

CITY OF SURREY

BY-LAW NO. 17393

A By-law to provide for the procedures for
the conduct of general local government elections
and other voting

As amended by By-law No. 18242, 07/07/14; 19600, 25/06/18

THIS IS A CONSOLIDATED BY-LAW PREPARED BY THE CITY OF SURREY FOR CONVENIENCE ONLY. THE CITY DOES NOT WARRANT THAT THE INFORMATION CONTAINED IN THIS CONSOLIDATION IS CURRENT. IT IS THE RESPONSIBILITY OF THE PERSON USING THIS CONSOLIDATION TO ENSURE THAT IT ACCURATELY REFLECTS CURRENT BY-LAW PROVISIONS.

WHEREAS the *Local Government Act* provides that the Council of the City of Surrey may, by bylaw, determine various procedures and requirements to be applied to local government elections and other voting held in Surrey;

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

NOW THEREFORE the Council of City of Surrey in open meeting assembled, ENACTS AS FOLLOWS:

**PART 1
INTERPRETATION**

Citation

- 1.1 This By-law may be cited for all purposes as “Surrey Election Procedures By-law, 2011, No. 17393”

Repeal

- 1.2 The following by-laws are hereby repealed:

“Automated Vote Counting System Authorization and Procedure By-law, 1996, No. 12858”;
“Surrey Elections (List of Electors) By-law, 2008, No. 16682”;
“Advance Voting Opportunities Establishment By-law, 2008, No. 16683”;
“Determination of Results by Lot if Tie Vote After Judicial Recount By-law, 2008, No. 16684”;
“City of Surrey Mail Ballot Authorization and Procedure By-law, 2008, No. 16685”;
“Surrey Voting Divisions Establishment By-law, 2008, No. 16686”;
“Special Voting Opportunities Establishment By-law, 2008, No. 16687”; and
“Surrey Access to Campaign Financing Documents By-law, 2008, No. 16688”.

Definitions

1.3 In this By-law, unless the context requires otherwise:

"Acceptable Mark" means a filled in 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 referendum question.

"Automated Vote Counting System" means a system that counts and records votes and processes and stores election results, which is comprised of:

- (a) a number of ballot scan vote tabulating units, each of which rests on a two compartment ballot box, one compartment of which is for voted ballots and returned ballots which have been reinserted using the ballot override procedure, and the other for the temporary storing of voted ballots during such time as the vote tabulating unit is not functioning;
- (b) a number of portable ballot boxes into which voted ballots are deposited where a vote tabulating unit is not being used, for counting after the close of voting on general voting day; and
- (c) a computerized system specifically designed for the accumulation of the data generated by each vote tabulating unit.

"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, Councillor, and School Trustee; and
- (b) all of the choices on all of the other voting questions on which the opinion of, 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.

"City" means the City of Surrey.

"Data Storage Device" means a device which plugs into the vote tabulating unit and into which is pre-programmed;

- (a) the names of all of the candidates for each of the offices of Mayor, Councillor, and, School Trustee; and
- (b) the alternatives of "yes" and "no" for each referendum question;

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

“Election Headquarters” means Surrey City Hall, 13450 - 104 Avenue, Surrey, BC, or other location as designated by the Chief Election Officer.

“Elector” means a resident elector or non-resident property elector of the City as defined under the *Local Government Act*.

“Emergency Ballot Compartment” means one of two separate compartments in the ballot box under each vote tabulating unit into which voted ballots are temporarily deposited in the event that the unit ceases to function.

“General Local Election” means the election held for the Mayor, Councillors and School Trustees of the City of Surrey.

“General Voting Day” means:

- (a) for a general local election, the date set under Section 81(1) of the *Community Charter*, S.B.C 2003, Chap. 26;
- (b) for other elections, the date set under Sections 54(5), 55(1)(a) or 152(5) of the *Local Government Act*;
- (c) for other voting, the date set under Section 174 of the *Local Government Act*.

“Other Voting” means voting on a matter referred to in Section 170 of the *Local Government Act*.

“Portable Ballot Box” means a ballot box which is used at a voting place in the election, where a vote tabulating unit is not being used.

“Register Tape” means the printed record generated from a vote tabulating unit at the close of voting on general voting day, and for any by-elections, which shows the number of votes for each candidate for each of the offices of Mayor, Councillor, and School Trustee, and the number of votes for and against each referendum question.

