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**TO:** CHIEF ADMINISTRATIVE OFFICER      **DATE:** 2022 FEB 08

**FROM:** CHIEF ELECTION OFFICER

**SUBJECT: BYLAW AMENDMENTS TO IMPLEMENT MAIL BALLOT VOTING**

**PURPOSE:** To propose amendments to Burnaby Voting Opportunities Bylaw and Burnaby Automated Vote Counting System Bylaw to implement mail ballot voting at large for local elections.

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**RECOMMENDATION:**

1. **THAT** Council authorize the City Solicitor to bring forward amendments to the Burnaby Automated Vote Counting System Bylaw and Burnaby Voting Opportunities Bylaw, in accordance with sections 3.1 and 3.2 and substantially as set out in Appendices A and B of the report.

**REPORT**

**1.0 INTRODUCTION**

At the open Council meeting held on 2021 December 13 Council directed staff to prepare bylaw amendments to facilitate mail ballot voting at large in the City of Burnaby. The purpose of this report is to propose amendments to the Burnaby Voting Opportunities Bylaw and Burnaby Automated Vote Counting System Bylaw to implement the authorizations and procedures needed to facilitate mail ballot voting in Burnaby local elections. As directed by Council, mail ballot voting will be made available to the public at large starting with the 2022 General Local Election.

**2.0 POLICY SECTION**

**Goal**

- A Connected Community
  - Digital connection –  
Provide online access to core City services and information
  - Social connection –  
Enhance social connections throughout Burnaby
  - Partnership –

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- Work collaboratively with businesses, educational institutions, associations, other communities and governments
- Geographic connection –  
Ensure that people can move easily through all areas of Burnaby, using any form of transportation
- An Inclusive Community
  - Celebrate diversity –  
Create more opportunities for the community to celebrate diversity
  - Serve a diverse community –  
Ensure City services fully meet the needs of our dynamic community
  - Enhance City workforce diversity –  
Support a diversified City workforce by identifying barriers and implementing proactive strategies
  - Create a sense of community –  
Provide opportunities that encourage and welcome all community members and create a sense of belonging
- A Healthy Community
  - Healthy life –  
Encourages opportunities for healthy living and well-being
  - Healthy environment –  
Enhance our environmental health, resilience and sustainability
  - Lifelong learning –  
Improve upon and develop programs and services that enable ongoing learning
  - Community involvement –  
Encourage residents and businesses to give back to and invest in the community

### **3.0 PROPOSED BYLAW AMENDMENTS**

In accordance with S. 110 of the Local Government Act, Council may, by bylaw, permit voting to be done by mail ballot and permit elector registration to be done in conjunction with mail ballot voting. Given Council's decision to proceed with mail ballot voting at large, the following proposed amendments to the Burnaby Voting Opportunities Bylaw and Burnaby Automated Vote Counting System Bylaw are presented for Council's consideration.

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### 3.1 AMENDMENTS TO BURNABY VOTING OPPORTUNITIES BYLAW

It is proposed a new Part 4 be added to Burnaby Voting Opportunities Bylaw to implement authorizations and procedures for mail ballot voting (see Appendix A). Outlined below are general descriptions of the authorizations and procedures.

#### Authorizations

The proposed Part 4 authorizes:

- o voting by mail ballot and elector registration by mail in conjunction with mail ballot voting
- o the Chief Election Officer to establish the mail ballot application form and timelines for requesting mail ballots
- o the Chief Election Officer to designate locations for receiving completed mail ballot packages

For the 2022 General Local Election, the timelines for requesting mail ballots are from September 01 to October 06, 2022. This will allow Election Office staff to process requests after ballots are printed and in time for the electors to return completed mail ballot packages by 8:00pm on General Voting Day. The last day to request an application by mail is September 30<sup>th</sup> and the final mail out of ballot packages to voters is 2022 October 06.

The Elections Office at Christine Sinclair Community Centre and all voting places on advance voting days and General Voting Day will be designated as locations for receiving completed mail ballot packages. Mail ballot boxes will also be located in each Burnaby Public Library, SFU Library, and Burnaby City Hall. The goal is to make the return of completed mail ballots as convenient as possible while maintaining the integrity of returned ballots.

#### Mail Ballot Application

The proposed new Part 4 of the Burnaby Voting Opportunities Bylaw allows the Chief Election Officer to establish the application form and timelines for requesting mail ballots and sets out the procedures to be followed after a request is received. Election Office staff are working with Datafix to implement the online mail ballot module, so that voters may register and apply for a ballot package online. Paper applications will also be made available on request. Individuals who are not registered to vote must register at the time of application. Paper mail ballot applications will be available for pickup from the Election Office at Christine Sinclair Community Centre, Burnaby City Hall, all Burnaby Public Libraries and SFU Library.

