

## BYLAW NO. 2090

### A BYLAW OF THE CITY OF NORTH BATTLEFORD IN THE PROVINCE OF SASKATCHEWAN TO PROVIDE FOR THE USE OF AN AUTOMATED VOTE COUNTING SYSTEM AT ELECTIONS.

WHEREAS pursuant to Section 90 of *The Local Government Election Act, 2015*, Council, may by bylaw, provide for the use at elections of voting machines, voting recorders, optical scanning vote tabulators or other similar devices; and

WHEREAS such a bylaw must include provisions respecting the form of ballot, and respecting procedures for voting and for counting votes; and may include provisions respecting any other matter that the Council considers necessary or advisable;

NOW THEREFORE THE COUNCIL OF THE CITY OF THE CITY OF NORTH BATTLEFORD IN OPEN MEETING ASSEMBLED ENACTS AS FOLLOWS:

#### **Short Title**

1. This Bylaw may be cited as “The Automated Vote Counting Bylaw”

#### **Purpose**

2. The purpose of this Bylaw is to provide for the use at elections of voting machines, and other voting devices used in a vote counting system, and to authorize the form of the ballot and the procedures for voting and counting votes, pursuant to section 90 of the Act.

#### **Definitions**

3. In this Bylaw:

“**acceptable mark**” means any mark made by an elector on a ballot which the voting machine is able to record;

“**Act**” means *The Local Government Election Act, 2015*;

**“automated vote counting system”** means a system that counts and records votes and processes and stores election results including:

- (a) software programs and hardware applications including devices for the storage of electronic information;
- (b) an automated voting machine that has:
  - (i) a main ballot box for voted ballots;
  - (ii) an emergency ballot box for the temporary storage of voted ballots during such time as the voting machine is not functioning; and
  - (iii) portable ballot boxes into which voted ballots are deposited where a voting machine is not being used at the polling place, but where a voting machine is used for counting votes.

**“ballot”** means a ballot paper or form designed for use in a vote counting system;

**“ballot box”** means the ballot box used with the voting machine for holding counted ballots;

**“blank ballot”** means a ballot without any votes in the voting areas as determined by a voting machine;

**“deputy returning officer”** means a deputy returning officer appointed pursuant to Section 48 of *The Local Government Election Act, 2015* and includes an issuing deputy returning officer, receiving deputy returning officer and supervising deputy returning officer;

**“election”** means an election as defined in *The Local Government Election Act, 2015*;

**“election headquarters”** means the municipal election office, as determined by the returning officer;

**“election official”** includes a returning officer, associate returning officer, deputy returning officer, poll clerk, nomination officer, and any other supervisory officers and assistants appointed pursuant to Section 47 and 48 of *The Local Government Election Act, 2015*;

**“emergency ballot box”** means a separate compartment on the ballot box into which voted ballots are temporarily deposited in the event that a vote counting unit ceases to function;

**“mail-in ballot”** means a mail-in ballot used pursuant to Bylaw No. 2019 being the Mail-in Ballot Bylaw;

“**mobile poll**” means a polling place for homebound voting established under section 30 of *The Local Government Election Act, 2015*;

“**over voted ballot**” means a ballot on which one or more of the voting areas has more than the allowed number of acceptable marks as determined by the voting machine;

“**poll book**” means the register of electors who have cast their vote, which contains the list of electors, information relating to the ballot, and which has the capacity to record information relating to objections and affidavits;

“**portable ballot box**” means a ballot box that is used at a polling place where a voting machine is not being used;

“**register tape**” means the printed record generated from a voting machine that shows:

- (a) the total number of ballots received;
- (b) the number of blank ballots;
- (c) the number of over voted ballots;
- (d) the number of votes for each candidate; and,
- (e) if there is a vote on a bylaw, resolution or question, the number of votes for and against each bylaw, resolution or question;

“**returning officer**” means a person specified or appointed as a returning officer pursuant to Section 47 of *The Local Government Election Act, 2015*;