“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 Folder” means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector.

Severability

- 1.4 If any portion of this By-law is held to be invalid by a Court of competent jurisdiction, it is Council’s intention that such invalidity not affect the validity of the remaining portions of this By-law.

PART 2
VOTING DIVISION ESTABLISHMENT

- 2.1 For a general local election and for a by-election one municipal voting division is established, namely all property within the City of Surrey as described in Section 2 of letters patent for the City of Surrey dated September 11, 1993.

PART 3
LIST OF ELECTORS

- 3.1 In accordance with Section 76 of the *Local Government Act*, the register of resident electors for the City will be the most current available provincial list of voters prepared under the *Election Act* of British Columbia, existing no later than 52 days prior to the date of the general voting day.
- 3.2 Electors not appearing on the provincial list of voters may register at the time of attendance at a voting opportunity in accordance with the requirements of Sections 68, 72 and 73 of the *Local Government Act*.

PART 4
ADVANCE VOTING OPPORTUNITIES

Required Advance Voting Opportunities

- 4.1 In addition to the advance voting opportunity established by Section 107(1) of the *Local Government Act*, held on the 10th day (Wednesday) before general voting day, the second required advance voting day for a general local election or by-election shall be held on the 14th day (Saturday) before the general voting day.

Additional Advance Voting Opportunities

- 4.2 The Chief Election Officer is authorized to establish additional advance voting opportunities for each election or other voting, to be held in advance of the general voting day and subject to the *Local Government Act*, to designate the voting places and establish the date and voting hours for these additional advance voting opportunities.
- 4.3 Voting hours for the additional advance voting opportunities will be determined by the Chief Election Officer.

**PART 5
SPECIAL VOTING OPPORTUNITIES**

- 5.1 In order to give voters who may otherwise be unable to vote an opportunity to do so, due to a disability and/or restricted mobility, special voting opportunities will be conducted for facilities situated in the City which provide acute, intermediate and/or extended care services for eligible City electors.
- 5.2 The Chief Election Officer is authorized to identify acute, intermediate and/or extended care facilities located in the City at which a special voting opportunity is available and to establish the date, voting hours and place where the special voting opportunity is to be conducted.
- 5.3 Special Voting Opportunities apply only to residents and patients of the facilities identified by the Chief Election Officer and only to their voting at the facility at which they are a resident or patient.
- 5.4 The number of candidates' representatives who may be present at a special voting opportunity is limited to one.

**PART 6
MAIL BALLOT VOTING**

Authorization

- 6.1 Voting by mail ballot and elector registration by mail in conjunction with mail ballot voting are authorized by this By-law.
- 6.2 The only electors who may vote by mail ballot are:
 - (a) persons who have a physical disability, illness or injury that affects their ability to vote at another voting opportunity; and
 - (b) persons who expect to be absent from the City on general voting day and at the times of all advance voting opportunities.

Mail Ballot Procedures

- 6.3 An elector who wishes to vote by mail ballot must submit a request to the Chief Election Officer, using the form, including a declaration by the elector of the elector's right, in accordance with Section 6.2 of this By-law, to vote by mail ballot, and within the time limits required by the Chief Election Officer, which Council authorizes the Chief Election Officer to establish.
- 6.4 Upon receipt of an application for a mail ballot, the Chief Election Officer or designate, shall, between the 8th day prior to the first day of advance voting and 4:00 pm on the Thursday two days before general voting day:

- (a) make available to the applicant, a mail ballot package described in Section 110 of *the Local Government Act*; and
- (b) immediately record, and, upon request in person by an election official, candidate representative or elector, make available for inspection by any such person, the name and address of the person to whom the Chief Election Officer issued the mail ballot package.

Voting Procedure

- 6.5 In order to vote using a mail ballot, the elector must mark the ballot in accordance with this Bylaw and any other instructions contained in the mail ballot package provided by the Chief Election Officer.
- 6.6 After marking the ballot, the elector must:
- (a) place the ballot in the secrecy envelope provided, and then seal the secrecy envelope;
 - (b) place the secrecy envelope in the certification envelope, complete and sign the certification printed on the certification envelope, and then seal the certification envelope;
 - (c) place the certification envelope, together with a completed elector registration application, if required, in the outer envelope, and then seal the outer envelope; and
 - (d) mail or deliver the outer envelope and its contents to the Chief Election Officer at the address specified so that the Chief Election Officer receives it no later than 8:00 p.m. on general voting day.

