

TOWN OF LADYSMITH



“Town of Ladysmith Election and Assent Voting Bylaw 2018, No. 1964”

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(This consolidation is authorized by “Bylaw Revision Bylaw 2022, No. 2090”)*

June 25, 2018
Includes Amendment Bylaw Nos.: 2104

**TOWN OF LADYSMITH
BYLAW NO. 1964**

A bylaw to provide for the determination of various procedures for the conduct of elections and assent voting.

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

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

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

1. CITATION

This Bylaw may be cited for all purposes as “Town of Ladysmith Election and Assent Voting Bylaw 2018, No. 1964.”

2. DEFINITIONS

In this Bylaw the following terms have the following meanings:

Acceptable mark means a mark 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 or any voting 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 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 Frank Jameson Community Centre, 810 6th Avenue, Ladysmith, B.C.

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**, and which records and retains information on the number of acceptable marks made for each.

Portable ballot box means a ballot box, for use 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 to be filled, and the number of votes for and against each bylaw or other matters on which the opinion or assent 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 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 question on which the opinion or assent of the electors is sought.

3. ACCESS TO NOMINATION AND ENDORSEMENT DOCUMENTS

As authorized under Section 89(7) of the *Local Government Act*, public access to nomination documents will be posted on the Town of Ladysmith website from the time of delivery until 30 days after the declaration of the election results under Section 146.

4. ELECTOR REGISTRATION

As authorized under Section 76 of the *Local Government Act*, for all elections and assent voting, 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 general voting day .

5. ADVANCE VOTING OPPORTUNITIES

5.1 Required Advance Voting

As required under Section 107 of the *Local Government Act*, in addition to the required advance voting opportunity on the 10th day before general voting day, the following day is hereby established as an advance voting opportunity for elections and assent voting:

The Wednesday immediately preceding general voting day,
from 8:00 a.m. to 8:00 p.m.

5.2 Additional Advance Voting

- (a) As authorized under Section 108 of the *Local Government Act*, the Council authorizes the Chief Election Officer to establish dates for additional voting opportunities to be held in advance of general voting day and to designate the voting places and set the voting hours for these voting opportunities.
- (b) Additional advance voting opportunities on the dates specified in subSection 5.2(a) shall be available at places and hours established by the Chief Election Officer.

6. SPECIAL VOTING OPPORTUNITIES

- (a) As authorized under Section 109 of the *Local Government Act*, special voting opportunities may be provided, and the Chief Election Officer is hereby authorized to establish the dates, locations, and voting hours within the limits set out in Section 99 of the *Local Government Act*, for the special voting opportunities.
- (b) The Chief Election Officer is authorized to limit the number of candidate representatives who may be present at the special voting opportunity.

7. MAIL BALLOT VOTING

7.1 General Provisions for Mail Ballot Voting

- Bylaw 2104* (a) As authorized under Section 110 of the *Local Government Act*, voting and elector registration may be done by mail;

- Bylaw 2104* (b) The following procedures for voting and elector registration must apply:
- i. sufficient record will be kept by the Chief Election Officer 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*;
 - ii. a person exercising the right to vote by mail under the provisions of Section 110 may be challenged in accordance with, and on the grounds specified in Section 126 of the *Local Government Act*, until 4:00 p.m. two days before general voting day.
- (c) The time limits in relation to voting by a mail ballot will be determined by the Chief Election Officer, including the time limit to apply for a mail ballot package.
- (d) As provided in the *Local Government Act*, to be counted, a mail ballot must be received by the Chief Election Officer before the close of voting on general voting day.
- (e) A mail ballot package may be requested by an elector who is registered and who in person, by mail, by fax or by email, presents the Chief Election Officer or designate a written request by giving their name and address for such purpose.
- (f) The Chief Election Officer may deliver mail ballot packages by hand to electors who request a mail ballot package in person or the Chief Election Officer may deliver mail ballot packages to electors by mail for those electors who request the ballot package by mail, fax or email.
- Bylaw 2104* (g) Upon receipt of a request for a mail ballot, the Chief Election Officer or designate shall in accordance with the time limits established by the Chief Election Officer:
- i. make available to the applicant, a mail ballot package as specified in Section 110(7) of the *Local Government Act*; and
 - ii. keep a sufficient record 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*.

7.2 Mail Ballot 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, if required, 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 no later than the close of voting on general voting day.

7.3 Mail Ballot Acceptance or Rejection

- (a) In accordance with the time limits established by the Chief Election Officer, the Chief Election Officer or designate, upon receipt of a ballot package, 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; and
 - ii. the completeness of the certification; and
 - iii. the fulfillment 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 7.4 of this bylaw and the voting book shall be marked to indicate that the elector has voted.