“**secrecy sleeve**” means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector;

“**special poll**” means a polling place established under section 29 of *The Local Government Election Act, 2015*;

“**supervising deputy returning officer**” means the deputy returning officer who, among other duties, supervises the designated election officials and is responsible for the conduct of all matters in the polling place;

“**USB media**” means a device used to store electronic information which plugs into the voting machine and into which is pre-programmed the information necessary to conduct the election and record the votes, and a mechanism to record and retain the information set out on the register tape;

“**voting machine**” means any device that records how ballots are marked and produces election results by tabulating votes; and

“zero register tape” means a printed register tape of all totals on the voting machine’s programmed secured USB media that indicates zero for all categories.

### **General Election Procedure**

4. Except as modified by this Bylaw, all elections in the City of North Battleford shall be conducted in accordance with the provisions of *The Local Government Election Act, 2015*.
5. The City Clerk shall retain any poll books, ballots and any electronic election results data for a period of three (3) months after the day on which the election or vote on a bylaw, resolution or question has occurred, and as soon as possible thereafter, unless otherwise ordered by a judge, shall cause them to be destroyed in accordance with section 142 of the Act.

### **Authorization**

6. (a) The Council of the City of North Battleford hereby authorizes the use of an automated vote counting system at general elections, by-elections and votes on bylaws, resolutions or questions.
- (b) Where this Bylaw does not provide for any matter, an election to which this Bylaw applies shall be conducted as far as practicable in accordance with the Act.

### **Form of Ballot**

7. Subject to such modifications and deviations as are permitted by the Act, the ballot shall be a paper ballot that is substantially the same as the sample ballot attached as Schedule “A” and forming part of this Bylaw.

### **Programming**

8. (1) The USB media that is inserted into the voting machine shall be programmed so that a printed record of the following can be reproduced:
  - (a) the number of blank ballots;
  - (b) the number of over voted ballots;
  - (c) the number of votes for each candidate; and,
  - (d) if there is a vote on a bylaw, resolution or question, the number of votes for and against each bylaw, resolution or question.
- (2) The USB media shall not be programmed until twenty-four (24) hours after the close of the nomination period.

- (3) Pursuant to subsection (7)(1) of *The Local Government Election Regulations, 2015*, each voting machine must be programmed to accept ballots without an override function or audible sound.

### **Pre-Poll Logic and Accuracy Testing**

9. (1) Prior to the advance poll date, but no earlier than twenty-four (24) hours after the close of the nomination period, an election official shall conduct the pre-poll logic and accuracy testing required by the *Act* and *The Local Government Election Regulations, 2015*.
- (2) The following sets out the general testing process and procedures:
  - (a) A test deck of every ballot style is created and then marked by the election official to ensure all combinations of votes have been included and then each test deck is inserted through each voting machine.
  - (b) The test deck includes blank and over voted ballots which are also inserted into each voting machine.
  - (c) A register tape for each voting machine is printed that identifies the results from the testing.
  - (d) For each register tape, the election official conducting the testing confirms the serial number of the voting machine, the date the testing was conducted, and the testing official's initials.
  - (e) The election official conducting the testing compares the register tape for each machine to ensure that the USB media in each voting machine is accurately recording the blank ballots, over voted ballots and votes for candidates or for or against a bylaw, resolution or question as set out in the test deck of ballots.
  - (f) Where there is a programming issue with the USB media, the USB media is re-programmed and re-tested until it accurately records the test deck of ballots.
  - (g) The register tape from the testing for each voting machine and USB media and the document that sets out the test deck of ballots that were used is retained until the next general election and may be viewed by the candidates or their agents if requested.
  - (h) After the testing is complete and the voting machine and USB media accurately record the ballots, the voting machines and the USB media inserted into each machine are sealed.
  - (i) In the case of where a voting machine and its USB media are not accurately recording the ballots, the machine is not used in the

election.

