



## DISTRICT OF SOOKE ELECTION PROCEDURE BYLAW No. 841

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A Bylaw providing for the conduct of local government elections and other voting,  
including the use of automated voting machines

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The Council of the District of Sooke, in open meeting assembled, enacts as follows:

### PART 1 - INTRODUCTION

#### Citation

- 1) This Bylaw is cited as the "Election Procedure Bylaw, No. 841, 2022".

#### Definitions

- 2) In this Bylaw:
  - a) **acceptable mark** means a mark made in accordance with instructions provided, which the voting machine can identify, and which 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;
  - b) **automated vote counting system** means a system that counts and records votes, processes and stores election or any other voting results, which comprises:
    - i) a number of ballot-scanning vote tabulating units, each of which rests on a ballot box, and
    - ii) a number of portable ballot boxes;
  - c) **ballot** means a single ballot card designed for use in an automated vote counting system, which shows
    - i) the names of all of the candidates for each of the offices to be filled; and
    - ii) all of the choices on all of the bylaws or other matters on which the opinion or assent of the electors is sought;
  - d) **ballot return override procedure** means the use, by an election official, of a device on a vote tabulating unit, that causes the unit to accept a returned ballot;

- e) **elector** means a resident elector or non-resident property elector of the District of Sooke.
- f) **memory card** means the computer software storage device which is inserted into the vote tabulating unit and into which is pre-programmed the names of all the candidates for each of the offices to be filled, and the alternatives of 'yes' or 'no' for each question on the ballot, and which records and stores information on the number of acceptable marks made for each;
- g) **portable ballot box** means a ballot box that is used at a voting place where a vote tabulating unit is not being used or is not functioning;
- h) **results 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 and against each bylaw or other matter on which the opinion or assent of the electors is sought.
- i) **returned ballot** means a voted ballot, inserted into a vote tabulating unit, that is not accepted and is return by the unit to the elector with an explanation of the ballot marking error that caused the ballot not to be accepted;
- j) **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 opinion or assent of the electors is sought.

### Application

- 3) This Bylaw applies to all elections and all other voting.

### Access to Nomination and Endorsement Documents

- 4) In accordance with section 89(7) of the *Local Government Act*, the chief election officer must give public access to nomination documents during regular business hours and via the Internet or other electronic means from the time of delivery until 30 days after the declaration of the election or other voting results.

## PART 2 – CONDUCT OF ELECTIONS & OTHER VOTING

### Provincial List of Voters

- 5) The most current available Provincial list of voters prepared under the *Election Act* shall form the register of resident electors and shall become the register of electors for the District of Sooke on the 52<sup>nd</sup> day before general voting day.

### **Advance Voting Opportunities**

- 6) In addition to the required advance voting opportunity on the 10<sup>th</sup> day before general voting day required by the *Local Government Act*, the 3<sup>rd</sup> day before general voting day shall be the second advance voting opportunity.

### **Additional Advance Voting Opportunities**

- 7) The chief election officer may:
  - a) establish additional voting opportunities to be held in advance of general voting day; and
  - b) designate the voting places and set the voting hours for these voting opportunities.

### **Special Voting Opportunities**

- 8) As authorized under section 109 of the *Local Government Act*, a special voting opportunity will be held at the following place:
  - a) Ayre Manor Lodge  
6744 Ayre Road  
Sooke, BC V9Z 0G9
- 9) The chief election officer may establish the dates and voting hours within the limits set out in the *Local Government Act*, for the special voting opportunities.
- 10) The only electors who may vote at a special voting opportunity are electors who, on the date on which the special voting opportunity is held, are either assisted living or complex care residents of Ayre Manor.
- 11) Subject to section 109(3) of the *Local Government Act*, the Council authorizes the chief election officer to limit the number of candidates' representatives who may be present at a special voting opportunity.

### **Use of Voting Machines**

- 12) Voting may be conducted in a general local election, and other voting, by using an automated vote counting system.

### **Automated Voting Procedures**

- 13) If requested by the elector, a demonstration of the method for voting by using an automated vote counting system must be provided.
- 14) Upon entering a voting place, electors must proceed as instructed to the election official responsible for issuing ballots.

15) The election official responsible for issuing a ballot to an elector:

- a) must 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) after satisfying paragraph (a), must give to the elector a ballot, a secrecy sleeve if the elector requests it, and any further instructions requested by the elector.

16) After receiving a ballot, an elector:

- a) must proceed immediately to a voting compartment;
- b) may vote only by making an acceptable mark on the ballot
  - i) beside the name of each candidate of choice up to the maximum number of candidates to be elected for each office to be filled;
  - ii) beside either 'yes' or 'no' on any other voting question;
- c) must proceed to the vote tabulating unit, and under the supervision of the election official in attendance insert the ballot directly into the vote tabulating unit without exposing the acceptable marks on the ballot; and
- d) may request a replacement ballot from the election official in attendance if
  - i) before inserting a ballot into the vote tabulating unit the elector decides they made a mistake when marking the ballot, or
  - ii) a ballot is returned by the vote tabulating unit.

