

CITY OF NANAIMO

BYLAW NO. 7129.04

A BYLAW TO AMEND THE GENERAL ELECTION BYLAW MAIL BALLOT PROVISIONS

The Council of the City of Nanaimo enacts as follows:

1. Title

This Bylaw may be cited for all purposes as the City of Nanaimo “General Election Bylaw Amendment Bylaw 2022 No. 7129.04”.

2. Amendments

“General Election Bylaw 2011 No. 7129” is hereby amended as follows:

2.1 By deleting section 5 in its entirety and replacing it with the following:

“5. Mail Ballot Voting

5.1 As authorized under section 110 of the *Local Government Act* and in accordance with this Bylaw, voting and registration of election may be done by mail.

5.2 The time limits in relation to voting by mail ballot will be determined by the Chief Election Officer.

5.3 Mail Ballot Voting Application Procedure

(1) An elector wishing to vote by mail shall apply, between the start of the nomination period and 4:00 p.m. on the Friday prior to general voting day, by giving their Application To Vote By Mail to the Chief Election Officer.

(2) Upon receipt of a request for a mail ballot, the Chief Election Officer will, make available to an elector, either by hand or by mail, a mail ballot package which contains:

i. the content as specified in section 110 (7) of the *Local Government Act*;

ii. information advising the applicant elector how to vote by mail ballot; and

iii. a statement advising the elector that they must meet the eligibility to vote criteria and that the elector must attest to such fact.

- (3) The Chief Election Officer shall keep a register of mail ballots which includes the following:
 - i. the name and address of all electors who request and are issued a mail ballot and elector registration package;
 - ii. the voter identification number of the elector where applicable; and
 - iii. any other information that the Chief Election Officer deems appropriate for maintaining the register of mail ballots; and
 - iv. upon request, the register of mail ballots must be made available for inspection.
- (4) At the elector's option, the Chief Election Officer may distribute the mail ballot package in any of the following ways:
 - i. sending the mail ballot package by Canada Post;
 - ii. sending the mail ballot package by courier at the expense of the elector;
 - iii. having the mail ballot package picked up by the elector at a designated time and location; or
 - iv. having the mail ballot package picked up by a person authorized by the applicant elector on the applicant elector's behalf at a designated time and location.
- (5) The Chief Election Officer may request that the person authorized to pick up a mail ballot package on the elector's behalf show identification and sign a form before being provided the mail ballot package.

5.4 Mail Ballot Voting Procedure

- (1) To vote by 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.
- (2) 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, if required, in the outer envelope, and then seal the outer envelope; and
 - 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.
- (3) In accordance with section 110 (4) of the *Local Government Act*, electors who register by mail are not required to produce to an election official, copies of proof of their identity and place of residence; however, they must attest to such fact in the presence of a witness and record having done so on the certification envelope.

5.5 Mail Ballot Acceptance or Rejection

- (1) Where a mail ballot and its contents are received by the Chief Election Officer before the close of voting on general voting day, the Chief Election Officer shall, upon receiving the returned mail ballot envelope and its contents:
- i. immediately record the date of receiving the returned mail ballot in the register of mail ballots;
 - ii. open the outer envelope and remove and examine the certification envelope and, if applicable, the completed elector registration application and verify the completeness of same as follows:
 1. confirm the identity and entitlement to vote of the elector whose ballot is enclosed,
 2. determine the fulfillment of the requirements in section 70 of the *Local Government Act* and the completeness of any application to register, if required; and
 3. determine the completeness of the certification envelope.
- (2) If the Chief Election Officer is satisfied that the elector has met the requirements in section 5.5 (1) the Chief Election Officer shall:

- i. mark the certification envelope as "accepted" and place the accepted and unopened certification envelope with the other accepted certification envelopes in a designated mail ballot box ("accepted certification envelopes").
- (3) The accepted certification envelopes shall be secured in a mail ballot box marked "accepted certification envelopes" until such time as decided by the Chief Election Officer in subsection (7) below or the close of voting. The Chief Election Officer will retain such mail ballot boxes in their possession.
- (4) If, on receiving a returned mail ballot envelope and its contents, the Chief Election Officer determines that:
 - i. the Chief Election Officer is not satisfied as to the identity of the elector; or
 - ii. the elector has not completed an application for registration in accordance with this Bylaw or the *Local Government Act*; or
 - iii. the returned mail ballot envelope is received by the Chief Election Officer after the close of voting on general voting day, the Chief Election Officer will mark such envelope as "rejected", noting the reasons for the rejection and shall set aside the rejected certification envelope.
- (5) Any certification envelopes and their contents rejected in accordance with this section will remain unopened and will be subject to the provisions of the *Local Government Act* regarding their destruction.
- (6) The Chief Election Officer will retain in their custody all accepted and rejected certification envelopes in order to manage any challenges made in accordance with this Bylaw.
- (7) At a place, date and time decided by the Chief Election Officer and before general voting day, the Chief Election Officer shall invite candidates or candidate representatives to observe the opening of the accepted certification envelopes received up to that point for the purpose of preparing the mail ballots for counting. At such time, the Chief Election Officer shall, in the presence of at least 1 other election official, and any candidate representatives:
 - i. open the accepted certification envelopes;