### **Security**

10. (a) All voting machines shall be tracked by serial number in the delivery before, during and after the election, and voting machines and USB media shall be locked in a secure location at all times when unattended by an appointed election official.
- (b) All voting machines and USB media shall be securely sealed once they have been programmed for an election and the pre-poll logistic and accuracy testing have been completed.
- (c) All voting machines and USB media shall be secured with unique passwords that can only be accessed by assigned election officials.

### **Procedure of the Poll**

11. (a) All polling places where a voting machine is being used shall be supplied with at least one (1) ballot box that contains two separate secure compartments: one compartment to be used as the main ballot box and the other compartment to be used as an emergency ballot box.
- (b) The receiving deputy returning officer shall, in the presence of another election official and any candidates or candidates' agents present, cause the voting machine to print a register tape prior to the opening of the poll and display to all those present a zero total for all candidates, bylaws, resolutions or questions.
- (c) The zero total printout shall remain attached to the voting machine printer until a register tape is printed by the voting machine after the close of the poll. The zero total printout and the register tape shall be retained for the purposes of documenting the election results at the polling place.
- (d) In the event that the totals are not zero for all candidates, bylaws, resolutions or questions, the receiving deputy returning officer shall immediately notify the supervising deputy returning officer and utilize the emergency ballot box until the machine is replaced or repaired.
- (e) When it has been confirmed that a voter is at the correct polling place and he or she has been registered as a voter, the issuing deputy returning officer shall provide the voter with a secrecy sleeve and the ballot, which includes all of the offices, bylaws, resolutions or questions on which he or she is entitled to vote. The reverse side of the ballot issued to the voter shall display in a designated area the initials of the deputy returning officer who issued the ballot.
- (f) If, before delivery of the ballot to the receiving deputy returning officer, the

voter determines that an error may have been made in marking the ballot, or the ballot is damaged for any reason, the voter may request a replacement ballot from the issuing deputy returning officer.

- (g) After marking the ballot, the voter shall place the ballot in the secrecy sleeve and deliver it to the receiving deputy returning officer, who shall in the presence of the voter, and without removing the ballot from the secrecy sleeve, verify that the ballot bears the initials of an issuing deputy returning officer at the polling place. The receiving deputy returning officer shall:
  - (1) if a voting machine is available at the polling place, insert the secrecy sleeve containing the ballot, with the initials of the issuing deputy returning officer face up, into the feed area of the voting machine until the voting machine draws the ballot from the secrecy sleeve;
  - (2) if a voting machine fails to operate, insert the ballot, with the initials of the issuing deputy returning officer face up, directly into the emergency ballot box from the secrecy sleeve;
  - (3) if a voting machine is not available at the polling place, insert the ballot, with the initials of the issuing deputy returning officer face up, directly into the portable ballot box from the secrecy sleeve.
- (h) In situations where it is noted that the ballot does not have the required initials of an issuing deputy returning officer, the voter shall be asked to return to that issuing deputy returning officer to have the ballot initialed before the ballot is inserted into the voting machine.
- (i) Upon a request under subsection (f), the issuing deputy returning officer shall issue a replacement ballot, mark the returned ballot "spoiled" and retain the spoiled ballot separately from all other ballots. Spoiled ballots shall not be counted in the election.
- (j) Any ballot which does not bear one of the initials of an issuing deputy returning officer at the polling place or which is damaged to the extent that it cannot be inserted into the voting machine and for which no replacement ballot was provided shall be marked "spoiled" and not counted in the election.
- (k) If a voting machine has been used to tabulate the votes cast at a polling place, the receiving deputy returning officer shall follow the procedures for closing the poll in accordance with section 16 of this Bylaw.
- (l) If a voting machine is not used at an established poll, the ballots shall be kept in the ballot box provided, and shall be counted in accordance with section 17 of this Bylaw.
- (m) The supervising deputy returning officer assigned to a polling place shall

perform a balancing check and monitor the voting machines at the polling location throughout the day during the advance poll and election day to ensure that the unused ballots and ballots that have been inserted into the voting machines along with the declined and spoiled ballots equal the original number of ballots that were provided to that polling place.

