

**REGIONAL DISTRICT OF NANAIMO**

**BYLAW NO. 1772**

*(Consolidated for convenience only up to and including .01)*

**A BYLAW TO PROVIDE FOR THE USE OF AN AUTOMATIC VOTING SYSTEM  
AND ESTABLISH VARIOUS PROCEDURES FOR THE CONDUCT OF  
LOCAL GOVERNMENT ELECTIONS AND OTHER VOTING**

WHEREAS under the *Local Government Act* the Board of the Regional District of Nanaimo may, by bylaw determine various procedures and requirements to be applied in the conduct of local government elections and other voting;

AND WHEREAS the Board may, by bylaw, provide for the use of automated voting machines, voting recorders or other devices for voting in an election;

AND WHEREAS the Board wishes to establish various procedures and requirements under that authority, and use automated voting machines in local government elections;

NOW THEREFORE the Board of the Regional District of Nanaimo, in open meeting assembled, enacts as follows:

**1. CITATION**

This bylaw may be cited for all purposes as “Regional District of Nanaimo General Local Election Bylaw No. 1772, 2018”.

**2. DEFINITIONS:**

In this bylaw:

- “APPLICANT” means an elector who wants to vote by mail and make a request for a mail ballot.
- “AUTHORIZED PERSON” means a person that the Applicant has authorized, on the Applicants behalf, to:
- a) pick up a mail ballot package; or
  - b) drop off a completed mail ballot package.
- “AUTOMATED VOTING SYSTEM” means an automated system that records and counts votes and processes and stores election results. The system is housed in two hardware components, the vote tabulator and the ballot box and a number of portable ballot boxes into which voted ballots are deposited, where a vote tabulator is not functioning or being used and where the ballots will be counted after the close of voting on general voting day.
- “BALLOT” means a ballot card which may be a composite ballot for two or more elections to be voted for, and/or bylaws or other matters on which the assent of the electors is sought, including all choices available to the electors and containing spaces in which the electors mark their votes.

“BALLOT ACCOUNT”	means an account of ballots prepared in accordance with the <i>Local Government Act</i> .
“BALLOT BOX”	means the container for ballots that have been marked by electors.
“CHIEF ELECTION OFFICER”	means the election official appointed under the <i>Local Government Act</i> to conduct the election.
“DATA STORAGE DEVICE”	means a device that plugs into the vote tabulator that contains: a) the names of the candidates or questions being voted on; b) the alternative “yes” and “no” for each bylaw or other matter on which the assent of the electors is being sought; and a mechanism to recover and retain information on the number of acceptable marks made for each.
“DEPUTY CHIEF ELECTION OFFICER”	means the election official appointed under the <i>Local Government Act</i> to assist the Chief Election Officer in administering the conduct of the election.
“ELECTOR”	means a resident elector or a non-resident property elector of the Regional District of Nanaimo as defined under the <i>Local Government Act</i> .
“ELECTION OFFICIALS”	means individuals appointed by the Chief Election Officer to assist the presiding election official at election proceedings and act as alternate presiding election official.
“GENERAL VOTING DAY”	means: a) for a general local election, the 3rd Saturday of October in the year of the election, b) for other elections and other voting, the date set under the <i>Local Government Act</i> .
“LEGIBLE MARK”	means a mark which fills in the oval provided on the ballot opposite a candidate’s name or opposite a question with either a “yes” or “no” oval, that the vote tabulator is able to read and count.
“LOCAL GOVERNMENT”	means, in relation to the regional district, the Board.
“PORTABLE BALLOT BOX”	means a ballot box which is used at a voting place where a vote tabulator is not being used at the time of voting.
“PRESIDING ELECTION OFFICIAL”	means the election official appointed by the Chief Election Officer to conduct election proceedings where the Chief Election Officer is not acting as presiding election official.
“REGISTER OF MAIL BALLOTS”	means the records that the Chief Election Officer must keep in order to address any challenges to an elector’s right to vote.