- ii. remove the secrecy envelopes containing the ballots; and
 - iii. open the secrecy envelope containing the ballot and run the ballot through the vote tabulator.
- (8) Any returned mail ballots received after the date and time set out in section 5.5 (7) and until the close of general voting day, will be handled in accordance with section 5.5 (1) through (6).
- (9) As soon as practicable after the close of voting on general voting day, the unopened accepted certification envelopes received after the date and time set out in section 5.5 (7) will be opened and duly processed by the Chief Election Officer in the presence of at least 1 other election official, and any candidate representatives, and the accepted ballots contained therein will be run through the vote tabulator and counted in accordance with this Bylaw and the *Local Government Act*.

5.6 Challenge of Elector

- (1) a person who qualifies under section 126 of the *Local Government Act* may challenge the right of a person exercising the right to vote by mail ballot on the grounds set out in section 126 up until 4:30 pm two days before general voting day.

5.7 Elector's Name Already Used

- (1) If, 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 Chief Election Officer shall comply with section 127 of the *Local Government Act*.

5.8 Spoiled Mail Ballot

- (1) 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 of the ballot spoilage and by mailing or otherwise delivering by any appropriate means, the spoiled ballot package in its entirety to the Chief Election Officer. The Chief Election Officer will, upon receipt of the spoiled ballot package and request for replacement, record such fact, and proceed in accordance with this section, so far as practicable within the applicable time limitations.

- 5.9 As provided in the *Local Government Act*, a mail ballot must be received by the Chief Election Officer before the close of voting on general voting day in order to be counted for an election.”
- 2.2 By adding the words “is complete” after the word “voting” in the last line of section 6(3).
- 2.3 By deleting section 8(9) in its entirety and replacing it with the following:
- “(9) If a ballot is returned by the vote tabulator, the election official at the ballot box must advise the elector that they may request another ballot. If the elector refuses the opportunity to request another ballot, the election official will, using the ballot return override procedure, reinsert the returned ballot into the vote tabulator to count any acceptable marks which may have been made acceptably.”
- 2.4 By deleting section 12 (1) and (2) in their entirety and replacing them with the following:
- “12. Post-vote Procedures:
- (1) Immediately after the close of voting on general voting day, the presiding election official must undertake the following, generally in the order stipulated:
- (a) Direct that all unopened portable ballot boxes be opened;
 - (b) Ensure that any remaining ballots in the portable ballot boxes are inserted into the vote tabulator;
 - (c) Secure the vote tabulator so that no more ballots can be inserted;
 - (d) Generate two copies of the results tape from the vote tabulator;
 - (e) Complete the ballot account, attaching one copy of the results tape;
 - (f) Seal all voted ballots in the ballot box;
 - (g) Count the unused ballots, spoiled and rejected ballots and place them, packaged separately and sealed, in a ballot box along with the voting books, a copy of the results tape, a copy of the ballot account and all statements and voters lists;
 - (h) Seal and initial the box and deliver it to the election office; and
 - (i) Deliver the vote tabulator, the sealed ballot box, one copy of the results tape and the ballot account to the Chief Election Officer as soon as possible.
- (2) The results tapes from the vote tabulators, used at the advance voting opportunities, mail ballots and any special voting opportunities will be generated by the Chief Election Officer or designate after 8:00 p.m. on the general voting day in accordance with subsection (1) above.”

2.5 By deleting section 13 in its entirety and replacing it with the following:

“13. Recount Procedure:

If in order to determine the results, in the Chief Election Officer's sole discretion, it is necessary or desirable to conduct a recount of the votes for any position or question, the Chief Election Officer may conduct a recount generally in accordance with the following procedure and that as set out in section 8 [Voting Procedure] in this Bylaw:

- a) The recount shall be conducted using the vote tabulators;
- b) The memory cards of all vote tabulators to be used will be cleared;
- c) Vote tabulators will be designated for each voting place;
- d) All voted ballots will be removed from the sealed ballot boxes, except spoiled or rejected ballots, and re-inserted in the vote tabulators under the supervision of the Chief Election Officer; and
- e) Any ballots returned by the vote tabulator during the recount process shall, through the use of the ballot return override procedure, be reinserted in the vote tabulator to ensure that any acceptable marks are counted; and
- f) To obtain the election results, the Chief Election Officer shall tally the votes and communicate the total election results.”

PASSED FIRST READING: 2022-JUN-20
PASSED SECOND READING: 2022-JUN-20
PASSED THIRD READING: 2022-JUN-20
ADOPTED: _____

MAYOR

CORPORATE OFFICER