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### Voting Procedure and Replacement of Mail Ballots

The voting procedures for mail ballots differ from in-person voting in that multiple envelopes, as required by the Local Government Act, are needed to ensure the secrecy of the elector's vote.

Ballots for voting by mail are also different from regular machine ballots. The mail ballots are scored and folded to fit into the secrecy envelope. Once the voter has sealed their completed ballot in the secrecy envelope it is placed in the certification envelope and sealed. The voter then completes and signs the declaration on the certification envelope and places it and any forms such as assistance provided to an elector or translation assistance into the return envelope.

The return envelope, containing the sealed secrecy envelope and certification envelope, must be mailed back to the Election Office at Christine Sinclair Community Centre or deposited in ballot boxes at designated return locations (i.e. City Hall, Burnaby Public Library locations, or SFU library) in time to be received by 8:00 pm on General Voting Day.

If an elector spoils a mail ballot or decides to vote in person after receiving a mail ballot package, the elector can receive a replacement ballot by surrendering the full mail ballot package to:

- an election official at a location designated by the Chief Election Officer (likely a space within Christine Sinclair Community Centre); or
- a presiding election official at any voting place during advance voting days or on General Voting Day.

### Mail Ballot Acceptance or Rejection

An important part of mail ballot voting is the acceptance or rejection of returned mail ballots. The proposed Part 4 of the Burnaby Voting Opportunities Bylaw requires a certification envelope to be marked as "accepted" if the Chief Election Officer or designated election official is satisfied as to:

- the identity and entitlement to vote of the elector named in the certification envelope;
- the completeness of the certification on the certification envelope; and
- if the person is registering as a new elector, the person is eligible as a resident elector or non-resident property elector.

All "accepted" certification envelopes will be kept securely in storage in preparation for counting of the mail ballots in the envelopes, in accordance with new mail ballot counting

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procedures to be included in the Burnaby Automated Vote Counting System Bylaw (see Section 5.1 below)

If the above criteria are not satisfied, the certification envelope is marked as “rejected”, with a notation of the reason for rejection, and maintained unopened by the Chief Election Officer. Both “accepted” and “rejected” certification envelopes are to be maintained by the Chief Election Officer in the event of a challenge under the Local Government Act. Rejected certification envelopes will be destroyed 56 days after the determination of final election results in accordance with S. 146 of the Local Government Act.

### Challenge of Elector or Elector’s Name Already Used

If there is a challenge of an elector’s right to vote by mail ballot or a person requesting a mail ballot is shown as having already voted or issued a mail ballot, the Chief Election Officer will follow the procedures set out in the Local Government Act in resolving the issue.

## **3.2 AMENDMENTS TO BURNABY AUTOMATED VOTE COUNTING SYSTEM BYLAW**

### **3.2.1 Counting of Mail Ballots**

The procedures for counting mail ballots is proposed to be included in new sections 6A and 6B of the Burnaby Automated Vote Counting System Bylaw (see Appendix B). The proposed provisions:

- authorize the Chief Election Officer to establish locations, days and times for counting of mail ballots;
- set out specific procedures for opening of certification envelopes and secrecy envelopes and insertion of mail ballots in ballot boxes and then voting tabulators; and
- require results tapes to not be generated and the memory card in the vote tabulating unit to be secured and sealed such that the results will not be generated until after 8:00pm on General Voting Day.

The plan is to process mail ballots in a designated boardroom on the 4<sup>th</sup> floor of Christine Sinclair Community Centre during advance voting days and on General Voting Day. Candidates, scrutineers/official agents will be notified a minimum of 7 days in advance in order to attend and observe the proceedings as they would in any voting location.

Because Election Office staff are unsure of the uptake of voting by mail, the authority to process “accepted” mail ballots in advance of General Voting Day will allow election

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officials to manage volume, thereby being able to provide full election results in a timely manner following the close of voting on General Voting Day.

### 3.2.2 Remove Designation of Election Headquarters

Under the Burnaby Automated Vote Counting System Bylaw, “election headquarters” is defined as Burnaby City Hall, 4949 Canada Way, Burnaby and there are a number of requirements for election officials to deliver results tapes, materials and equipment to “election headquarters”. In past elections Burnaby City Hall, has been considered election headquarters. However, for many years the election has been planned and organized from a variety of locations including different offices within Deer Lake 1, Edmonds Community Centre and in 2021 and 2022, Christine Sinclair Community Centre.

