

## 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 Bylaw No. 18242, 07/07/14; 19600, 25/06/18; 20645, 06/01/22

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- 1.2 The following by-laws are hereby repealed: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 a choice for a question on the ballot.

**"Applicant"** means an elector who wants to vote by mail and makes a request for a mail ballot.

**"Authorized Person"** means a person that the applicant has authorized, on the applicant's behalf, to:

- (a) pick up a mail ballot package; or
- (b) drop off a completed mail ballot package.

**"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 of which is an emergency ballot compartment;
- (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 data storage device.

**"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 to be filled; 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 to be filled; and
- (b) all of the choices for each question on the ballot;

and which records and retains 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 and all Councillors of the City of Surrey and School Trustees for School District No. 36 referred to in Section 52 of the *Local Government Act*.

**"General Voting Day"** means:

- (a) for a general local election, the date set under Section 52 of the *Local Government Act*;
- (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 of Mail Ballots"** means the mail ballot voting records that the Chief Election Officer must keep in order to address any challenges to an elector's right to vote.

**"Register Tape"** means the printed record generated from a vote tabulating 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 each of the choices for each question on the ballot.

**"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.

**"Vote Tabulating Unit"** means a device into which voted ballots are inserted and which scans each ballot and records the number of votes for each candidate and for each of the choices for each question on the ballot.

## 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 most current available provincial list of voters prepared under the *Election Act* of British Columbia, becomes the register of resident electors on the 52nd day before 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 tenth day (Wednesday) before general voting day, the second required advance voting day shall be held on the third day (Wednesday) before 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 Deleted..

## PART 5 Deleted.

**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 Chief Election Officer may establish the time limits in relation to voting by mail.

**Mail Ballot Application Procedure**

- 6.3 An Applicant shall apply to vote by mail ballot by giving their name and address to the Chief Election Officer during the period established by the Chief Election Officer in the form prescribed by the Chief Election Officer.
- 6.4 Upon receipt of an application for a mail ballot, the Chief Election Officer shall:
- (a) make available to the applicant, a mail ballot package which contains:
    - (i) the content described in Section 110(7) of the *Local Government Act*;
    - (ii) additional instructions; and
    - (iii) a statement advising the elector that the elector must meet the eligibility to vote criteria and that the elector must attest to such fact; and
  - (b) immediately record in the register of mail ballots, and, upon request in person by an election official, candidate representative or elector, make available for inspection by any such person:
    - (i) the name and address of the person to whom the Chief Election Officer issued the mail ballot package;
    - (ii) the number of the elector or "new elector", if that person is not registered as an elector; and
    - (iii) any other information that the Chief Election Officer deems helpful to maintain the register of mail ballots.
- 6.4A As per the applicant's direction and subject to any time limits established by the Chief Election Officer, the Chief Election Officer may distribute the mail ballot package in any of the following ways:
- (a) sending the mail ballot package by Canada Post;
  - (b) sending the mail ballot package by courier at the expense of the applicant;
  - (c) having the mail ballot package picked up by the applicant at a time and location designated by the Chief Election Officer; or
  - (d) having the mail ballot package picked up by an authorized person at a time and location designated by the Chief Election Officer.

- 6.4B The Chief Election Officer may request that the authorized person show identification and sign a form before providing the authorized person with 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 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 have delivered 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 Deleted.
- 6.8 Upon receipt of the outer envelope and its content, the Chief Election Officer must immediately record the date of receipt in the register of mail ballots, 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 of the elector as an applicant on the register of mail ballots;
  - (b) the entitlement to vote of the elector named in the certification;
  - (c) the completeness of the certification: and
  - (d) if a person is registering as a new elector, fulfilment of the requirements of Sections 65 or 66 and Section 70 of the *Local Government Act* and completeness of the application to register,

mark the certification envelope as "accepted" and place the accepted certification envelope with the other certification envelopes.

6.9 If the Chief Election Officer:

- (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 and Section 70 of the *Local Government Act*; or has completed the application to register properly; or
- (c) receives the outer envelope after 8:00 p.m. on general voting day;

the Chief Election Officer must not open the certification envelope, and must mark the certification envelope as "rejected", note the reason for the rejection, set aside the rejected certification envelope, and not count the ballot contained in the rejected 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 certification envelope accepted under Section 6.8 must be inserted in a portable ballot box maintained in the custody of the Chief Election Officer the certification envelope containing the secrecy envelope is opened in accordance with Sections 6.18 through 6.22 of this By-law.