- (b) The unopened certification envelopes shall remain in the custody of the Chief Election Officer or designate until 4:00 pm 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 pm 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 whose right 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 pm on the Thursday two days before general voting day and the close of voting on general voting day, the provisions of Section 7.3(a) of this bylaw with regard to 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 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:
 - i. open the accepted certification envelopes;
 - ii. place the unopened secrecy envelopes together into a ballot box;
 - iii. open the secrecy envelope and remove the ballot within; and

iv. insert the ballot into the vote tabulating unit.

(f) Where:

- i. upon receipt of an outer envelope, the Chief Election Officer is not satisfied as to the identity 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 70 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 7.3(f) of this bylaw shall remain unopened and shall be subject to the provisions of Section 160 of the *Local Government Act* with regard to their destruction.

7.4 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 126 of the *Local Government Act*.
- (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.

7.5 Elector’s Name Already Used

- (a) 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.

7.6 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 mail ballot, record such fact, and proceed in accordance with Section 7.1(g) of this bylaw.

8. AUTOMATED VOTE COUNTING SYSTEM

8.1 Use of Voting Machines

Council hereby provides for the use of an **automated vote counting system**, under the provisions of Section 112 of the *Local Government Act* for the conduct of elections and voting on bylaws or other matters on which the opinion or assent of the electors is sought.

8.2 Automated Voting Procedures

- (a) 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.
- (b) Upon completion of any voting demonstration, if any, the elector shall proceed as instructed to the election official responsible for issuing ballots who;
 - i. shall ensure that the elector
 - 1. is qualified to vote in the election; and

- 2. completes the voting book as required by the *Local Government Act*,
 - ii. upon fulfillment of the requirements of subsection i) 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.
- (c) Upon being given a ballot the elector shall immediately proceed to a voting compartment to vote.
- (d) The elector may vote only by making an acceptable mark on the ballot;
- i. 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
 - ii. beside either “yes” or “no” in the case of each question.
- (e) Once the elector has finished marking the ballot the elector must either;
- i. place the ballot into the secrecy sleeve in the case of a two sided ballot; or
 - ii. turn the ballot upside down in the case of a single sided ballot; and
- proceed 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.
- (f) 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.
- (g) 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.

- (h) 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.
- (i) 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.
- (j) 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.
- (k) 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:
 - i. becomes operational, or
 - ii. 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.

- (l) 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.

- (m) 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.

8.3 Advance Voting Opportunity Procedures

- (a) 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 5 of this Bylaw.
- (b) At the close of voting at each advance voting opportunity, the Presiding Election Official in each case shall ensure that:
 - i. no additional **ballots** are inserted in the **vote counting unit**;
 - ii. the **storage ballot compartment** is locked to prevent insertion of any **ballots**;
 - iii. the **results tapes** in the **vote counting unit** are not generated; and
 - iv. the **memory pack** of the **vote counting unit** is secured.
- (c) At the close of voting at the final advance voting opportunity, the Presiding Election Official shall:
 - i. ensure that any remaining **ballots** in the **storage ballot compartment** are inserted into the **vote counting unit**;
 - ii. secure the **vote counting unit** so that no more **ballots** can be inserted; and
 - iii. 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**.

8.4 Special Voting Opportunity Procedures

- (a) Unless the Chief Election Officer determines it is practical to use a vote counting 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 8.2(b), (c), (d) and (e) 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.

- (b) 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.
- (c) 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 8.3 of this Bylaw as if it were an advance voting opportunity.

8.5 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.

9. RECOUNT PROCEDURE

- (a) 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;
 - i. the memory packs of all vote counting units will be cleared;
 - ii. vote counting units will be designated for the recount voting place;
 - iii. 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;
 - iv. 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.
- (b) 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 *Local Government Act*.

10. GENERAL

- (a) 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.
- (b) 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.

11. REPEAL OF PREVIOUS BYLAW

Town of Ladysmith General Local Election Bylaw 1999, No. 1326, Town of Ladysmith Provincial Voters List Adoption Bylaw 1999, No. 1327 and Town of Ladysmith Election Procedures and Automated Voting Bylaw 1999, No. 1939, and all amendments thereto, are hereby repealed.

TOWN OF LADYSMITH
Municipal Election
Saturday, October xx, 2xxx

To Vote:

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



Councillor Vote for up to SIX(6)	Mayor Vote for ONE (1)
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School Trustee Vote for up to NINE(9)	Assent Voting
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