



DISTRICT OF PORT HARDY

BYLAW 1149-2022

A Bylaw to Provide for the Determination of Voting Procedures For the Conduct of Local Government Elections and Other Voting

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

PART 1 - INTRODUCTION

1. TITLE

1.1 This bylaw may be cited as the "Elections Procedure Bylaw No. 1149-2022".

2. DEFINITIONS

2.1 In this Bylaw,

Acceptable mark means a completed marked which the **vote counting 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.

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 applicant's behalf, to:

- a) pick up a mail ballot package; or
- b) drop off a completed mail ballot package.

Automated vote counting system means a system that counts and records votes and processes and stores election or any voting results which comprises:

- (a) a number of **ballot scan vote counting units**, each of which rests on a two-compartment **ballot** box, one compartment of which is for:
 - (i) voted ballots; and
 - (ii) returned ballots which have been reinserted using the ballot override procedure; and
 - (iii) the other compartment is for the temporary storage of voted ballots during such time as the vote counting unit is not functioning; and
- (b) a number of **storage ballot compartments** into which voted **ballots** are deposited where a **vote counting unit** is not functioning or being used which will therefore be counted after the close of voting on general voting day.

Ballot means a single ballot card which shows:

- (a) the names of all of the candidates for each of the offices to be filled; and
- (b) all of the choices on all of the bylaws or other matters on which the opinion or assent of the electors is sought.

Ballot return override procedure means the use, by an election official, of a device on a **vote counting unit**, which causes the unit to accept a **returned ballot**.

Election headquarters means District of Port Hardy Municipal Hall, 7360 Columbia Street, Port Hardy, BC.

Memory pack means a computer software cartridge which is inserted into the **vote counting 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 retains information on the number of acceptable marks made for each.

Portable ballot box means a ballot box, for use in the election, where a **vote counting unit** is not being used at the time of voting.

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 counting 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 matters on which the opinion or assent of the electors is sought.

Returned ballot means a voted **ballot** which was inserted into the **vote counting unit**, 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.

Secrecy sleeve means an open-ended folder or envelope used to cover **ballots** to conceal the choices made by each elector.

Storage ballot compartment means a ballot box under each **vote counting unit** into which voted **ballots** are temporarily deposited in the event that the unit ceases to function.

Vote counting 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 question on which the opinion or assent of the electors is sought.

3 APPLICATION

3.1 This Bylaw applies to all elections and all other voting.

PART 2 – CONDUCT OF ELECTIONS & OTHER VOTING

4 ELECTOR REGISTRATION

- 4.1 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 on the 52nd day prior to the general voting date.

5. ADDITIONAL ADVANCE VOTING OPPORTUNITIES

- 5.1 The Chief Election Officer may establish the dates, location and voting hours within the limits set out in the *Local Government Act*, for the additional advance opportunities.

6. SPECIAL VOTING OPPORTUNITIES

- 6.1 The Chief Election Officer may establish the dates, location and voting hours within the limits set out in the *Local Government Act*, for the special voting opportunities.
- 6.2 Special voting opportunities will be restricted to only residents of the location where the special voting opportunity has been established by the Chief Election Officer.
- 6.3 A presiding election official may attend at pre-approved facilities to take the elector's vote.
- 6.4 The following procedures for voting and for conducting the voting proceeding apply to the special voting opportunity:
- a) bedside voting will be permitted when required.
- 6.5 Portable ballot boxes will be used by the presiding election officials in which the ballots containing the votes at the special voting opportunity places will be placed.
- 6.6 The presiding election official appointed to attend at the special voting opportunity places shall conduct the voting in accordance with the following:
- a) explain and demonstrate the voting procedures;
 - b) sign the voting book;
 - c) provide a ballot to the elector, along with a secrecy sleeve, if requested and any further instructions the elector requests;
 - d) allow the elector to mark the ballot in private and place it into the secrecy sleeve if applicable; and
 - e) ensure that the ballot moves directly from the secrecy sleeve if applicable into the portable ballot box.
- 6.7 The presiding election official will ensure that the portable ballot box is secured. As soon as the presiding election official has attended all locations as directed by the Chief Election

Officer, the presiding election official must seal the portable ballot box and return it to the Chief Election Officer for safe keeping until general voting day.

