



DISTRICT OF SOOKE

BYLAW NO. 602

A Bylaw to provide for various procedures for the conduct of local government elections and assent voting.

Under 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 and assent voting;

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

1.0 CITATION

1.1 Citation

This Bylaw is cited as the *Election Procedures Bylaw, 2014*.

2.0 ADVANCE VOTING OPPORTUNITIES

2.1 Second Required Advance Voting Opportunity

In addition to the first advance voting opportunity on the 10th day before general voting day required under section 97(2) of the *Local Government Act*, the Wednesday being the 3rd day before general voting day is hereby established as the second required advance voting opportunity for elections and assent voting.

2.2 Additional Advance Voting Opportunities

Council authorizes the Chief Election Officer to establish dates for additional advance voting opportunities to be held in advance of general voting day and to designate the voting places and voting hours for these voting opportunities.

3.0 USE OF PROVINCIAL LIST OF VOTERS

3.1 The most current available Provincial list of voters prepared under the *Elections Act* shall become the register of resident electors for the District of Sooke on the 52nd day before general voting day.

4.0 DETERMINATION OF RESULTS BY LOT IF TIE VOTE AFTER JUDICIAL RECOUNT

4.1 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 two or more candidates, the results will be determined by lot in accordance with section 141 of the *Local Government Act*.

5.0 MAIL BALLOT VOTING

5.1 Mail Ballot Voting Permitted

Voting by mail ballot and elector registration in relation to mail ballot voting is permitted for elections and assent voting for persons entitled to vote by mail pursuant to section 100 of the *Local Government Act*.

5.2 Application to Vote by Mail Ballot

A person wishing to vote by mail ballot must apply by giving their name and address to the Chief Election Officer no earlier than ten days before the first day of advance voting, and no later than 4:00 p.m. on the Thursday that is two days before general voting day.

5.3 Challenges to Mail Ballot Voter

In order to provide an opportunity for an elector of the District of Sooke to commence a challenge under section 116 of the *Local Government Act*, upon receipt of a request for a mail ballot, the Chief Election Officer must place the name and address of the person requesting the mail ballot package on a list and post a notice on the public notice board of the ability of electors to challenge this person's right to vote prior to the mail ballot package being sent to the person, and before the elector is entitled to view the list, the elector must sign a statement that the elector will inspect the list only for the purposes of commencing a challenge under section 116 and for no other purpose.

5.4 Mailing of Mail Ballot Package

If a successful challenge is not taken under section 5.3 by the end of the day on which the notice is posted, the Chief Election Officer must mail or, if requested, make available for pick up a mail ballot package for that elector containing the items specified by the *Local Government Act*.

5.5 Voting Procedure

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.

5.6 Delivery of Package

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 to Municipal Hall or have the outer envelope and its contents delivered to the Chief Election Officer, in either case so that it is received no later than the close of voting on general voting day.

5.7 Replacement of Spoiled Ballot

- (a) 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 the elector must mail or otherwise deliver by any appropriate means the spoiled ballot package in its entirety to the Chief Election Officer.
- (b) The Chief Election Officer must, upon receipt of a spoiled ballot package in accordance with the previous section, record receipt of the ballot and mail or, if requested, make available for pick up a replacement mail ballot package.
- (c) It is the obligation of the person applying to vote by mail ballot to ensure that the mail ballot is received by the Chief Election Officer within the time limit in section 5.6.

5.8 Mail Ballot Acceptance

Upon receipt of each mail ballot envelope and its contents, the Chief Election Officer must:

- (a) record the time and date and manner 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.

5.9 Mail Ballot Rejection

If:

- (a) 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 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.

5.10 Any certification envelopes and their contents rejected in accordance with the previous section must remain unopened.

5.11 Invitation to Scrutineers

Prior to accepting or rejecting certification envelopes under sections 5.8 and 5.9, the Chief Election Officer must give at least 24 hours written or telephone notice to the scrutineers of the candidates of their ability to be in attendance at such proceeding, if they so choose.

5.12 Elector's Name Already Used

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

5.13 Opening of Certification Envelopes on General Voting Day

As soon as possible after close of voting on general voting day, the Chief Election Officer must, in the presence of at least one other person and in the presence of any scrutineers who choose to be present, open the certification envelopes received by 8:00 pm and accepted under section 5.8 and place all secrecy envelopes into a portable ballot box designated for that purpose.

5.14 Opening of Secrecy Envelopes

As soon as possible after all of the secrecy envelopes have been placed in the portable ballot box designated for that purpose and under the supervision of the Chief Election Officer and in the presence of at least one other person and in the presence of any scrutineers who choose to be present:

- (d) the portable ballot box must be opened,
- (e) the secrecy envelopes must be opened; and
- (f) the mail ballots contained in the secrecy envelopes must be inserted into the voting machine designated to receive mail ballots to be counted.

