

**TOWN OF LADYSMITH
BYLAW NO. 1339**

**A bylaw to provide for automated voting and
conduct of local government elections.**

WHEREAS pursuant to Section 102 of the *Municipal Act*, the Town of Ladysmith is empowered to provide, by bylaw, for the use of automated voting machines, voting recorders or other devices for voting in an election;

AND WHEREAS pursuant to the *Municipal Act* the Town of Ladysmith may, by bylaw, determine various procedures and requirements to be applied in the conduct of local government elections and other voting;

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

1. Definitions

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 counting unit is able to identify which has been made by the elector in the space provided on the ballot opposite the name of any candidate or opposite either “yes” or “no” on any 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 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 that have been reinserted using the ballot over-ride procedure

and the other for the temporary storing of voted ballots during such time as the vote counting unit is not functioning; and

- b) a number of portable ballot boxes into which voted ballots are deposited, where a vote counting unit is not being used, for counting after the close of voting on general voting day.

“Ballot” means a single automated ballot card designed for use in an automated voting system which shows;

- a) the names of all of the candidates for each of the offices of Mayor, Councillor and School Trustee, if applicable; and
- b) all of the choices on all of the questions on which the opinion or assent of the electors is sought.

“Ballot Return Over-Ride 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” means an election for the number of persons required to fill a local government office;

“Election Headquarters” means the Frank Jameson Community Centre, 810-6th Avenue, Ladysmith, BC

"Emergency Ballot Compartment" means a designated 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.

"General Local Election" means the elections held for each of the offices of Mayor, Councillor and School Trustee, if applicable.

"General Voting Day" means,

- (a) for a general local election, the 3rd Saturday of November in the year of the election,
- (b) for other elections, the date set under sections 37(5), 38 or 142(5) of the *Municipal Act*, and
- (c) for other voting, the date set out under section 162 of the *Municipal Act*.

"Jurisdiction" means, in relation to an election, the municipality for which it is held;

"Local Government" means, in relation to a municipality, the Council;

"Memory Pack" means a computer software cartridge which is inserted into the vote counting unit and into which is preprogrammed;

- a) the names of all of the candidates for each of the offices of Mayor, Councillor and School Trustee, if applicable; and
- b) the alternative of "yes" or "no" for each question

and a mechanism to record and retain information on the number of acceptable marks made for each.

"Other Voting" means, voting on a matter referred to in section 158 of the *Municipal Act*, and includes voting on a referendum under section 245 of that Act;

"Portable Ballot Box" means a ballot box which is used in the election where a vote counting unit is not being used at the time of voting.

"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 of Mayor, Councillor and School Trustee, if applicable, and the number of votes for and against each question.

"Returned Ballot" means a voted ballot which 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 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 Counting Unit" means the device into which voted ballots are inserted and which scans each ballot and counts and records the number of votes for each candidate and for and against each question.

"Voting Opportunity" means, either general voting day or either of the two required advance voting opportunities.

2. Authorization

Authorization is hereby given for the conduct of the General Local and School Board Trustee Election through use of an automated vote counting system.

3. Advance Voting Opportunities

- (1) Advance voting opportunities will be provided to eligible electors under the following circumstances;
 - a) the elector expects to be absent from the municipality for which the election is to be held on general voting day;
 - b) the elector will be unable to vote on general voting day for reasons of conscience;
 - c) the elector will not be able to attend at the voting place on general voting day for reasons beyond the elector's control;
 - d) the elector has a physical disability or is a person whose mobility is impaired;
 - e) the elector is a candidate or a candidate's representative; or
 - f) the elector is an election official
- (2) Advance voting opportunities will be held at the City Hall, 410 Esplanade, Ladysmith, BC on
 - a) the 10th day before general voting day from 8:00 a.m. to 8:00 p.m.; and
 - b) the 3rd day before general voting day from 8:00 a.m. to 8:00 p.m.