- 6.8 The portable ballot box will be opened in the presence of at least 1 other person and any candidate representatives, at a time determined by the Chief Election Officer and all ballots will be removed and counted.
- 6.9 The Chief Election Officer may limit the number of candidate representatives who may be present at the special voting opportunity.

7. ADDITIONAL GENERAL VOTING OPPORTUNITIES

- 7.1 The Chief Election Officer may designate the voting places and set the voting hours within the limits set out in the *Local Government Act* for additional general voting opportunities.

PART 3 – MAIL BALLOT VOTING

8. AUTHORIZATION

- 8.1 Voting may be done by mail ballot and registration of election may be done by mail in conjunction with mail ballot voting.
- 8.2 The Chief Election Officer may establish the time limits in relation to voting by mail.

9. APPLICATION PROCEDURE

- 9.1 As authorized under section 110 of the *Local Government Act*, the following procedures for voting and elector registration must apply.
- a) An Applicant shall apply by giving their name and address to the Chief Election Officer during the period:
 - i. commencing twenty-one (21) days before the first day of advance voting and
 - ii. ending at 4:00 p.m. two (2) days before general voting day.
 - b) Upon the Applicant making a request for a mail ballot, the Chief Election Officer shall, between the time when the ballots are ready and before closing of general voting day:
 - (1) make available to the Applicant, a mail ballot package which contains:
 - i. the content set out in section 110(7) of the *Local Government Act*,
 - ii. additional instructions; and
 - iii. a statement advising the elector that:
 - a. the elector must meet the eligibility to vote criteria, and
 - b. the elector must attest to such fact; and
 - (2) record in the Register of Mail Ballots and, upon request, make available for inspection:

- i. the name and address of the elector to whom the mail ballot package was issued; and
- ii. the number of the elector, the number of the voting division in which the person is registered as an elector, or “new elector”, if that person is not registered as an elector; and
- iii. any other information that the Chief Election Officer deems helpful to maintain the register of mail ballots.

9.3 As per the Applicant's direction, 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 designated time and location; or
- d) having the mail ballot package picked up by an Authorized Person at a designated time and location.

9.4 The Chief Election Officer may request that the Authorized Person show identification and sign a form before providing the Authorized Person with the mail ballot package.

10. VOTING PROCEDURE

10.1 To vote by a mail ballot, the elector shall mark the ballot in accordance with the instructions contained in the mail ballot package provided by the Chief Election Officer.

10.2 After marking the ballot, the elector shall:

- a) place the 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 by the Chief Election Officer no later than the close of voting on general voting day.

11. BALLOT ACCEPTANCE OR REJECTION

11.1 Until closing on general voting day, the Chief Election Officer shall, upon receipt of the return envelope and its contents:

- a) immediately record the date of receipt in the Register of Mail Ballots; and
- b) open the return envelope.

11.2 When the Chief Election Officer examines the certification envelope, the Chief Election Officer shall:

- a) confirm the identity of the elector as an Applicant on the Register of Mail Ballots;
- b) determine the fulfilment of the requirements in section 70 of the *Local Government Act* and the completeness of any application to register, if required; and
- c) determine the completeness of the certification envelope.

11.3 If the Chief Election Officer is satisfied that the elector has met the requirements in section 11.2, the Chief Election Officer shall:

- a) mark the certification envelope as “accepted”; and
- b) place the accepted certification envelope with the other certification envelopes.

11.4 If the Chief Election Officer determines that:

- a) the Chief Election Officer is not satisfied as to the identify to the elector; or
- b) the elector has not completed the application to register properly;

the Chief Election Officer shall mark the certification envelope as “rejected”, indicate the reason for the rejection for the rejection and set aside the rejected certification envelope unopened.

11.5 The Chief Election Officer shall retain in their custody all opened and unopened certification envelopes.

11.6 Until closing on general voting day, the Chief Election Officer, in the presence of at least one (1) other person and any candidate representatives, shall:

- a) deal with any challenges to the electors involving the accepted certification envelopes;
- b) open the certification envelopes;
- c) remove the secrecy envelopes containing the ballots; and
- d) place the secrecy envelope containing the ballot in the ballot box (if manual count) or open the secrecy envelope and run the ballot through the automated voting machine.