- (n) The receiving deputy returning officer at each polling place shall monitor the voting machine to ensure that it is secure and has not been tampered with.

### **Accommodating Voters with Disabilities**

- 12. Voters with disabilities are accommodated through the use of special polls, mobile polls, the mail-in ballot system, and through the procedures set out in section 123 of the Act.

### **Advance Poll**

- 13. (a) Voting machines shall be used at the advance poll and the voting procedures at the poll shall be the same as those set forth in section 11 of this Bylaw.
- (b) At the close of each day at the advance poll, the receiving deputy returning officer shall:
  - (i) ensure that the voting machine, the main and emergency ballot boxes, all unused ballots and other election material are secured when not in use;
  - (ii) ensure that no additional ballots are inserted into the voting machine; and,
  - (iii) ensure that the register tapes in the voting machine are not generated.
- (c) The receiving deputy returning officer at the advance poll shall at the end of voting on the final day of the advance poll:
  - (i) ensure that any remaining ballots in the emergency ballot box, if utilized, are inserted into the voting machine;
  - (ii) secure the voting machine so that no additional ballots are inserted;
  - (iii) ensure that the register tapes in the voting machine are not generated; and,
  - (iv) ensure that the voting machine, the main and emergency ballot boxes, all unused ballots and other election material are secured and delivered to election headquarters.

- (d) The register tape for the advance poll shall not be printed and the results for the poll shall not be reported until after 8:00 p.m. on election day.

### **Mobile and Special Polls**

- 14. (a) Voting machines shall not be used at a mobile or special poll but the ballots received at these polls shall be placed in a portable ballot box and then later inserted into a voting machine in accordance with section 17 of this Bylaw.
- (b) Procedures at the mobile or special poll shall be conducted in accordance with sections 11(e) to (j) and (l) of this Bylaw.
- (c) The deputy returning officer shall ensure that the portable ballot box and all ballots and other election material are secured when not in use.
- (d) The deputy returning officer shall ensure the portable ballot box, all ballots and all other election material are secured and delivered to election headquarters.

### **Mail-in Ballots**

- 15. (a) For mail-in ballots, the designated election official shall follow the procedures outlined in The Mail-in Ballot Bylaw including the processes for examining confirmation envelopes and extracting ballots.
- (b) After following the procedures outlined in section (a), the designated election official shall insert the ballots into the voting machine used for mobile and special polls in accordance with section 17 of this Bylaw.

### **Procedure for Closing the Poll on Election Day**

- 16. After the close of polls on election day, if a voting machine has been used, the receiving deputy returning officer shall:
  - (a) ensure that any remaining ballots in the emergency ballot box are inserted into the voting machine;
  - (b) secure the voting machine so that no more ballots can be inserted;
  - (c) generate two (2) copies, or such other number as is directed by the returning officer, of the register tape from the voting machine;
  - (d) sign the certificate portion of the register tape;
  - (e) remove the register tape from the voting machine to be placed in the designated packet in accordance with subsections (i) and (j);
  - (f) call the results, as indicated on the register tape, into Election

Headquarters, to report the total number of votes cast for each candidate in each respective race.

- (g) on request from any candidate or candidates' agent present, provide a printout of the election results from the voting machine;
  - (h) complete a ballot statement accounting for the number of ballots:
    - (1) supplied;
    - (2) spoiled or declined;
    - (3) unused; and
    - (4) voted;
  - (i) in the presence of another elected official and any candidates or candidates' agents present, prepare separate packets for each of the following items:
    - (1) unused ballots;
    - (2) spoiled or declined ballots;
    - (3) register tape and statement of ballot account; and
    - (4) counted ballots;
  - (j) mark each packet with the following information:
    - (1) description of contents;
    - (2) polling place number;
    - (3) date of vote; and
    - (4) receiving deputy returning officer name;
  - (k) seal each packet. Place the packets, along with the registration poll book, into empty ballot boxes and seal.
  - (l) ensure delivery of the sealed ballot boxes, voting machines, USB media and all other election materials to election headquarters.
17. After the poll is closed on election day, if a voting machine has not been used at a polling place, a designated deputy returning officer, in the presence of another election official, shall:
- (a) complete a statement of ballot account in accordance with subsection 16(h)

of this Bylaw;

