

DISTRICT OF SOOKE

BYLAW No. 100

CONSOLIDATED FOR REFERENCE JUNE 2, 2008

BYLAW NO. 100, *ELECTION PROCEDURES BYLAW, 2002*
BYLAW NO. 144, *ELECTION PROCEDURES AMENDMENT BYLAW (100-1)*

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A bylaw to provide for various procedures for the conduct of local government elections.

Under part 3 of the *Local Government Act* the Council may, by bylaw, determine various voting procedures and requirements to be applied to the conduct of local government elections.

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

PART 1 GENERAL

1. This Bylaw is cited as the *Election Procedures Bylaw, 2002*.
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 must be severed and the decision that is invalid must not affect the validity of the remainder which must continue in full force and effect and be construed as if the bylaw had been adopted without the invalid sections.

PART 2 ADDITIONAL ADVANCE VOTING OPPORTUNITIES

3. The Council authorizes the chief election officer to establish additional advance voting opportunities for each election to be held in advance of general voting day and to designate the voting places, and to establish the date and voting hours for these voting opportunities.

PART 3 USE OF VOTING MACHINES

4. In this bylaw

- (a) *Acceptable Mark* means a completed oval which the *vote tabulating unit* is able to identify, 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 and processes and stores election results which comprises
 - (i) a number of *ballot scan vote tabulating units*, each of which rests on a ballot box; and
 - (ii) a number of *portable ballot boxes* into which voted *ballots* are deposited where a *vote tabulating unit* is not functioning or not being used for counting after the close of voting on general voting day.
- (c) *Ballot* means a single automated ballot card designed for use in an *automated vote counting system* which shows
 - (i) the names of all the candidates for each of the offices of Mayor, Councillor, and School Trustee; and
 - (ii) all of the choices on all of the questions 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*, which causes the unit to accept a *returned ballot*;
- (e) *Memory Card* means the storage device which stores all the permanent results for the *vote tabulating unit*;
- (f) *Portable Ballot Box* means a *ballot box* which is used at a voting place where a *vote tabulating unit* is not being used or is not functioning.
- (g) *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 question on which the opinion or assent of the electors is sought.

- (h) *Returned Ballot* means a voted *ballot* which was inserted into the *vote tabulating unit* by the elector but which was not accepted and which was returned to the elector with an explanation of the *ballot* marking error which caused the *ballot* not to be accepted.
 - (i) *Secrecy Sleeve* means an open-ended folder or envelope used to cover *ballots* to conceal the choices made by each elector.
 - (j) *Vote tabulating unit* means the device into which voted *ballots* are inserted and which scans each *ballot* and records the number of votes for each candidate and for and against each other voting question.
5. An *automated vote counting system* may be used to conduct the vote of general local elections and other voting in the District of Sooke.

Procedures for How to Vote by Ballot

6. If an *automated vote counting system* is used for general local elections and other voting, the procedures for voting must follow the procedure set out in this bylaw as closely as possible.
7. The presiding election official for each voting place and at each advance voting opportunity must, as soon as the elector enters the voting place and before a *ballot* is issued, offer a demonstration to an elector of how to vote using an *automated vote counting system*, and if requested, direct an election official to provide this demonstration.
8. Upon completion of the voting demonstration, if any, the elector must proceed as instructed to the election official responsible for issuing *ballots* who:
- (a) must ensure that the elector
 - (i) is qualified to vote in the election; and
 - (ii) completes the voting book as required;
 - (b) upon fulfilment of the requirements of subsection (a), must provide a *ballot* to the elector, a *secrecy sleeve* if requested by the elector, and any further instructions the elector requests.

9. Upon receiving a *ballot*, the elector must immediately proceed to a voting compartment to vote.
10. 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, Councillor, and School Trustee;
 - (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.
11. Once the elector has finished marking the *ballot*,
 - (a) the elector must place the *ballot* into the *secrecy sleeve*, if applicable, and proceed to the *vote tabulating unit*; and
 - (b) insert the *ballot* directly from the *secrecy sleeve* into the *vote tabulating unit* under the supervision of the election official in attendance.
12. If, before inserting the ballot into the *vote tabulating unit*, an elector determines that a mistake has been made when marking the *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.
13. Upon being advised of the replacement *ballot* request, the presiding election official must issue a replacement *ballot* to the elector and mark the *returned ballot* “spoiled” and must retain all spoiled *ballots* separately from all other *ballots* which must not be counted in the election.
14. 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 election official must, using the *ballot return override procedure*, reinsert the *returned ballot* into the *vote tabulating unit* to count any *acceptable marks* which have been made correctly.
15. 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.
16. Once the *ballot* has been inserted in to the *vote tabulating unit* and the unit indicates that the *ballot* has been accepted, the elector must immediately leave the voting place.