11.7 If the Chief Election Officer receives a return envelope with its contents before the close of general voting, the Chief Election Officer shall:

- a) handle those return envelopes in accordance with section 11.1 at the time that the Chief Election Officer receives the return envelopes;
- b) retain all accepted certification envelopes until the close of general voting day;
- c) process the accepted certification envelopes in accordance with sections 11.2 to 11.5 inclusive after the close of general voting day.

11.8 As soon as possible after all of the secrecy envelopes have been placed in the ballot box, in the presence of at least one (1) other person and any candidate representatives, the Chief Election Officer shall supervise:

- a) the opening of the ballot box;
- b) the opening of the secrecy envelopes; and
- c) the counting of the ballots in accordance with the provisions of the *Local Government*

Act.

11.9 If the Chief Election Officer receives a return envelope with its contents after the close of general voting day, the Chief Election Officer shall:

- a) mark the return envelope as “rejected”;
- b) indicate the reason why the return envelope was rejected on the return envelope;
and
- c) place the unopened return envelope with the other rejected return envelopes.

12. CHALLENGE OF ELECTOR

12.1 A person who qualifies under section 126 of the *Local Government Act* may challenge the right of a person to vote by mail ballot on the grounds set out in section 126 of the *Local Government Act* up until closing on general voting day.

13. ELECTOR’S NAME ALREADY USED

13.1 If, 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 the elector’s name, the Chief Election Officer shall comply with section 127 of the *Local Government Act*.

14. REPLACEMENT OF SPOILED BALLOT

14.1 If an elector unintentionally spoils a mail ballot before returning it to the Chief Election Officer, the elector may request a replacement ballot by:

- a) advising the Chief Election Officer of the ballot spoilage; and
- b) mailing or otherwise delivering by any appropriate means, the spoiled ballot package in its entirety to the Chief Election Officer.

14.2 Upon receipt of the spoiled ballot package, the Chief Election Officer shall, record such fact and proceed in accordance with section 10.

PART 3 – USE OF AUTOMATED VOTING MACHINES

15. USE OF VOTING MACHINES

15.1 The Chief Election Officer may use an automated vote counting system for the conduct of elections and voting on bylaws or other matters on which the opinion or assent of the electors is sought.

16. AUTOMATED VOTING PROCEDURES

16.1 The presiding election official for each voting place shall, if requested, ensure that a demonstration of how to vote using a vote counting unit is provided to an elector as soon as such elector enters the voting place and before a ballot is issued.

16.2 Upon completion of the voting demonstration, if any, the elector shall proceed as instructed, to the election official responsible for issuing ballots, who, upon fulfilment of the

requirements of the *Local Government Act*, shall then provide a ballot to the elector, a secrecy sleeve if requested by the elector, the ballot marking instrument, and any further instructions the elector requests.

- 16.3 Upon receiving a ballot the elector shall immediately proceed to a voting compartment to vote.
- 16.4 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 to be filled; and
 - 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.
- 16.5 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 turn the ballot upside down and proceed to the vote counting unit, and under the supervision of the election official in attendance, insert the ballot directly from the secrecy sleeve, if applicable, into the vote counting unit without the acceptable marks on the ballot being exposed.
- 16.6 If, before inserting the ballot into the vote counting unit, an elector determines that a mistake has been made when marking the ballot, or if the ballot is returned by the vote counting unit, the elector may return to the voting compartment to correct the ballot or request a replacement ballot by informing the election official in attendance.
- 16.7 Upon being informed of the replacement ballot request, the presiding election official shall issue a replacement ballot to the elector and mark the returned ballot "spoiled" and shall retain all such spoiled ballots separately from all other ballots, and they shall not be counted.
- 16.8 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 counting unit, the election official shall, using the ballot return override procedure, reinsert the returned ballot into the vote counting unit to count any acceptable marks which have been made correctly.
- 16.9 Any ballot counted by the vote counting unit is valid and any acceptable marks contained on such ballots will be counted, subject to any determination made under a judicial recount.
- 16.10 Once the ballot has been inserted into the vote counting unit and the unit indicates that the ballot has been accepted, the elector must immediately leave the voting place.
- 16.11 During any period that a vote counting unit is not functioning, the election official supervising the unit shall insert all ballots delivered by the electors during this time, into the storage ballot compartment, on the understanding that if the vote counting unit:
- (a) becomes operational; or
 - (b) is replaced with another vote counting unit, the ballots in the storage ballot compartment shall, as soon as reasonably possible, be removed by an election official and, under the supervision of the presiding election official, shall be inserted into the vote counting unit to be counted.