Mail Ballot Acceptance or Rejection

- 6.7 Prior to 8:00 p.m. on general voting day, the Chief Election Officer or designate must either accept or reject the certification envelope in accordance with Section 6.8 or 6.9 of this By-law.
- 6.8 Upon receipt of the outer envelope, the Chief Election Officer or designate must immediately record the date of receipt, open the outer envelope, remove and examine the certification envelope and completed elector registration application, if applicable, and if satisfied as to:
- (a) the identity and entitlement to vote of the elector named in the certification,
 - (b) the completeness of the certification, and
 - (c) if a person is registering as a new elector, fulfilment of the requirements of Sections 65 or 66 of the *Local Government Act*,
- mark the certification envelope as “accepted”.

- 6.9 If the Chief Election Officer or designate:
- (a) is not satisfied as to the identity and entitlement to vote of the elector named in the certification, or the completeness of the certification;
 - (b) is not satisfied that a person registering as a new elector has fulfilled the requirements of Sections 65 or 66 of the *Local Government Act*; or
 - (c) receives the outer envelope after 8:00 p.m. on general voting day;

the Chief Election Officer or designate must not open the certification envelope, mark the certification envelope as “rejected”, note the reason for the rejection, and not count the ballot contained in the certification envelope in the election.

- 6.10 A certification envelope rejected under Section 6.9 of this By-law must remain unopened.
- 6.11 Each unopened certification envelope accepted under Section 6.8 must be inserted in a portable ballot box maintained in the custody of the Chief Election Officer until 8:00 p.m. on general voting day, after which time the Chief Election Officer must open the certification envelope containing the secrecy envelope in the presence of at least one other person.
- 6.12 Each certification envelope must remain in the custody of the Chief Election Officer for the purpose of dealing with any challenge.

Challenge of Elector

- 6.13 If an elector’s right to vote using a mail ballot is challenged, the Chief Election Officer will proceed, as far as practical, in accordance with Section 126 of the *Local Government Act*.
- 6.14 After opening a certification envelope from an elector, if:
- (a) no other person has challenged the elector’s right to vote using a mail ballot; or
 - (b) the elector, after resolution of such challenge, has the right to vote using a mail ballot;

the Chief Election Officer or designate, in the presence of at least one other person, must supervise the opening of each secrecy envelope, and then proceed in accordance with this By-law.

- 6.15 If the Chief Election Officer determines that another person has already voted or received a mail ballot in that elector's name, Section 127 of the *Local Government Act* applies to the extent applicable.

Replacement of Spoiled Ballots

- 6.16 If an elector unintentionally spoils a mail ballot before returning it to the Chief Election Officer and before 8:00 p.m. on general voting day gives the spoiled ballot package in its entirety to the Chief Election Officer, the elector may request a replacement ballot.
- 6.17 Upon receipt of a spoiled ballot package, the Chief Election Officer must record such fact, and proceed in accordance with Section 6.9 of this By-law.

PART 7 AUTOMATED VOTE COUNTING SYSTEM

Authorization

- 7.1 The conduct of a general local election, other voting, by-election and any other election under the *Local Government Act*, using an automated vote counting system is authorized by this By-law.

Automated Voting Procedures

- 7.2 Upon request, the presiding election official or designate for each voting place shall illustrate the proper marking of a ballot, and demonstrate how to insert the ballot into the vote counting unit. This instruction will be offered before a ballot is issued.
- 7.3 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;
 - (ii) completes the voting book as required by the *Local Government Act*; and
 - (b) upon fulfillment of the requirements of Sub-Section (a), shall then provide a ballot to the elector, along with a secrecy folder, if requested by the elector, and any further instructions the elector requests.
- 7.4 Upon being given a ballot, and secrecy folder if so requested, the elector shall immediately proceed to a voting compartment to vote.
- 7.5 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 School Trustee; and
 - (b) beside either "yes" or "no" in the case of each referendum question.

- 7.6 Once the elector has finished marking the ballot, the elector must place the ballot into the secrecy folder if applicable, proceed to the voting tabulating unit, and under the supervision of the election official in attendance, insert the ballot directly from the secrecy folder, if applicable, into the vote tabulating unit without the acceptable marks on the ballot being exposed.
- 7.7 If, before inserting the ballot into the vote tabulating unit, an elector determines that he or she 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.
- 7.8 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.
- 7.9 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.
- 7.10 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.
- 7.11 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.
- 7.12 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 the emergency ballot compartment, provided that if the vote tabulating unit:
- (a) becomes operational, or
 - (b) is replaced with another vote tabulating 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 inserted into the vote tabulating unit to be counted.
- 7.13 Any ballots which were temporarily stored in the emergency ballot compartment, 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.