17. During any period that a *vote tabulating unit* is not functioning, the election official supervising the unit must insert all *ballots* delivered by the electors during this time into a *portable ballot box*, provided that if the *vote tabulating unit*
- (a) becomes operational, or
 - (b) is replaced with another *vote tabulating unit*
- the *ballots* in the *portable ballot box* must, as soon as reasonably possible, be removed by an election official and under the supervision of the presiding election official be inserted into the *vote tabulating unit* to be counted.
18. Any *ballots* which were temporarily stored in a *portable ballot box* which are returned by the *vote tabulating unit* when being counted must, through the use of the *ballot return override procedure* and under the supervision of the presiding election official, be reinserted into the *vote tabulation unit* to ensure that any *acceptable marks* are counted.

Form of Ballot

19. A sample *ballot* that may be used in an *automated vote counting system* is attached as Schedule A to this bylaw.

Advance Voting Opportunity Procedures

20. (1) An *automated vote counting system* may be used to conduct the vote at advance voting opportunities.
- (2) If advance voting opportunities are conducted with an *automated vote counting system*, the voting procedure must follow the procedure set out in this bylaw as closely as possible.
21. At the close of voting at each advance voting opportunity, the presiding election official in each case must ensure that
- (a) no additional ballots are inserted in the *vote tabulating unit*;
 - (b) the *portable ballot box* is sealed to prevent insertion of any *ballots*;
 - (c) the *register tapes* in the *vote tabulating unit* are not generated; and
 - (d) the *memory card* of the *vote tabulating unit* is secured.

22. At the close of voting at the final advance voting opportunity, the presiding election official must
- (a) ensure that any remaining *ballots* in the *portable ballot box* are inserted into the *vote tabulating unit*;
 - (b) secure the *vote tabulating unit* so that no more *ballots* can be inserted; and
 - (c) deliver the *vote tabulating unit* together with the *memory card* and all other materials used in the election to the chief election officer at the Municipal Hall.

Counting of Votes

23. 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 voting opportunities, each presiding election official must
- (a) ensure that any remaining *ballots* in the *portable ballot box* 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 *register tape* from the *vote tabulating unit*;
 - (d) deliver one copy of the *register tape* along with the *vote tabulating unit* to the chief election officer at the Municipal Hall;
 - (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 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 copy of the *register tape*, completed registration cards, if applicable, keys and all complete administrative forms into the chief election officer portfolio; and
 - (i) transport all equipment and materials to the Municipal Hall.

24. At the close of voting on general voting day, the chief election officer must direct the presiding election official for the advance voting opportunity where *vote tabulating units* were used to proceed in accordance with section 23 of this bylaw.
25. 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* must be removed and inserted into a *vote tabulating unit* to be counted, after which the provisions of section 23, so far as applicable, must apply.

Recount Procedure

26. 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 procedure:
 - (a) the *memory cards* of all *vote tabulating units* will be cleared;
 - (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.

PART 4 DETERMINATION OF RESULTS BY LOT IF TIE VOTE AFTER JUDICIAL RECOUNT

27. If at the completion of a judicial recount the results of the election cannot be declared because there is an equality of valid votes for 2 or more candidates, the results will be determined by lot in accordance with section 141 of the *Local Government Act*.

PART 5 SCRUTINEERS (*Bylaw No. 144 September 8, 2003*)

28. Two scrutineers for each candidate are permitted to be present at a voting place while voting proceedings are being conducted on general voting day.

PART 7 MAIL BALLOT VOTING (*Bylaw No. 144 September 8, 2003*)

29. Voting by mail ballot and elector registration in relation to mail ballot voting is permitted for general local elections and other voting.