5.15 Ballot Override

Any mail ballots returned by the voting machine when being counted must be reinserted into the voting machine using the ballot return override procedure to ensure that any acceptable marks are counted.

6.0 USE OF VOTING MACHINES – VOTING PROCEDURES

6.1 Definitions

In this Bylaw

- (a) **Acceptable Mark** means a completed oval which the voting machine 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 assent 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 voting machines, each of which rests on a ballot box; and
 - (ii) a number of portable ballot boxes into which voted ballots are deposited where a voting machine is not functioning or not being used.
- (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 voting machine, which causes the voting machine to accept a returned ballot;
- (e) **Memory Card** means the storage device which stores all the permanent results for the voting machine;
- (f) **Portable Ballot Box** means a ballot box which is used at a voting place where a voting machine is not being used or is not functioning.
- (g) **Register Tape** means the printed record generated from a voting machine 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 voting machine 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) **Voting machine** 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 assent voting question.

6.2 Use of Voting Machines

An automated vote counting system will be used to conduct the vote of all elections and assent voting in the District of Sooke unless for any reason voting machines are not available or not working, in which case the particular election or assent voting will proceed in the ordinary way outlined in the *Local Government Act*.

6.3 Demonstration of Voting Machine

The presiding election official for each voting place and for each 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.

6.4 Provision of Secrecy Sleeve With Ballot

The election official who provides a ballot to the elector must also provide a secrecy sleeve if requested by the elector, and any further instructions the elector requests.

6.4 Voting on Ballot

The elector may vote 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.

6.5 Ballot Inserted Into Voting Machine

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 voting machine; and
- (b) insert the ballot directly from the secrecy sleeve into the voting machine under the supervision of the election official in attendance.

6.6 Spoiled Ballot

If, before inserting the ballot into the voting machine, an elector determines that a mistake has been made when marking the ballot or if the ballot is returned by the

voting machine, the elector may request a replacement ballot by advising the election official in attendance.

6.7 Replacement Ballot

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 and return all spoiled ballots to the Chief Election Officer.

6.8 Ballot Override

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 voting machine, the election official must, using the ballot return override procedure, reinsert the returned ballot into the voting machine to count any marks which are readable.

6.9 Marks on Ballots

Any ballot counted by the voting machine is valid and any marks contained on such ballots that are accepted by the voting machine will be counted in the election subject to any determination of the Chief Election Officer under section 135 of the Local Government Act and subject to any determination made under a judicial recount.

6.10 Elector to Leave

Once the ballot has been inserted into the voting machine and the voting machine indicates that the ballot has been accepted, the elector must immediately leave the voting place.

6.11 Use of Portable Ballot Boxes

During any period that a voting machine is not functioning, the election official supervising the voting machine must insert all ballots delivered by the electors during this time into a portable ballot box, provided that if and when the voting machine:

- (a) becomes operational, or
- (b) is replaced with another voting machine

the ballots in the portable ballot box must, as soon as reasonably possible, be removed by an election official and be inserted into the voting machine

to be counted, under the supervision of the presiding election official and in the presence of any scrutineers who choose to be present.

6.12 Ballot in Portable Boxes – Ballot Override

Any ballots which were temporarily stored in a portable ballot box which are returned by the voting machine when being counted must, through the use of the ballot return override procedure and under the supervision of the presiding election official and any scrutineers who choose to be present, be reinserted into the voting machine to ensure that any acceptable marks are counted.

6.13 Form of Ballot

A sample form of ballot that may be used in an automated vote counting system is attached as Schedule A to this Bylaw.

6.14 Advance Voting Opportunity Procedures

At the close of voting at each advance voting opportunity except the final advance voting opportunity, the presiding election official in each case must ensure that:

- (a) no additional ballots are inserted in the voting machine;
- (b) the portable ballot box is sealed to prevent insertion of any ballots;
- (c) the register tapes in the voting machine are not generated; and
- (d) the memory card of the voting machine is secured.

6.15 Final Advance Voting Opportunity Procedures

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 voting machine;
- (b) secure the voting machine so that no more ballots can be inserted; and
- (c) deliver the voting machine together with the memory card and all other materials used in the election to the Chief Election Officer at the Municipal Hall.

7.0 USE OF VOTING MACHINES - COUNTING OF VOTES

7.1 General Voting Day - Counting of Votes from GVD

After the close of voting on general voting day, each presiding election official must

- (a) ensure that any remaining ballots in the portable ballot box are inserted into the voting machine;
- (b) secure the voting machine so that no more ballots can be inserted;
- (c) generate three copies of the register tape from the voting machine;
- (d) deliver one copy of the register tape along with the voting machine 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.