6.12 Each certification envelope, whether "accepted" or "rejected", and any related elector registration applications must remain in the custody of the Chief Election Officer for the purpose of dealing with any challenge.

### **Challenge of Elector**

6.13 A person who qualifies under Section 126 of the *Local Government Act* may challenge the right of a person to vote by mail ballot on the grounds set out in Section 126 of the *Local Government Act*.

6.14 Deleted.

### **Elector's Name Already Used**

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, the elector may request a replacement ballot by returning the spoiled ballot package in its entirety to the Chief Election Officer before 8:00 p.m. on general voting day.

- 6.17 Upon receipt of a spoiled ballot package, the Chief Election Officer must record such fact, mark the spoiled ballot package as spoiled, set aside the spoiled ballot package, and not count the ballot contained in the spoiled ballot package in the election.

### **Processing and Counting of Mail Ballots**

- 6.18 On the third day (Wednesday) before general voting day, during the period established by the Chief Election Officer, the Chief Election Officer or presiding election official will, in the presence of at least one other person and any candidate representatives:
- (a) deal with any challenges to the electors involving the accepted certification envelopes;
  - (b) open the certification envelopes;
  - (c) remove the secrecy envelopes containing the ballots;
  - (d) open the secrecy envelopes and insert the ballots into the vote tabulating unit designated for mail ballot voting; and
  - (e) secure the vote tabulating unit so that no more ballots can be inserted.
- 6.19 On the second day (Thursday) before general voting day, during the period established by the Chief Election Officer, the Chief Election Officer or presiding election official will follow the procedures in Section 6.18 for accepted certification envelopes that have not yet been processed.
- 6.20 On the day (Friday) before general voting day, during the period established by the Chief Election Officer, the Chief Election Officer or presiding election official will follow the procedures in Section 6.18 for accepted certification envelopes that have not yet been processed.
- 6.21 On general voting day, during the period established by the Chief Election Officer, the Chief Election Officer or presiding election official will follow the procedures in Section 6.18 for accepted certification envelopes that have not yet been processed.
- 6.22 After 8:00 p.m. on general voting day, the Chief Election Officer or presiding election official will follow the procedures in Section 6.18 for all remaining accepted certification envelopes from mail ballot packages received prior to 8:00 p.m. on general voting day but not yet processed.
- 6.23 Once all of the accepted mail ballots have been inserted into the vote tabulating unit, and after the close of voting on general voting day, the Chief Election Officer shall direct the presiding election official for the mail ballot voting opportunity to proceed with counting the mail ballot in accordance with Section 7.18 of this By-law

**PART 7**  
**AUTOMATED VOTE COUNTING SYSTEM**

**Authorization**

- 7.1 The use of an automated vote counting system for the conduct of elections and other voting is authorized by this By-law.

**Automated Voting Procedures**

- 7.2 Upon request, the presiding election official 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 meets the basic requirements set out in Section 125 of the *Local Government Act* in order to obtain a ballot; 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 to be filled; and
  - (b) beside a choice, up to the maximum number of choices permitted, on any other question on the ballot.
- 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 vote 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 they have 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 mark the ballot "spoiled" and issue a replacement ballot to the elector 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.

### **Mail Ballot Voting Opportunity Procedures**

- 7.14 The procedures for processing and counting mail ballots using an automated vote counting system are set out in Sections 6.18 through 6.23 of this By-law.
- 7.15 A vote tabulating unit used for the counting of mail ballots shall not be used for any other voting opportunities.

### **Advance Voting Opportunity Procedures**

- 7.16 The presiding election official, at the close of voting at each advance voting opportunity, shall ensure that:
- (a) no additional ballots are inserted in the vote tabulating unit;
  - (b) the emergency ballot compartment is locked to prevent insertion of any ballots;
  - (c) the results tapes in the vote tabulating unit are not generated; and
  - (d) the data storage device of the vote tabulating unit is secured.

- 7.17 The presiding election official, after the close of voting at the final advance voting opportunity, 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; and
  - (c) 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 at Election Headquarters.

### **Procedures After the Close of Voting on General Voting Day**

- 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 voting, and mail ballot 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 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 opportunity, the mail ballot voting opportunity, and other voting opportunities, as applicable,
  - (c) all ballots will be removed from the election materials transfer box, 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