Application to Vote by Mail Ballot

30. A person wishing to vote by mail ballot must apply by giving their name and address to the Chief Election Officer during the period commencing ten days before the first day of advance voting, and ending at 4:00 p.m. on the Thursday which is two days before general voting day.
31. Upon receipt of a request for a mail ballot and commencing on the first day of advance voting, the Chief Election Officer must
 - (a) make a mail ballot package, containing the items specified by the *Local Government Act*, available to the applicant together with a statement advising the elector that the elector
 - (i) must have a physical disability, illness or injury that affects their ability to vote at another voting opportunity; and
 - (ii) must attest to such fact; and
 - (b) immediately record, and make available for inspection upon request,
 - (i) the name and address of the person to whom the mail ballot package was issued; and
 - (ii) information as to whether the person is registered as an elector or is not registered as an elector.

Voting Procedure

32. 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.
33. 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 the certification 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 the outer envelope and its contents delivered to the Chief Election Officer at the Municipal Hall so that it is received no later than the close of voting on general voting day.

Replacement of Spoiled Ballot

- 34. 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 of the ballot being spoiled, and must mail or otherwise deliver by any appropriate means the spoiled ballot package in its entirety to the Chief Election Officer.
- 35. The Chief Election Officer must, upon receipt of a spoiled ballot package in accordance with the previous section, record receipt of the ballot and proceed in accordance with section 31.

Mail Ballot Acceptance or Rejection

- 36. Upon receipt of each mail ballot envelope and its contents, the Chief Election Officer must
 - (a) immediately record the date of receipt; and
 - (b) open the outer envelope and remove and examine the certification envelope and the completed elector registration application, if applicable, and if satisfied as to
 - (i) the identity and entitlement to vote of the elector whose mail ballot is enclosed; and
 - (ii) the completeness of the certification;
 - (iii) the fulfilment of the requirements of the *Local Government Act* in the case of a person who is registering as an elector,
- the Chief Election Officer must mark the certification envelope as “accepted” and must retain all certification envelopes in secure custody.

37. If
- (a) the Chief Election Officer is not satisfied as to the identify of the elector whose mail ballot is enclosed upon receipt of an outer envelope; 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 the *Local Government Act*; or
 - (c) the mail ballot 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 the envelope as “rejected” and must note the reasons for doing so and the mail ballot contained in the envelope must not be counted in the election.
38. Any certification envelopes and their contents rejected in accordance with the previous section must remain unopened.

Challenge of Elector

39. A person exercising the right to vote by mail ballot may be challenged in accordance with, and on the grounds specified in, the *Local Government Act* until the close of voting on general election day.
40. The provisions of the *Local Government Act* apply, so far as applicable, where a challenge of an elector using a mail ballot has been made.

Elector’s Name Already Used

41. 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 the *Local Government Act* apply, so far as applicable.

General Voting Day

42. As soon as possible after 6:00 p.m. on general voting day, the Chief Election Officer must, in the presence of at least one other person, including any scrutineers present, open the certification envelopes received up until that time and place all secrecy envelopes into a portable ballot box designated for that purpose, where

- (a) the secrecy envelopes were received from persons whose right to vote using a mail ballot has not been challenged; or
 - (b) any challenge has been resolved, and the challenged person has been permitted to vote.
43. Where an outer envelope and its contents are received by the Chief Election Officer between 6:00 p.m. on general voting day and the close of voting on general voting day
- (a) the provisions of section 36 with regard to ballot acceptance apply; and
 - (b) the Chief Election Officer must, in the presence of at least one other person, including any scrutineers present, open the certification envelopes containing the secrecy envelopes, and place the secrecy envelopes containing the mail ballots into the portable ballot box identified in section 42.
44. As soon as possible after all of the secrecy envelopes have been placed in the portable ballot box designated for that purpose
- (a) the portable ballot box must be opened under the supervision of the Chief Election Officer; and
 - (b) in the presence of at least one other person including any scrutineers present, the secrecy envelopes must be opened; and
 - (c) the mail ballots contained in the secrecy envelopes must be inserted into the vote tabulating unit designated to receive mail ballots to be counted.
45. Any mail ballots returned by the vote tabulating unit when being counted must be reinserted into the vote tabulating unit using the ballot return override procedure to ensure that any acceptable marks are counted.

PART 5 USE OF PROVINCIAL LIST OF VOTERS (*Bylaw No. 266
November 14, 2006*)

46. The most current available Provincial list of voters prepared under the *Elections Act* is to be the register of resident electors for the District of Sooke.

Introduced and read a first time the 10th day of June 2002.

Read a second time the 10th day of June 2002.

Read a third time the 10th day of June 2002.

Adopted on the 24th day of June 2002.

Ed Macgregor
Mayor

Tom Day
Chief Administrative Officer