As a result designating Burnaby City Hall as “election headquarters” within the context of election bylaws no longer reflects current conditions. Election processes have become more technologically oriented over the years, particularly with the advent of ‘voting at large’ which was implemented in 2014. Election results are uploaded directly to the City’s website as soon as they become available. For the 2022 General Local Election, results will be continuously updated as they come in from voting locations until all locations, advance voting and mail ballots are complete

It is recommended the definition of “election headquarters” and all references to “election headquarters” be removed or changed to “as directed by the chief election officer” in the Burnaby Automated Vote Counting System Bylaw. The recommended deletions and changes are included in the proposed bylaw amendments in Appendix B of this report.

## 4.0 RECOMMENDATIONS

For the reasons set out in this report, staff recommend the amendments to Burnaby Voting Opportunities Bylaw and Burnaby Automated Vote Counting System Bylaw, as described in section 3.1 and 3.2 of this report and substantially in the form set out in Appendices A and B, in order to implement mail ballot voting at large and to remove the designation of an election headquarters.



Lynne Axford  
CHIEF ELECTION OFFICER

DC:dc

Copy: General Manager Corporate Services  
City Solicitor  
City Clerk

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## APPENDIX A: PROPOSED AMENDMENTS TO BURNABY VOTING OPPORTUNITIES BYLAW

Section 2.1 – add the following in alphabetical order:

“**acceptable mark**” has the meaning set out in the *Burnaby Automated Vote Counting System Bylaw*

Add the following as Part 4:

### PART 4: MAIL BALLOT VOTING

#### 4.1 Authorizations

4.1.1 Voting by mail ballot and elector registration by mail in conjunction with mail ballot voting are hereby authorized for an election under the ***Local Government Act***.

4.1.2 The **Chief Election Officer** is authorized to establish the application form and time limits for requesting a mail ballot.

4.1.3 For the purpose of section 4.3.2(d) of this bylaw, the **Chief Election Officer** is authorized to designate the locations for the receipt of completed mail ballot packages from electors.

#### 4.2 Application Procedure

4.2.1 An elector who wishes to vote by mail ballot must submit a request to the **Chief Election Officer** using the application form and within the time limits established pursuant to section 4.1.2 of this bylaw.

4.2.2 Upon receipt of a completed application form and commencing as soon as practical after the final printed ballots are available, the **Chief Election Officer** must:

(a) make available to the applicant, a mail ballot package that complies with sections 110(7) and (8) of the ***Local Government Act***,

(b) immediately record, and upon request in person by a 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.

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### 4.3 Voting Procedure

4.3.1 In order to vote using a mail ballot, the elector must mark the ballot in accordance with this bylaw and all instructions contained in the mail ballot package provided by the **Chief Election Officer**.

4.3.2 After marking the mail ballot with an **acceptable mark**, 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 and any other elector documentation if required, in the outer envelope and then seal the outer envelope; and

(d) mail or deliver the outer envelope and its contents to a location designated by the **Chief Election Officer** pursuant to section 4.1.3 of this bylaw, such that the **Chief Election Officer** receives it no later than the close of voting on general voting day.

### 4.4 Replacement of Mail Ballots

4.4.1 If an elector unintentionally spoils a mail ballot before returning it to the **Chief Election Officer**, the elector may:

(a) request a replacement mail ballot package by surrendering the spoiled mail ballot package in its entirety to an election official at a location designated by the **Chief Election Officer**, and the election official must record receipt of the spoiled mail ballot package and proceed in accordance with section 4.2.2 of this bylaw in issuing a replacement mail ballot package; or

(b) surrender the mail ballot package in its entirety to a presiding election official at a voting place and proceed in accordance with section 4.4.2 of this bylaw.

4.4.2 If an elector, after receiving a mail ballot package, decides to vote at a voting place instead of by mail ballot voting:

(a) the elector must surrender the mail ballot package in its entirety to the presiding election official at a voting place during an **advance voting opportunity** or on general voting day; and



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(b) upon receipt of the surrendered mail ballot package, the presiding official must mark the package as “returned and unused” and place it with other spoiled ballots; and

(c) the elector may then vote at the voting place in accordance with the provisions of the *Burnaby Automated Vote Counting System Bylaw*.