17) The chief election official or designated election official must carry out the following procedures if an elector requests a replacement ballot in accordance with subsection (16)(d):

- a) issue a replacement ballot to the elector;
- b) mark as "spoiled" the ballot that is being replaced; and
- c) retain all spoiled ballots separately from all other ballots.

18) Spoiled ballots must not be included in the counting of votes on ballots.

19) For the purpose of counting acceptable marks, the chief election official or designated election official must reinsert a returned ballot into the vote tabulating unit by using the ballot override procedure if the elector

- a) has not damaged the returned ballot to the extent that it cannot be reinserted; and
- b) does not want a replacement ballot.

- 20) A ballot counted by the vote tabulating unit is valid and all acceptable marks contained on that ballot must be counted subject to a determination made under a judicial recount.
- 21) An elector must immediately leave the voting place after the vote tabulating unit indicates that the elector's ballot has been accepted.
- 22) The election official supervising a vote tabulating unit must insert into a portable ballot box all ballots delivered by electors during a time when the vote tabulating unit is not functioning and is not replaced.
- 23) The chief election officer or designated election official must carry out the following as soon as is reasonably possible after a nonfunctioning vote tabulating unit becomes operational or is replaced with another vote tabulating unit:
  - a) remove the ballots contained in the portable ballot box that temporarily replaced the nonfunctioning vote tabulating unit; and
  - b) insert into the functioning vote tabulating unit the ballots removed under paragraph (a).

### **Advanced Voting Opportunity Procedures**

- 24) Vote tabulating units must be used to conduct the vote at all advance voting opportunities.
- 25) Voting procedures at advance voting opportunities must follow as closely as possible those described in sections 13 to 23.
- 26) At the close of voting at each advance voting opportunity the presiding election official must ensure that
  - a) no additional ballots are inserted in the vote tabulating unit;
  - b) the portable ballot box is sealed to prevent the insertion of any ballots;
  - c) the register tapes in the vote tabulating unit are not generated;
  - d) the memory card of the vote tabulating unit is secured; and
  - e) deliver the vote tabulating unit together with the memory card and all other materials used to the chief election officer.

### **Special Voting Opportunity Procedures**

- 27) A portable ballot box must be used for all special voting opportunities unless the chief election officer determines that it is practical to use a vote tabulating unit.
- 28) Where a vote tabulating unit is not used for special voting opportunities, the presiding election official must:
  - a) ensure that a portable ballot box is secured when not in use; and

- b) at the close of voting at the final special voting opportunity must seal a portable ballot box and return it together with all other election materials to the chief election officer.

### **Mail Ballot Voting**

- 29) Voting by mail ballot and elector registration by mail in conjunction with mail ballot voting are authorized.
- 30) Sufficient record will 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 section 126 of the *Local Government Act*.
- 31) As provided in the *Local Government Act*, to be counted, a mail ballot must be received by the chief election officer before the close of voting on general voting day.
- 32) Once a mail ballot package has been accepted by the chief election officer, that voter may only vote by mail ballot.

### **Application Procedure for Mail Ballot**

- 33) A person wishing to vote by mail ballot must apply by providing their name and address to the chief election officer or to an election official designated by the chief election officer for such purposes, during the period commencing fourteen (14) days before the first day of advance voting, and ending at 4:00 p.m. on the Thursday two days before general voting day.
- 34) Upon receipt of a request for a mail ballot, the chief election officer or designated election official must, between the first day of advanced voting and 4:00 p.m. on the Thursday two days before general voting day:
  - a) Make available to the applicant, a mail ballot package as specified in section 110 (7) of the *Local Government Act*, together with an elector registration application, where required.
  - b) Immediately record and, upon request, make available for inspection:
    - (i) The name and address of the person to whom the mail ballot package was issued; and
    - (ii) Information as to whether or not the person is registered as an elector.

### **Voting Procedure for Mail Ballot**

- 35) In order to vote using a mail ballot, the elector must mark the ballot in accordance with the instructions contained in the mail ballot package provided by the chief election officer.
- 36) After marking the mail ballot, the elector must:
- a) place the mail ballot in the secrecy envelope provided, and seal the secrecy envelope;
  - b) place the secrecy envelope in the certification envelope, and complete and sign the certification printed on such 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 it is received no later than the close of voting on general voting day.

### **Mail Ballot Acceptance**

- 37) Until 4:00 p.m. on the Thursday two days before general voting day, upon receipt of the outer envelope and its contents, the chief election officer or designated election official must immediately record the date of such receipt and must then open the outer envelope and remove and examine the certification envelope and the completed elector registration application, if applicable, and if satisfied as to:
- a) the identity and entitlement to vote of the elector whose mail ballot is enclosed;
  - b) the completeness of the certification; and
  - c) the fulfillment of the requirements of section 70 of the *Local Government Act* in the case of a person who is registering as a new elector;

the chief election officer or designated election official must mark the certification envelope as "accepted", and must retain all such certification envelopes.