4. Advance Voting Opportunity Procedures

- (1) A portable ballot box shall be used at all advance opportunities and voting procedures shall follow as closely as possible those described in Section 5.
- (2) At the close of voting at each advance voting opportunity the Presiding Election Official shall in each case ensure that no additional ballots are or can be inserted into the portable ballot box by securing and sealing the ballot deposit slot.
- (3) The Presiding Election Official shall at the close of voting at the general voting day open the sealed portable ballot boxes and ensure;
 - a) that the ballots as contained within the portable ballot boxes are inserted into the vote counting unit; and
 - b) follow the procedures as closely as possible described in Section 5

5. Automated Voting Procedures

- (1) The Presiding Election Official for the voting place and at each advance voting opportunity shall offer, and if requested, ensure that a demonstration of how to vote using an automated vote counting system is provided to an elector as soon as such elector enters the voting place and before a ballot is issued.
- (2) Upon completion of any 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;
 - (ii) completes the voting book as required by the Municipal Act;
 - b) upon fulfillment of the requirements of subsection a) shall then provide a ballot to the elector, along with a secrecy sleeve if requested by the elector, the ballot marking pen, if applicable, and any further instructions the elector requests.

- (3) Upon being given 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 a maximum number of candidates to be elected for each of the offices of Mayor, Councillor and School Trustee, if applicable; and
 - b) beside either "yes" or "no" in the case of each question.
- (5) Once the elector has finished marking the ballot the elector must either;
 - a) place the ballot into the secrecy sleeve in the case of a two sided ballot; or
 - b) turn the ballot upside down in the case of a single sided ballot; andproceed 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 the ballot or the ballot is inserted into the vote counting unit and returned, 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 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.
- (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 over-ride procedure, reinsert the returned ballot into the vote counting unit to count any acceptable marks.
- (9) Any ballot accepted 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 their ballots into the emergency 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 emergency 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.
- (12) Any ballots which were temporarily stored in the emergency 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 a ballot return over-ride 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.

- (13) A sample ballot that may be used in an election conducted under an automated vote counting system is attached as Schedule "A" to this bylaw.

6. Procedures after the close of voting on general voting day

After the close of voting on general voting day the Chief Election Officer shall undertake all of the following generally in the order stipulated.

- a) ensure that any remaining ballots in the emergency 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 two (2) copies of the results tape from the vote counting unit;
- d) remove the memory from the vote counting unit;
- e) account for the unused, spoiled and voted ballots and place them, packaged and sealed separately into the election materials box;
- f) complete the ballot account and place the duplicate copy in the election materials box;
- g) seal the elections material box;
- h) place the voting books, the original copy of the ballot account, one (1) copy of the results tape and all completed administrative forms into the Chief Election Officer portfolio;
- i) proceed with the advance voting opportunities ballots by opening all portable ballot boxes and following the procedures in accordance with c) to h) inclusive of this Section so far as applicable.

7. 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) vote counting units will be designated for the recount 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 units 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 over-ride procedure, be reinserted into the vote counting unit to ensure that any acceptable marks are counted.
- (2) In the event of a tie vote after a judicial recount the tie vote will be resolved by conducting a Lot in accordance with the *Municipal Act*.

8. General Provisions

- (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.

9. Repeal of Previous Bylaw

"Town of Ladysmith Election Bylaw 1993, No. 1103" is hereby repealed.

10. Citation


This bylaw may be cited for all purposes as "Town of Ladysmith Election Procedures and Automated Voting Bylaw 1999, No. 1339.

READ A FIRST TIME this 21st day of JUNE, 1999.

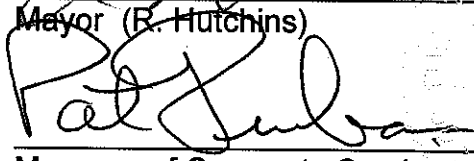
READ A SECOND TIME this 21st day of JUNE, 1999.

READ A THIRD TIME this 21st day of JUNE, 1999.

ADOPTED this 19th day of JULY, 1999.

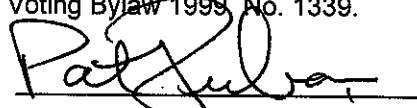


 Mayor (R. Hutchins)



 Manager of Corporate Services (P. Durban)

I hereby certify that this is a true and correct copy of "Town of Ladysmith Election Procedures and Automated Voting Bylaw 1999, No. 1339.



 Manager of Corporate Services