisions of Section 127 of the *Local Government Act* shall apply, so far as applicable.

10.8 Replacement of Spoiled Ballot:

- (a) 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 designate of the ballot spoilage and by mailing or otherwise delivering by an appropriate means, the spoiled ballot package in its entirety to the chief election officer or designate.
- (b) The chief election officer shall, upon receipt of the spoiled ballot package, record such fact, and proceed in accordance with Section 10.3 of this bylaw.

11. **PROCEDURES AFTER CLOSE OF VOTING ON GENERAL VOTING DAY**

- 11.1 After the close of voting on general voting day, each presiding election official, except those responsible for advance and special voting opportunities, shall undertake all of the following, generally in the order stipulated:
- (a) ensure that any remaining ballots in the storage ballot compartment are inserted into the vote counting unit;
 - (b) secure the vote counting unit so that no more ballots can be inserted;
 - (c) generate three copies of the results tape from the vote counting unit;
 - (d) telephone the results to election headquarters immediately;
 - (e) ensure that unused, spoiled and voted ballots, voting books, including resident, non-resident and spoiled ballot sheets are packaged and sealed separately;
 - (f) place memory pack together with remaining two results tapes into the Results Tape Envelope;
 - (g) deliver, or have available for pick-up, the sealed ballots and results boxes, vote counting unit and the election materials box to the chief election officer at election headquarters; and
 - (h) Results Tape Envelope must be hand delivered to the Chief Election Officer at election headquarters.
- 11.2 Under the direction of the Chief Election Officer, ensure original copy of the ballot account, and one copy of the results tape are sealed into a ballots and results envelope and returned to election headquarters.
- 11.3 Under the direction of the Chief Election Officer, the advance voting opportunity and any special voting opportunities where vote counting units were used will be processed in accordance with Section 11.1 of this Bylaw.
- 11.4 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 counting unit to be counted, after which the provision of Sections 11.1 (a) to (h), so far as applicable, shall apply.
- 11.5 Upon the fulfilment of the provisions of Section 11.1 to 11.3 inclusive, the Chief Election Officer shall place the results in a spreadsheet, which may be used for display on the internet or other electronic means, indicating the total election results.

12. **RECOUNT PROCEDURE**

- 12.1 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 election materials boxes, except spoiled ballots, and reinserted in the appropriate vote counting unit under the supervision of the chief election officer;
- (d) any ballots returned by the vote counting unit during the recount process shall, through the use of the ballot return override procedure, be reinserted in the vote counting unit to ensure that any acceptable marks are counted; and
- (e) The Chief or Deputy Chief Election Officer shall place the results of each voting place on a spreadsheet so as to tally the total election results.

13. 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*.

14. GENERAL

14.1 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.

14.2 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.

15. REPEAL

District of West Kelowna "General Local Government Election Bylaw No. 0017" is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME THIS 13TH DAY OF MARCH, 2018
ADOPTED THIS 27TH DAY OF MARCH, 2018

MAYOR

CITY CLERK

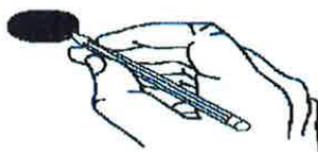
Schedule 'A'
Sample Ballot

DISTRICT OF WEST KELOWNA

Municipal Election
Saturday, November 19, 2011

To Vote:

Completely fill in the oval beside the name(s) of the candidate(s) you wish to vote for.



Mayor

Vote for ONE (1)

- FINDLATER, Doug
- NEIS, Rosalind

Councillor

Vote for up to SIX (6)

- ALBRECHT, Gux
- DE JONG, Rick
- ENSIGN, Rusty
- FICKE, Gordon
- KNOWLES, David
- MILSOM, Gord
- OPHUS, Duane
- ROBINSON, Randall
- SINCLAIR, Cathy
- SMITH, Mike
- TRENN, Mike
- WINSBY, Bryden
- ZANON, Carol

School Trustee

Vote for ONE (1)

- FRASER, Julia
- HOLOWCHAK, Jerry
- POMPONIO, Tina
- SUMMERS, Dan