7.2 General Voting Day - Counting of Votes from Advance Voting

At the close of voting on general voting day, the Chief Election Officer must direct the presiding election official for each advance voting opportunity to:

- (a) generate three copies of the register tape from the applicable voting machine;
- (b) account for the unused, spoiled and voted ballots;
- (c) complete the ballot account;

and deliver all to the Chief Election Officer.

7.3 Portable Ballot Boxes

At the close of voting on general voting day, all portable ballot boxes used in the election containing ballots not yet inserted into the voting machine will be opened under the direction of the Chief Election Officer and all ballots must be removed and inserted into a voting machine to be counted, after which the provisions of section 6.2, so far as applicable, must apply.

7.4 Presence of Candidate Representatives

Candidates and one candidate representative are entitled to be present at the counting proceedings under sections 7.1, 7.2 and 7.3.

7.5 Determination of Official Election Results

At the determination of official election results under section 135 of the *Local Government Act*, the Chief Election Officer may count all or some of the votes by hand or use the automated vote counting system, in which case the following procedure will be used:

- (a) the memory cards of all voting machines will be cleared;
- (b) if necessary, voting machines will be designated for each voting place;
- (c) ballots will be removed from the sealed ballot boxes; and
- (d) ballots, except spoiled ballots, will be reinserted in the appropriate voting machines under the supervision of the Chief Election Officer.

8.0 GENERAL

8.1 Severance

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 it 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.

8.2 Repeal

Bylaw No. 100, *Election Procedures Bylaw, 2002*, as amended, is repealed except insofar as it repeals any other bylaw.

Introduced and read a first time the 14th day of July, 2014.

Read a second time the 14th day of July, 2014.

Read a third time the 14th day of July, 2014.

Adopted on the 21st day of July, 2014.

Original signed by Wendal Milne
Mayor

Original signed by Bonnie Sprinkling
Corporate Officer

SCHEDULE A

THE CITY OF KELOWNA

SATURDAY, NOVEMBER 16, 1996

Three year term

VOTE LIKE THIS > ●

IF YOU ACCIDENTALLY SPOIL THIS BALLOT, YOU MAY RETURN IT TO THE ELECTION STAFF AND OBTAIN ANOTHER BALLOT.

MAYOR Do Not Vote for more than ONE (1)	SCHOOL TRUSTEE Do Not Vote for More Than FOUR (4)	COUNCILLOR Do Not Vote for More Than EIGHT (8)
<input type="radio"/> ADAMSON, John	<input type="radio"/> ATCHESON, Laura	<input type="radio"/> ANDOVER, Lewis
<input type="radio"/> ATKINS, Leah	<input type="radio"/> BOSNIAK, Aliston	<input type="radio"/> ARTHURS, Bill
<input type="radio"/> BELANGER, Mike	<input type="radio"/> CAMERON, Deborah	<input type="radio"/> BAKER, Sam
<input type="radio"/> CORRIGAN, Harold	<input type="radio"/> COLCHESTER, Christopher	<input type="radio"/> BUTLER, Jim
<input type="radio"/> DONOVAN, Arthur	<input type="radio"/> DAVIDSON, Don	<input type="radio"/> CARLSON, Julie
<input type="radio"/> FOSTER, Brew	<input type="radio"/> FRIESEN, Ken	<input type="radio"/> DONALDSON, Connie
	<input type="radio"/> HUDSON, Henry	<input type="radio"/> FRASER, Tim
	<input type="radio"/> HUGHES, Howard	<input type="radio"/> GALLOWAY, Mary
	<input type="radio"/> LINES Stella	<input type="radio"/> HARRIS, Robert
	<input type="radio"/> MacLEAN, David	<input type="radio"/> DUTKA, Marcel
REFERENDUM		
DO YOU BELIEVE THAT OGOPOGO REALLY EXISTS?		
<input type="radio"/> YES <input type="radio"/> NO		
DEMONSTRATION BALLOT		
		<input type="radio"/> JOYCE, Ron
		<input type="radio"/> KETCHINSON, Donald
		<input type="radio"/> LINDSTROM, Jackie
		<input type="radio"/> MORRISS, Sarah
		<input type="radio"/> KELLEY, Red
		<input type="radio"/> NORTON, Garth
		<input checked="" type="radio"/> OLSON, Ollie
		<input checked="" type="radio"/> PARKINSON, Dean
		<input type="radio"/> PLUMMER, Christopher
		<input type="radio"/> RICHTER, Lori
		<input type="radio"/> SWANSON, Gordon
		<input type="radio"/> TUPPERWARE, Delores
		<input type="radio"/> UNGER, Joseph
		<input type="radio"/> VOISIN, Roch
		<input type="radio"/> WATER, Lily
		<input type="radio"/> YORKSHIRE, Brent
		<input type="radio"/> ZAMBONI, Wayne