

# CITY OF MERRITT BYLAW NO. 2237, 2018

Consolidated with amendments from Bylaw 2337, 2022  
(unofficial: please refer to original bylaws at City Hall for any legal purposes)

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## A BYLAW TO PROVIDE FOR THE PROCEDURES FOR THE CONDUCT OF THE LOCAL ELECTION AND OTHER VOTING

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

AND WHEREAS the Council of the City of Merritt wishes to establish various procedures and requirements under that authority;

NOW THEREFORE, the Council of the City of Merritt, in open meeting assembled, enacts as follows:

### 1. CITATION

- 1.1 This Bylaw may be cited as “**City of Merritt Election Procedure Bylaw No. 2237, 2018**”.

### 2. REPEAL

- 2.1 The City of Merritt Election Procedure Bylaw No. 2169, 2014 is hereby repealed in its entirety.

### 3. DEFINITIONS

- 3.1 In this Bylaw all definitions shall be in accordance with the *Local Government Act*, except for the following:

“**Acceptable mark**” means a completed oval that the **vote tabulating unit** is able to identify, and that 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, records, votes, processes and stores election results and is comprised of the following:

- a) a number of **ballot scan vote tabulating units**, each of which rests on a **ballot** box for voted ballots, and returned ballots that have been reinserted using the **ballot override procedure**;
- 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.

**“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 or School Trustee; 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 the Chief Election Officer or Deputy Chief Election Officer, of a device on a **vote tabulating unit** that causes the unit to accept a **returned ballot**.

**“Election headquarters”** means City of Merritt, 2185 Voght Street, Merritt, B.C., or other place designated by the Chief Election Officer.

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

**“Emergency ballot compartment”** means a portable ballot box into which voted **ballots** are temporarily deposited in the event that the unit ceases to function.

**“Memory Card”** means a removable storage device used in the AccuVote OS ballot processing unit to record ballot results and to store polling location information such as:

- 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’ or ‘no’ for each bylaw or other matter on which the assent or opinion of the electors is being sought;

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

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

**"Portable ballot box"** means a ballot box that is used as a voting place 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 which shows the number of votes for each candidate for each of the office of Mayor, Councillor and School Trustee, and the number of votes for and against each bylaw or other matter on which the assent or opinion of the electors is sought.

**"Returned ballot"** means a voted **ballot** that was inserted into the **vote tabulating unit** by the elector but was not accepted and was returned to the elector with an explanation of the **ballot** marking error which caused the **ballot** not to be accepted.

**"Secrecy sleeve"** means an open-ended folder or envelope used to cover **ballots** to conceal the choices made by each elector.

**"Vote tabulating unit"** means the device into which voted **ballots** are inserted and that scans each **ballot** and records the number of votes for each candidate and for and against each bylaw or other matter on which the assent or opinion of the electors is sought.

#### **4. REGISTRATION OF ELECTORS**

- 4.1 For the purposes of all local elections and submissions to the electors under Part 3 and 4 of the *Local Government Act*, a person may register as an elector only at the time of voting.
- 4.2 Registration as an elector is effective only for the voting or other matters on which the opinion of the electors is being sought at the time of voting.

#### **5. ADVANCE VOTING OPPORTUNITY PROCEDURES**

- 5.1 In accordance with Section 107 of the *Local Government Act*; at least two (2) advance voting opportunities must be held for an election by voting;
  - a) one (1) on the tenth (10<sup>th</sup>) day before general voting day; and
  - b) one (1) on the third (3<sup>rd</sup>) day before general voting day.
- 5.2 Voting hours for the advance voting opportunities will be from 8:00 a.m. to 8:00 p.m.

## 6. GENERAL VOTING OPPORTUNITIES

- 6.1 The Chief Election Officer shall designate voting places for general voting day as soon as reasonably possible after the declaration of an election.

## 7. SPECIAL VOTING OPPORTUNITY PROCEDURES

- 7.1 In order to give electors who may otherwise be unable to vote an opportunity to do so, the City will provide a special voting opportunity, and authorizes the Chief Election Officer to establish a special voting opportunity for each election, and to establish the date and voting hours when and the place where the special voting opportunity is to be conducted.
- 7.2 Special voting opportunities will be restricted to only residents of the location where the special voting opportunity has been established by the Chief Election Officer.
- 7.3 One (1) candidate representative may be present at the special voting opportunity for each elected office and that candidate representative is chosen by consensus of the candidates for that elected office or, failing such consensus, by the Chief Election Officer.
- 7.4 A **portable ballot box** shall be used for all special voting opportunities.
- 7.5 The Chief Election Officer 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 Chief Election Officer shall seal the **portable ballot box**.

## 8. PERSONS WHO MAY BE PRESENT AT VOTING PLACES

- 8.1 A person must not be present at a voting place while voting proceedings are being conducted unless they are there for the purpose of voting or for one of the other reasons listed in section 120 of the *Local Government Act*.

## 9. USE OF VOTING MACHINES

- 9.1 Council hereby authorizes the conducting of general local elections and other voting in the City of Merritt using an **automated vote counting system**.