- “RESULTS TAPE” means the printed record generated from a vote tabulator at the close of voting on general voting day which shows:
- a) the number of ballots received;
  - b) the number of ballots accepted;
  - c) the number of ballots rejected;
  - d) the number of votes for each candidate; and
  - e) if applicable, the number of votes for and against each bylaw or other matter on which the assent of the electors is sought.
- “SECRECY SLEEVE” means an open-ended folder or envelope used to cover ballots to conceal the choices made by each elector.
- “VOTE TABULATOR” means the part of an automated voting system into which the ballots are inserted, scanned, and the number of votes for each candidate and for each referendum question are recorded.
- “VOTING BOOK” means the book for recording the names of electors.

### 3. **USE OF PROVINCIAL LIST OF VOTERS AS THE REGISTER OF RESIDENT ELECTORS**

- (1) For the purposes of all local elections and submissions to the electors under the *Local Government Act*, the most current available provincial list of voters prepared under the *Election Act*, shall become the register of resident electors on the 75th day prior to the General Voting Day for such elections and submissions to the electors.
- (2) Pursuant to the *Local Government Act*, persons not appearing on the provincial list of voters may register as an elector only at the time of voting at a local election or a submission to the electors under the *Local Government Act*, or in accordance with section 5 of this bylaw.

### 4. **ACCESS TO NOMINATION DOCUMENTS**

As authorized by the *Local Government Act*, public access to nomination documents will be provided by posting the documents on the Regional District of Nanaimo website as soon as practicable after the time of delivery to the Chief Election Officer until 30 days after the declaration of the election results under the *Local Government Act*.

### 5. **MAIL BALLOTS**

- (1) As authorized under the *Local Government Act*, voting may be done by mail ballot and, in relation to this, elector registration may be done in conjunction with this voting subject to timelines and procedures in this bylaw.
- (2) Once a mail ballot package has been accepted by the Chief Election Officer, that voter may only vote by mail ballot.
- (3) The following procedures for voting and registration shall apply:

- (a) The Chief Election Officer must give notice that mail ballot voting is available, in any manner they consider will give reasonable notice to the electors entitled to vote by mail ballot.
- (b) The Chief Election Officer is authorized to establish time limits in relation to voting by mail ballot.
- (c) Sufficient record must be kept by the Chief Election Officer so that challenges of the elector's right to vote may be made in accordance with the intent of the *Local Government Act*.
- (d) A person exercising the right to vote by mail may be challenged in accordance with, and on the grounds specified in the *Local Government Act*.
- (e) As provided in the *Local Government Act*, a mail ballot must be received by the Chief Election Officer before the close of voting on General Voting Day in order to be counted for an election.
- (f) Procedures for conduct of mail ballot voting shall be in accordance with those outlined in the *Local Government Act*, this bylaw, and as established by the Chief Election Officer.

#### Mail Ballot Application Procedures

- (4) An Applicant must 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.
- (5) Upon receipt of an application for a mail ballot, the Chief Election Officer shall make available to the Applicant, a mail ballot package which contains the content described in Section 110(7) of the *Local Government Act*.
- (6) As per the Applicant's request 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.

#### Processing and Counting of Mail Ballots

- (7) The Chief Election Officer is authorized to designate one or more locations, days, and times for the processing of mail ballots before General Voting Day.

- (8) The Chief Election Officer or presiding election official, in the presence of at least one other person, shall process mail ballots to:
  - (a) deal with any challenges to the electors involving the accepted certification envelopes;
  - (b) open the certification envelopes; and
  - (c) secure the secrecy envelopes until General Voting Day.
- (9) On General Voting Day, the Chief Election Officer can designate a time for inserting mail ballots into a Vote Tabulator. The Chief Election Officer or presiding election official will, in the presence of at least one other person and any candidate representatives:
  - (a) open the secrecy envelopes containing the mail ballots; and
  - (b) insert the ballots into the Vote Tabulator designated for mail ballot voting.
- (10) After 8:00 p.m. on General Voting Day, mail ballots are authorized to be counted in accordance with section 12 of this bylaw.