- 38) The unopened certification envelopes must remain in the secure custody of the chief election officer or designated election official until 4:00 p.m. on the Thursday two days before general voting day, at which time the certification envelopes containing the secrecy envelopes must be opened in the presence of at least one other person, including any scrutineers present.

- 39) At 4:00 p.m. on the Thursday two days before general voting day, the chief election officer or designated election official must place all secrecy envelopes received up until that time into a ballot box specified for such purpose, where such secrecy envelopes were received from persons who voted using a mail ballot.
- 40) Where an outer envelope and its contents are received by the chief election officer or designated election official between 4:00 p.m. on the Thursday two days before general voting day and the close of voting on general voting day, the provisions of section 37 of this bylaw with regard to ballot acceptance apply and the chief election officer or designated election official must retain such envelope in custody until the close of voting and at that time must open such certification envelopes in the presence of at least one other person, including any scrutineers present, and place the secrecy envelope containing the ballot into the ballot box containing the other unopened secrecy envelopes.
- 41) After all of the secrecy envelopes have been placed in the ballot box designated for that purpose, and following the close of voting on general voting day, the following procedures must be followed:
  - a) under the direction of the chief election officer, the ballot box containing the secrecy envelopes must be opened;
  - b) the secrecy envelopes must be removed and opened and the ballots contained in those envelopes inserted for counting into a vote tabulating machine; and
  - c) after the procedures set out in paragraphs (a) and (b), the procedures set out in section 47 must be followed to the extent that they are applicable.

### **Mail Ballot Rejection**

- 42) Where:
  - a) upon receipt of an outer envelope, the chief election officer is not satisfied as to the identity of the elector whose mail ballot is enclosed; or
  - b) in the case of a person required to complete an application for registration as an elector, such application has not been completed in accordance with section 70 of the *Local Government Act*, or
  - c) the outer envelope is received by the chief election officer after the close of voting on general voting day,

the certification envelope must remain unopened, and the chief election officer must mark such envelope as “rejected” and must note their reasons for doing so, and the mail ballot contained in such envelope must not be counted in the election.



- 43) Any certification envelopes and their contents rejected in accordance with section 42 of this bylaw must remain unopened and are subject to the provisions of section 160 of the *Local Government Act* with regard to their destruction.

#### **Elector's Name Already Used – Mail Ballot**

- 44) Where, upon receiving a request for a mail ballot, the chief election officer determines that another person has voted or has already been issued a mail ballot in that elector's name, the provisions of section 127 of the *Local Government Act* apply, so far as applicable.

#### **Replacement of Spoiled Mail Ballot**

- 45) Where an elector unintentionally spoils a mail ballot before returning it to the chief election officer, the elector may request a replacement ballot by advising the chief election officer or designated election official of the ballot spoilage and by mailing or otherwise delivering by any appropriate means, the spoiled ballot package in its entirety to the chief election officer or designated election official.
- 46) The chief election officer must, upon receipt of the spoiled ballot package, record such fact, and must proceed to issue a replacement mail ballot package in accordance with section 34 of this bylaw.

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

- 47) After the close of voting on general voting day, the chief election officer or designated election official must
- a) ensure that any remaining ballots in the portable ballot boxes 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 results tape for each memory card used during voting for the tabulation of results.
- 48) After the close of voting on general voting day, each designated election official at a voting opportunity, must
- a) 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 results tape;
  - b) complete the ballot account and place the duplicate copy in the election materials transfer box;
  - c) seal the election materials transfer box;

- d) place the voting books, the original copy of the ballot account, one copy of the results tape, completed registration cards, keys and all completed administrative forms into the chief election officer transfer box; and
- e) transport all equipment and materials to a designated, secure location at the municipal hall.

### **Recount Procedure**

- 49) If a recount is required, it must be conducted under the direction of the chief election officer using the automated vote counting system and generally in accordance with the following procedures:
- a) the memory cards of all vote tabulating units must be cleared;
  - b) all ballots must be removed from the sealed ballot boxes; and
  - c) all ballots, except spoiled ballots, must be reinserted in the vote tabulating unit containing the memory card for that voting place under the supervision of the chief election officer.

### **Tie Votes after Judicial Recount**

- 50) A tie vote that exists after a judicial recount will be resolved by conducting a lot in accordance with section 151 of the *Local Government Act*.

### **Repeal**

- 51) Election Procedures Bylaw No. 602, 2014, is hereby repealed.

### **Severability**

- 52) If any portion of this bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

READ A FIRST, SECOND, and THIRD TIME on the 24 day of May, 2022.

ADOPTED on the 13 day of June, 2022.

  
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Maja Taft  
Mayor

  
\_\_\_\_\_  
Carolyn Mushata  
Corporate Officer