- (b) in the presence of another elected official and any candidates or candidates' agents present, prepare separate packets for each of the following items:
  - (1) unused ballots;
  - (2) spoiled or declined ballots;
  - (3) statement of ballot account; and
  - (4) voted ballots;
- (c) mark each packet in accordance with subsection 16(j) of this Bylaw and seal each packet;
- (d) the packets along with the registration poll book shall be placed into empty ballot boxes and sealed;
- (e) allow all candidates and candidates' agents to attend at the place designated by the returning officer to observe the ballots being inserted into a voting machine to be counted;
- (f) deliver the sealed ballot boxes and other election material to the location specified by the returning officer where the vote ballots shall be counted using a voting machine; and,
- (g) at the location where the voted ballots will be counted using a voting machine:
  - (i) break the seal on the boxes containing the packets with the voted ballots and the statement of ballot account. The packet containing the voted ballots shall be opened to access the ballots to be counted;
  - (ii) prior to inserting the ballots into the voting machine, print a register tape to confirm that the totals in the USB media for each candidate, bylaw or question is zero. If any of the totals are not zero, the ballots should not be inserted into the voting machine until the unit is repaired or replaced;
  - (iii) in the presence of the deputy returning officer, insert the ballots into the voting machine to be counted;
  - (iv) after all of the ballots for the poll have been counted a register tape of the votes for each candidate and, if applicable, the votes for and against a bylaw, resolution or question will be produced from the voting machine;

- (v) sign the certificate portion of the register tape;
  - (vi) remove the register tape from the voting machine and place it in a new packet with the statement of ballot account for the poll;
  - (vii) on request from any candidate or candidates' agent present, provide a printout of the election results from the voting machine;
  - (viii) deliver the election data in accordance with subsection 16(f) of this Bylaw;
  - (ix) seal the counted ballots into a new packet and place the packets with the counted ballots, the register tape and the statement of ballot account for the poll into a ballot box and seal the box; and,
  - (x) ensure delivery of the sealed ballot boxes, voting machines, USB media and any other election material to election headquarters.
18. At the close of poll, the register tape must be printed and both the register tape and zero tape for each voting machine must be attached to the Deputy Returning Officer's Statement of Results.

#### **Tabulator Failure**

19. Following the close of polls, in the case of a malfunction of the vote counting machine, the DRO will replace the malfunctioning unit with another unit, and move the USB media to the working machine.
20. In the case of the print paper jamming, the DRO will navigate through the print menu on the screen to re-print another register tape of results.
21. If the Returning Officer is of the opinion that it impractical to count the votes with the vote counting machines or replacement vote counting machines, the Returning Officer may direct that all votes cast in the election shall be counted manually as outlined in the provisions of the Act.

#### **Recount of Votes**

22. (a) The recount of ballots pursuant to part X of the Act shall be conducted in the same manner as the votes were counted.
- (b) A voting machine shall be programmed and tested before the recount in the manner described in sections 8 and 9 of this Bylaw, and shall be programmed to recount only the race that is in question.

#### **Effective Date**

23. This Bylaw shall come into force and take effect on the day of the final passing thereof.

INTRODUCED AND READ A FIRST TIME THIS 22nd DAY OF JUNE, A.D. 2020.

READ A SECOND TIME THIS 22nd DAY OF JUNE, A.D. 2020.

READ A THIRD TIME AND PASSED THIS 22nd DAY OF JUNE, A.D. 2020.

"Ryan Bater"

MAYOR

"Debbie Wohlberg"

CITY CLERK