## 10. AUTOMATED VOTING PROCEDURES

- 10.1 If the Chief Election Officer determines an Automated Vote Counting System is to be used, the Chief Election Officer at each voting place and at each advance voting opportunity shall, as soon as the elector enters the voting place and before a **ballot** is issued, offer and if requested, provide a demonstration to an elector of how to vote using an **automated vote counting system**.
- 10.2 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; and
    - (ii) completes the voting book as required by the *Local Government Act*; and
  - b) upon fulfilment of the requirements of subsection 10.2 (a), shall then provide a **ballot** to the elector, a **secrecy sleeve** if requested by the elector.
- 10.3 Upon receiving a **ballot** and **secrecy sleeve** if so requested, the elector shall immediately proceed to a voting compartment to vote.
- 10.4 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 and Councillor or School Trustee; and
  - b) 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.
- 10.5 Once the elector has finished marking the **ballot**, the elector must place the **ballot** into the **secrecy sleeve**, 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 sleeve**, if applicable, into the **vote tabulating unit** without the **acceptable marks** on the **ballot** being exposed.
- 10.6 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.
- 10.7 Upon being advised of the replacement **ballot** request, the Chief Election Officer 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.
- 10.8 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 Chief Election Officer shall, using the **ballot return override procedure**, reinsert the **returned ballot** into the **vote tabulating unit** to count any **acceptable marks** that have been made correctly.

10.9 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.

10.10 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.

10.11 During any period that a **vote tabulating unit** is not functioning, the Chief Election Officer 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 the Chief Election Officer and be inserted into the **vote tabulating unit** to be counted.

10.12 Any **ballots** that were temporarily stored in the **emergency ballot compartment** and 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 Chief Election Officer, be reinserted into the **vote tabulating unit** to ensure that any **acceptable marks** are counted.

10.13 A sample **ballot** that may be used in an **automated vote counting system** is attached to and forming a part of this Bylaw as Schedule "A".

10.14 If the Chief Election Officer determines an Automated Vote Counting System is not to be used, voting shall proceed as stated in Part 3, Division 13 of the *Local Government Act*.

## **11. PROCEDURES AFTER THE CLOSE OF VOTING ON GENERAL VOTING DAY**

11.1 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 and special voting opportunities, the Chief Election Officer 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 (3) copies of the **register tape** from the **vote tabulating unit**;

d) store one (1) copy of the **register tape** along with the **memory pack** from the **vote tabulating unit** at **election headquarters**;

- e) account for the unused, spoiled and voted **ballots** and place them, packaged and sealed separately, into the election materials transfer box along with one (1) copy of the **register tape**;
  - f) complete the ballot account and place the duplicate copy in the election materials transfer box;
  - g) seal the election materials transfer box;
  - h) place the voting books, the original copy of the ballot account, one (1) copy of the **register tape**, completed registration cards (if applicable), keys and all completed administrative forms into the election portfolio; and
  - i) transport all equipment and materials to **election headquarters**.
- 11.2 At the close of voting on general voting day the Chief Election Officer shall proceed in accordance with the steps set out in Section 11.1 of this Bylaw with respect to advance voting opportunities.
- 11.3 At the close of voting on general voting day all **portable ballot boxes** used in the election will be opened 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 Sections 11.1, so far as applicable, shall apply.
- 11.4 “At the close of voting when an Automated Vote Counting System has not been used, counting shall proceed as stated in Part 3, Division 14 of the *Local Government Act*.

## 12. RECOUNT PROCEDURE

- 12.1 If after counting, two or more candidates have an equality of votes, the votes shall be recounted once.
- 12.2 If a recount is required in an election where an Automated Vote Counting System has been used, 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 cards** of all **vote tabulating units** will be treated as part of the official election results and stored as such. In the event of a recount, the memory cards would be copied onto another memory card, the copied memory card would then be reset to zero (0) totals and the recount would begin;
  - b) **vote tabulating units** will be designated for each voting place;
  - c) all **ballots** will be removed from the sealed ballot boxes; and
  - d) all **ballots**, except spoiled **ballots**, will be reinserted in the appropriate **vote tabulating units** under the supervision of the Chief Election Officer.
- 12.3 “If a recount is required in any other election, the ballots will be recounted by hand. Any disputed ballots will not be re-adjudicated, and will retain the status they were awarded by the Chief Election Officer at the time of the dispute.

**13. RESOLUTION OF TIE VOTE AFTER JUDICIAL RECOUNT**

13.1 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*.

**14. ORDER OF NAMES ON BALLOT**

14.1 The order of candidate names on the ballot shall be determined by lot, in accordance with section 117 of the *Local Government Act*.

**15. NOMINATIONS**

15.1 Under section 89(8) of the *Local Government Act*, nomination documents under section 87 shall be made available for public inspection on the City’s website

**16. ELECTION SHARING**

16.1 The Chief Election Officer may enter into agreements with other local governments in area covered by the City of Merritt to jointly administer and share costs of elections

**17. GENERAL**

17.1 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.

17.2 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.

**READ A FIRST TIME this 12<sup>th</sup> day of June, 2018**

**READ A SECOND TIME this 12<sup>th</sup> day of June, 2018**

**READ A THIRD TIME this 12<sup>th</sup> day of June, 2018**

**ADOPTED this 26<sup>th</sup> day of June, 2018**

**Original signed by  
Neil Menard,  
Mayor**









**Original signed by  
Sean Smith,  
Corporate Officer**














## SCHEDULE 'A'

**To Vote:**

Completely fill in the oval  beside the name of the candidates you wish to vote for:

Mayor Vote for One (1) Only		School Trustee Vote for Three (3) Only	
JEFFERSON, Thomas		FROST, Robert	
KENNEDY, John F.		SWAN, Karen	
LINCOLN, Thomas		GRISHAM, John	
		ROBERTS, Nora	
		PATTERSON, James	

Councillor Vote for Six (6) Only	
BRONSON, Pierce	
BULLOCK, Sandra	
CLOONEY, George	
DeGENERES, Ellen	
FIELD, Sally	
GOLDBERG, Woopie	
HANKS, Tom	
Mc CONAUGHEY, Matthew	
ROBERTS, Julia	
PITT, Brad	
SUTHERLAND, Keifer	
WINFREY, Oprah	