



The Corporation of the City of Penticton
Election and Assent Voting Bylaw

No. 2022-27

Consolidated for convenience only

Amended by:
2024-41

On:
December 17, 2024

This is a consolidated bylaw prepared by the Corporation of the City of Penticton 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 bylaw provisions.

The Corporation of the City of Penticton

Bylaw No. 2022-27

A Bylaw to establish various procedures for the conduct of elections.

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 City of Penticton, in open meeting assembled, enacts as follows:

1. Title

This Bylaw may be cited for all purposes as "Election and Assent Voting Bylaw No. 2022-27".

2. Definitions

In this Bylaw the following terms have the following meanings:

Acceptable mark means a completed 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** used with **ballot** retention boxes;
- (b) a number of **portable ballot boxes** into which voted **ballots** are deposited where a **vote counting unit** is not functioning or being used.

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**.

Chief Election Officer means the person appointed by Council for that election, or their designate.

Election headquarters means the location determined by the **Chief Election Officer** for that purpose.

Memory Device means a computer software memory device or USB which is inserted into the **vote counting unit** and into which is pre-programmed the names of all the candidates for each of the office 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. (Bylaw No. 2024-41)

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, or in the instance of a mail ballot the **ballot** has not been accepted into the machine and is then considered a spoiled ballot and is not counted.

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 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. Minimum Number of Nominators

The minimum number of qualified nominators required to make a nomination for office as a member of council shall be 10.

4. Access to Nomination and Endorsement Documents

- (a) The **Chief Election Officer** must give public access to nomination documents to persons at City Hall for review during its regular office hours, but not to copy or photograph. The **Chief Election Officer** may provide access to nomination documents by Internet through the City website, and these documents may be redacted to remove personal information at the discretion of the **Chief Election Officer**. Nomination documents will be publically available from the time of delivery until 30 days after the declaration of the election results;
- (b) The **Chief Election Officer** must give public access to elector organization endorsement documents as specified in 4 (a) above.

5. Elector Registration

The current available Provincial list of voters prepared under the *Election Act* shall form the register of resident electors and shall become the register of electors on the 52nd day prior to general voting day.

6. General Voting Opportunities

As authorized under section 105 of the *Local Government Act*, as soon as practicable after the declaration of an election by voting, the **Chief Election Officer** will designate voting place(s) for general voting day. The voting place(s) on general voting day will be open from 8:00 a.m. to 8:00 p.m.

7. Advance Voting Opportunities

7.1 Required Advance Voting

- (a) In addition to the required advance voting opportunity on the 10th day before general voting day, the second advance voting opportunity date and place will be established by the **Chief Election Officer**.

7.2 Additional Advance Voting

- (a) The **Chief Election Officer** may:
 - i. establish additional voting opportunities to be held in advance of general voting day; and
 - ii. designate the voting places and set the voting hours for these voting opportunities.

8. Special Voting Opportunities

- (a) The **Chief Election Officer** may establish the dates, locations, and voting hours within the limits set out in the *Local Government Act*, for the special voting opportunities.
- (b) Only electors who are patients, residents, students of the college, or workers at special voting opportunity locations may vote at this special voting opportunity, unless otherwise determined by the Presiding Election Official at the special voting opportunity.
- (c) The **Chief Election Officer** may limit the number of candidate representatives who may be present at the special voting opportunities. The facility where the special voting opportunity is being held may also limit the number of candidate representatives who may be present.

9. Additional General Voting Opportunities

As authorized under section 106 of the *Local Government Act*, the **Chief Election Officer** may designate the voting places and set the voting hours within the limits set out in the *Local Government Act* for additional general voting opportunities.

10. Mail Ballot Voting

- (a) The **Chief Election Officer** will establish procedures to allow for mail ballot voting (including elector registration) as authorized under section 110 of the *Local Government Act*.
- (b) The **Chief Election Officer** shall keep sufficient records 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*.
- (c) The **Chief Election Officer** shall determine the time limits in relation to voting by mail ballot.
- (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 according to the procedures set out by the **Chief Election Officer**.

11. Order Of Names On Ballot

The order of names of candidates on the **ballot** will be alphabetical in accordance with section 116 of the *Local Government Act*.

12. Use of Voting Machines

Council hereby provides for the use of an **automated vote counting system** for the conduct of elections and voting on bylaws or other matters on which the opinion or assent of the electors is sought.

12.1 Automated Voting Procedures

- (a) 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.
- (b) Upon completion of the voting demonstration, if any, the elector shall proceed as instructed, to the election official responsible for issuing **ballots**, who, upon fulfilment of the requirements of the *Local Government Act*, shall then provide a **ballot** to the elector, a **secrecy sleeve** if requested by the elector, the **ballot** marking instrument, and any further instructions the elector requests.
- (c) Upon receiving 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 the maximum number of candidates to be elected for each of the offices to be filled; and
 - ii. 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.
- (e) Once the elector has finished marking the **ballot**, the elector should 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 or from the **secrecy sleeve**, if applicable, 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 if the **ballot** is returned by the **vote counting unit**, the elector may return to the voting compartment (booth) to correct the **ballot** or request a replacement **ballot** by informing the election official in attendance.
- (g) 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.
- (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 override procedure**, reinsert the **returned ballot** into the **vote counting unit** to count any **acceptable marks** which have been made correctly.