Special Voting Opportunity Procedures

- 7.14 A portable ballot box shall be used for all special voting opportunities and the presiding election official appointed to attend at each special voting opportunity shall proceed in accordance with 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.
- 7.15 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.

Advance Voting Opportunity Procedures

- 7.16 The presiding election official shall, at the close of voting at each advance voting opportunity shall:
- (a) ensure that any remaining ballots in the emergency ballot compartment are inserted into the vote tabulating unit; and
 - (b) secure the vote tabulating unit so that no more ballots can be inserted.
- 7.17 The presiding election official shall, after the close of voting at the final advance voting opportunity, deliver the vote tabulating unit together with the data storage devices and all other materials used in the election to the custody of the Chief Election Officer.

Procedures After the Close of Voting on General Voting

- 7.18 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, special voting and mail balloting opportunities, unless otherwise specifically provided for, each presiding election official shall:
- (a) ensure that any remaining ballots in the emergency ballot compartment are inserted into the vote tabulating unit;
 - (b) secure the vote tabulating unit so that no more ballots can be inserted;
 - (c) generate three copies of the register tape from the vote tabulating unit;
 - (d) 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;
 - (e) complete the ballot account and place the duplicate copy in the election materials transfer box;
 - (f) seal the election materials transfer box;
 - (g) place the voting books, the original copy of the ballot account, two copies of the register tape, completed registration cards, keys and all completed administrative forms into the Chief Election Officer's portfolio; and
 - (h) deliver the sealed election materials transfer box, vote tabulating unit and the Chief Election Officer's portfolio to the Chief Election Officer at Election Headquarters.

- 7.19 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 7.18(c) to (h) of this By-law.
- 7.20 At the close of voting on general voting day, all portable ballot boxes used in the election will be opened at Election Headquarters, 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 Section 7.18(c) to (h) of this By-law, so far as applicable, shall apply.
- 7.21 Any ballot returned by the vote tabulating unit after being inserted 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.

Recount Procedure

- 7.22 If a recount is required, it shall be conducted under the direction of the Chief Election Officer, using the automated vote counting system, generally in accordance with the following procedure:
- (a) the data storage devices of all vote tabulating units will be cleared,
 - (b) vote tabulating units will be designated for each voting place, advance voting, and other voting opportunities, used in the election
 - (c) all ballots will be removed from the sealed ballot boxes, and
 - (d) all voted ballots, except spoiled ballots, will be reinserted into the appropriate vote tabulating units under the supervision of the Chief Election Officer,
 - (e) if a ballot is returned by the vote tabulating unit, it will be re-inserted, using the ballot return override procedure,
 - (f) once all ballots have been successfully inserted into the vote tabulating units, register tapes will be generated from each of the vote tabulating units.
- 7.23 If a candidate cannot be declared elected because there is an equality of valid votes for 2 or more candidates, the chief election officer must declare that the election is to be referred to a judicial recount.

PART 8 RESOLUTION OF A TIE AFTER JUDICIAL RECOUNT

- 8.1 If at the completion of a judicial recount the results of the election cannot be declared because there is an equality of valid votes for 2 or more candidates, the results will be determined by lot between those candidates in accordance with Section 151(2) of the *Local Government Act*.

**PART 9
USE OF THE CORPORATE WEBSITE**

- 9.1 The following information is authorized to be accessed from the City website in order to facilitate easier access for viewing by the public, for the periods specified by Section 89 of the *Local Government Act* and Section 59 of the *Local Elections Campaign Financing Act*:
- (a) nomination documents and signed declarations filed by each candidate and elector organization; and
 - (b) campaign financial disclosure statements and signed declarations filed on behalf of each candidate, elector organization and campaign organizer will be available through a link posted on the City website.

READ A FIRST TIME on the 30th day of May, 2011.

READ A SECOND TIME on the 30th day of May, 2011.

READ A THIRD TIME on the 30th day of May, 2011.

FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 13th day of June, 2011.

_____ MAYOR

_____ CLERK