#### **6. USE OF AUTOMATED VOTING SYSTEM**

- (1) The Chief Election Officer is hereby authorized to conduct any local government election or other voting using an automated voting system.
- (2) The Chief Election Officer must conduct a test of the automated voting system before each local government election or other voting and must be satisfied that it is in good working order.
- (3) As soon as the test of the automated voting system is completed, the Chief Election Officer must secure the data storage devices and ensure that they will remain secured until the election or other voting.

#### **7. FORM OF BALLOT**

- (1) The Chief Election Officer may provide for use of composite ballots on which an elector's votes on two or more elections or other voting may be indicated.
- (2) If a ballot is in the form of a composite ballot, each portion of the ballot that deals with a single election is to be considered a separate ballot.
- (3) Each ballot shall contain a space for a "legible mark" opposite each candidate's name, or opposite "yes" or "no" when the vote is on a bylaw or other matter on which the assent of the electors is sought.

#### **8. VOTING PROCEDURES**

- (1) The Chief Election Officer will select a presiding election official for each voting place whose duties are to ensure election officials demonstrate voting procedures, issue ballots and accept marked ballots at the vote tabulator and ballot box, in addition to other general responsibilities for the supervision and control of the voting place.
- (2) Each elector is entitled to a demonstration of voting procedures from an election official assigned to perform such demonstrations.
- (3) Upon completion of the voting demonstration, if any, the elector shall proceed as instructed, to the election official responsible for issuing ballots, who, upon fulfillment of the requirements of the *Local Government Act*, shall then provide a ballot to the elector, a secrecy sleeve if requested by the elector, and any further instructions the elector requests.
- (4) Immediately after receiving the ballot, the elector must proceed to a voting compartment to vote, or if the elector is unable to mark a ballot because of a physical disability or difficulties in reading or writing or is unable to enter the voting place because of physical disability or impaired mobility, he or she may vote in accordance with the procedures outlined in the *Local Government Act*.
- (5) The elector shall vote by making a legible mark on each ballot beside the chosen candidate (or candidates, where there is more than one vacancy), or beside the “yes” or “no” when the vote is in relation to a bylaw or other matter on which the assent of the electors is sought. An elector may mark only up to the same number of spaces on the ballot as the number of vacancies in office and may not mark more than one space on a ballot in relation to a bylaw or other matter on which the assent of the electors is sought.
- (6) Once the elector has finished marking the ballot, the elector must either place the ballot into the secrecy sleeve, if one has been requested, or otherwise conceal the markings on the ballot and proceed to the vote tabulator.
- (7) Under the supervision of the election official in attendance, the elector must insert the ballot directly from the secrecy sleeve, if applicable, into the vote tabulator without exposing the marks on the ballot.
- (8) If an elector has:
  - a) unintentionally spoiled a ballot or made a mistake before it is deposited in a ballot box; or
  - b) if the vote tabulator will not accept the ballot;the presiding election official must issue a new ballot to the elector and mark the returned ballot “spoiled”.
- (9) Spoiled ballots must be retained and kept separately from all other ballots and must not be counted in the election results.
- (10) If a ballot is rejected by the vote tabulator, the election official at the ballot box must advise the elector that he or she may request another ballot. If the elector refuses the

opportunity to request another ballot, the election official will instruct the vote tabulator to accept the rejected ballot.

- (11) Any ballot counted by the vote tabulator is valid and will be counted in the election results, subject to any determination made by the Chief Election Officer on a recount.
- (12) Once the ballot has been inserted into the ballot box, the elector must immediately leave the voting place.
- (13) If the vote tabulator stops functioning, the election official at the ballot box must insert all ballots delivered by the electors while the vote tabulator is not working into the portable ballot box for inserting once a vote tabulator is available or counting at a later time.