- (i) Any **ballot** counted by the **vote counting unit** is valid and any **acceptable marks** contained on such **ballots** will be counted, 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, unless they are required to remain within the voting place and approved to remain by the presiding election official.
- (k) During any period that a **vote counting unit** is not functioning, the election official supervising the unit shall insert all **ballots** delivered by the electors during this time, into a **portable ballot box**, 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 **portable ballot box** 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 **portable ballot box** 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.

12.2 Automated Voting Procedures - Advance Voting Opportunity

- (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 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 **portable ballot box** is secured to prevent insertion of any additional **ballots**;
 - iii. the **results tapes** in the **vote counting unit** are not generated;
 - iv. the **Memory Device** of the **vote counting unit** is secured; and
 - v. the **vote counting unit** together with the **Memory Device** and all other materials used in the election are delivered to the **Chief Election Officer** at **election headquarters**.
(Bylaw No. 2024-41)
- (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 **portable ballot box** are inserted into the **vote counting unit**;
 - ii. secure the **vote counting unit** so that no more **ballots** can be inserted;
 - iii. ensure the **portable ballot box** is secured to prevent insertion of any additional **ballots**;
 - iv. ensure the **results tapes** in the **vote counting unit** are not generated; and
 - v. deliver the **vote counting unit** together with the **Memory Device** and all other materials used in the election to the **Chief Election Officer** at **election headquarters**.
(Bylaw No. 2024-41)

12.3 Automated Voting Procedures - Special Voting Opportunity

- (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 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 this Bylaw as if it were an advance voting opportunity.

12.4 Procedures After Close of Voting on General Voting Day

- (a) After the close of voting on general voting day, each presiding election official shall undertake all of the following, generally in the order stipulated:
 - i. ensure that any remaining **ballots** in the **portable ballot box** are inserted into a **vote counting unit**;
 - ii. secure the **vote counting unit** so that no more **ballots** can be inserted;
 - iii. generate three copies of the **results tape** from the **vote counting unit**, and at the main polling station generate three copies of the **results tape** from the **vote counting unit** for each **Memory Device** used in advance or other voting opportunities;
 - iv. communicate the result to **election headquarters** immediately;
 - v. account for the unused, spoiled and voted **ballots** and place them, packaged and sealed separately, together with the **Memory Device(s)** from the **vote counting unit** and one copy of the **results tape**, into the **ballots** and results box;
 - vi. seal the ballot boxes;
 - vii. place the voting books, list of electors, the original copy of the ballot account, one copy of the **results tape**, completed registration cards, keys and all completed forms into the election materials box; and
 - viii. deliver, or have available for pick-up, the sealed **ballots** and results box, **vote counting unit** and the election materials box, to the **Chief Election Officer** at **election headquarters**;
 - ix. Except where **vote counting units** have been used under Sections 12.2 and 12.3, all **portable ballot boxes** used in the election will be opened, under the direction of the **Chief Election Officer**, at or before 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 12.4 (i) to (viii), so far as applicable, shall apply.

(Bylaw No. 2024-41)

12.5 Election Results

Upon the fulfilment of the provisions of section 12, the **Chief Election Officer** shall, to obtain the election results, direct an election official to place the results in a spreadsheet, which may be used for display indicating the total results.

13. Number of Scrutineers at Voting Places

The number of scrutineers for each candidate that may attend at an election polling station at the same time is one (1) scrutineer for each ballot box in use.

14. Number of Scrutineers For Assent Voting

As authorized under section 181 of the *Local Government Act*, for assent voting, the number of scrutineers for the question and the number of scrutineers against the question that may attend at each voting place at the same time is 1 (one) scrutineer for each side of the question.

15. Judicial Recount

If a judicial recount is requested after the preliminary election results are announced, 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 Devices** of all **vote counting units** will be cleared, or a new zero **Memory Device(s)** may be used;
- (b) a zero **Memory Device**, and if available 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) to obtain election results, the Chief or Deputy **Chief Election Officer** shall place the results of each voting place on spreadsheets so as to tally the total election results.
(Bylaw No. 2024-41)

16. 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*.

17. 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.

22. Repeal

“Election and Assent Voting Bylaw No. 2018-34” and all amendments thereto are hereby repealed upon adoption of this bylaw.

READ A FIRST time this	7 day of	June, 2022
READ A SECOND time this	7 day of	June, 2022
READ A THIRD time as amended this	7 day of	June, 2022
ADOPTED this	21 day of	June, 2022

John Vassilaki, Mayor

Angie Collison, Corporate Officer