#### 4.5 Mail Ballot Acceptance or Rejection

4.5.1 The **Chief Election Officer** or election official designated by the **Chief Election Officer** must process all mail ballot packages returned by the close of voting on general voting day in accordance with section 4.5.2 and 4.5.3 of this bylaw.

4.5.2 Upon receipt of a returned outer envelope, the **Chief Election Officer** or election official designated by the **Chief Election Officer** must:

(a) immediately record the date of such receipt; and

(b) open the outer envelope and remove and examine the certification envelope and completed elector registration application, if applicable, and if satisfied as to:

(i) the identity and entitlement to vote of the elector named in the certification,

(ii) the completeness of the certification, and

(iii) if the person is registering as a new elector, fulfilment of the requirements of section 65 or 66 of the **Local Government Act**,

mark the certification envelope as “accepted”.

4.5.3 If the **Chief Election Officer** or election official designated by 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; or

(b) is not satisfied that a person registering as a new elector has fulfilled the requirements of section 65 or 66 of the **Local Government Act**; or

(c) receives the outer envelope after the close of voting on general voting day,

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

- 4.5.4 A certification envelope rejected in accordance with section 4.5.3 of this bylaw must remain unopened and is subject to the provisions of the **Local Government Act** in regard to their destruction.
- 4.5.5 Each certification envelope accepted under section 4.5.2 of this bylaw must be securely maintained in the custody of the **Chief Election Officer** and processed in accordance with the *Burnaby Automated Vote Counting System Bylaw*.
- 4.5.6 Each certification envelope returned with a mail ballot package must be securely stored by the **Chief Election Officer** in the event of any challenge made in accordance with section 4.6 of this bylaw.

#### **4.6 Challenge of Elector or Elector’s Name Already Used**

- 4.6.1 A person exercising the right to vote by mail ballot may be challenged in accordance with the intent of section 126 of the **Local Government Act** and if a person’s right to vote by mail ballot is challenged, the **Chief Election Officer** will proceed, to the extent applicable, in accordance with section 126 of the **Local Government Act**.
- 4.6.2 Where, upon receiving a request for a mail ballot, the **Chief Election Officer** determines that another person has already voted or been issued a mail ballot in that person’s name, section 127 of the **Local Government Act** applies to the extent applicable.

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## **APPENDIX B: PROPOSED AMENDMENTS TO BURNABY AUTOMATED VOTE COUNTING SYSTEMS BYLAW**

Section 2(1) – delete the definition of “election headquarters”

Section 5(3)(c) – delete “at election headquarters”

Section 7(1)(a)(iv) – delete “at election headquarters”

Section 7(1)(b) – replace with “transport all materials and equipment as directed by the chief election officer”

Add the following as sections 6A and 6B

### **MAIL BALLOT PROCEDURES**

6A. (1) The Chief Election Officer is authorized to designate one or more locations, days and times for the counting of mail ballots before general voting day.

(2) For the counting of mail ballots at locations, days and times designated pursuant to section 6A(1) of this bylaw, an election official designated by the Chief Election Officer in the presence of another election official, shall:

- (a) open certification envelopes accepted and maintained to date by the Chief Election Officer under the *Burnaby Voting Opportunities Bylaw* and place the secrecy ballot in each certification envelope in a portable ballot box designated for mail ballots;
- (b) open the portable ballot box after all certification envelopes have been opened;
- (c) open the secrecy ballots in the portable ballot box and insert into a vote tabulating unit designated by the Chief Election Officer for mail ballots;

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- (d) after the insertion of all mail ballots, seal the opened portable ballot box to prevent insertion of any ballots, and secure and seal the vote tabulating unit so that ballots cannot be added or withdrawn without breaking the seal;
- (e) ensure the results tape in the vote tabulating unit are not generated;
- (f) ensure the memory card in the vote tabulating unit is secured and sealed in such a manner that it cannot be accessed without breaking the seal; and
- (g) deliver the vote tabulating unit, memory card and all opened certification envelopes to the Chief Election Officer.

6B. (1) The Chief Election Officer shall designate a location and presiding election official for the counting of mail ballots on general voting day and the procedures in section 6A(2) of this bylaw shall apply to the counting of such mail ballots.

(2) After the close of voting on general voting day, the presiding election designated under section 6B(1) of this bylaw shall:

- (a) generate three copies of the results tape from all vote tabulating machines used for counting of mail ballots; and
- (b) deliver one copy of the results tape, along with the memory card from all vote tabulating machines used for counting mail ballots, to the Chief Election Officer.