## 9. **ADVANCE VOTING OPPORTUNITIES AND PROCEDURES**

- (1) As authorized under the *Local Government Act*, the following required advance voting opportunities are established for each election, to be held in advance of general voting day for each election:
  - (a) one on the 10th day before general voting day from 8:00 am to 8:00 pm.
  - (b) one on the 3rd day before general voting day from 8:00 am to 8:00 pm.
- (2) In accordance with the *Local Government Act*, the Chief Election Officer is hereby authorized to establish dates for additional voting opportunities in advance of general voting day and designate the voting places and set the voting hours for these voting opportunities.
- (3) The vote tabulators and ballot boxes will be used to conduct advance voting opportunities unless the Chief Election Officer directs that portable ballot boxes be used.
- (4) The voting procedures at the advance vote will follow, as closely as possible, the procedures described in Section 8 of this Bylaw.
- (5) At the close of the advance voting opportunity, the presiding election official must ensure:
  - (a) that any portable ballot boxes are sealed;
  - (b) that no additional ballots are inserted in the vote tabulator;
  - (c) that the ballot boxes used are sealed to prevent insertion of additional ballots;
  - (d) that the results tapes for the advance voting opportunity are not generated;

- (e) that the automated voting system, including the sealed data storage devices and ballot boxes, and any portable ballot boxes are delivered to the Chief Election Officer for securing until general voting day.
- (6) The Chief Election Officer must ensure:
- (a) that the ballot boxes and any portable ballot boxes used for the advance voting opportunity, remain sealed until 8:00 pm on general voting day;
  - (b) that the data storage devices remain secure until 8:00 pm on general voting day; and
  - (c) that the results tapes for the advance voting opportunity are not generated until 8:00 pm on general voting day.

**10. ADDITIONAL VOTING OPPORTUNITIES AND PROCEDURES**

- (1) As authorized under the *Local Government Act*, the Chief Election Officer is hereby authorized to establish additional voting opportunities for general voting day to designate the voting places and set the voting hours for these voting opportunities for each election.
- (2) The vote tabulators and ballot boxes will be used to conduct additional voting opportunities unless the Chief Election Officer directs that portable ballot boxes be used.
- (3) The voting procedures at the additional voting opportunity will follow, as closely as possible, the procedures described in section 8 and sections 9(5) and 9(6) of this Bylaw.

**11. SPECIAL VOTING OPPORTUNITIES**

The Chief Election Officer is authorized to establish the date and voting hours and the place where special voting opportunities are to be conducted.

**12. POST-VOTE PROCEDURES**

- (1) Immediately after the voting place is closed, the presiding election official must:
  - (a) direct that all unopened portable ballot boxes be opened;
  - (b) ensure that any ballots in the portable ballot boxes are inserted into the vote tabulating unit;
  - (c) secure the vote tabulator so that no more ballots can be inserted;
  - (d) generate three copies of the results tape from the vote tabulator;
  - (e) complete the ballot account, attaching one copy of the results tape;
  - (f) seal all voted ballots in the ballot box;



- (g) count the unused ballots, spoiled and rejected ballots and place them, packaged separately and sealed, in the ballot box along with the voting book, a copy of the results tape, a copy of the ballot account and all statements and voters lists;
  - (h) seal and initial the ballot box and deliver it to the election office; and
  - (i) deliver the vote tabulator, one copy of the results tape and the ballot account to the Chief Election Officer as soon as possible.
- (2) The results tapes from the vote tabulators used for mail ballots, and at the advance voting opportunities and at any special voting opportunities will be generated by the Chief Election Officer or designate after 8:00 pm on the general voting day.

**13. RECOUNT PROCEDURE**

If a recount is required:

- a) the data storage device of all vote tabulators will be cleared;
- b) vote tabulators will be designated for each voting place;
- c) all ballots will be removed from the sealed ballot boxes; and
- d) all ballots, except spoiled or rejected ballots, will be re-inserted in the appropriate vote tabulators under the supervision of the Chief Election Officer.

**14. RESOLUTION OF TIE VOTES AFTER JUDICIAL RECOUNT**

In the event of a tie vote after a judicial recount, the tie vote will be resolved by conducting a lot in accordance with the *Local Government Act*.

**15. SEVERANCE**

If any section, subsection, paragraph or clause of this Bylaw is found to be invalid by a Court of competent jurisdiction, it may be severed from the remainder of the Bylaw.

**16. REPEAL**

“Regional District of Nanaimo General Local Election Bylaw No. 1700, 2014”, is hereby repealed.

Introduced and read three times this 22nd day of May, 2018.

Adopted this 22nd day of May, 2018.

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CHAIR

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CORPORATE OFFICER