16.12 Any ballots which were temporarily stored in the storage ballot compartment during a period when the vote counting unit was not functioning, which are returned by the vote counting unit when being counted shall, through the use of the ballot return override procedure and under the supervision of the presiding election official, be reinserted into the vote counting unit to ensure that any acceptable marks are counted.

17. ADVANCE VOTING OPPORTUNITY PROCEDURES

17.1 Vote counting units shall be used at all advance voting opportunities and voting procedure at the advance voting opportunities shall follow, as closely as possible, those described in sections 16 of this Bylaw.

17.2 At the close of voting at each advance voting opportunity, the presiding election official in each case shall ensure that:

- a) no additional ballots are inserted in the vote counting unit;
- b) the storage ballot compartment is locked to prevent insertion of any ballots;
- c) the results tapes in the vote counting unit are not generated; and
- d) the memory pack of the vote counting unit is secured.

17.3 At the close of voting at the final advance voting opportunity, the presiding election official shall:

- a) ensure that any remaining ballots in the storage ballot compartment are inserted into the vote counting unit;
- b) secure the vote counting unit so that no more ballots can be inserted; and
- c) deliver the vote counting unit together with the memory pack and all other materials used in the election to the Chief Election Officer at election headquarters.

18. SPECIAL VOTING OPPORTUNITY PROCEDURES

18.1 Unless the Chief Election Officer determines it is practical to use a vote counting unit, a portable ballot box, shall be used for all special voting opportunities. The presiding election official appointed to attend at each special voting opportunity shall proceed in accordance with sections 16 of this Bylaw as far as applicable, except that the voted ballots shall be deposited into the portable ballot box supplied by the presiding election official.

18.2 The presiding election official at a special voting opportunity shall ensure that the portable ballot box is secured when not in use and at the close of voting at the final special voting opportunity, the presiding election official shall seal the portable ballot box and return it together with all other election materials to the custody of the Chief Election Officer.

18.3 If a vote counting unit is in use at a special voting opportunity, the presiding election official appointed to attend the special voting opportunity shall follow the procedures outlined in sections 17 of this Bylaw as if it were an advance voting opportunity.

19. PROCEDURES AFTER CLOSE OF VOTING ON GENERAL VOTING DAY

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

those responsible for advance and special voting opportunities, shall undertake all of the following, generally in the order stipulated:

- a) ensure that any remaining ballots in the storage ballot compartment are inserted into the vote counting unit;
- b) secure the vote counting unit so that no more ballots can be inserted;
- c) generate two copies of the results tape from the vote counting unit;
- d) telephone the result to election headquarters immediately;
- e) account for the unused, spoiled and voted ballots and place them, packaged, and sealed separately, together with the memory pack from the vote counting unit and one copy of the results tape, into the ballots and results box;
- f) complete the ballot account and place the duplicate copy in the ballots and results box;
- g) seal the ballots and results box;
- h) place the voting books, list of electors, the original copy of the ballot account, one copy of the results tape, completed registration cards, keys and all completed forms into the election materials box; and
- i) deliver, or have available for pick-up, the sealed ballots and results box, vote counting unit and the election materials box, to the Chief Election Officer at election headquarters.

19.2 At the close of voting on general voting day, the Chief Election Officer shall direct the presiding election official for the advance voting opportunity and any special voting opportunities where vote counting units were used, to proceed in accordance with section 19.1 of this Bylaw.

19.3 All portable ballot boxes used in the election will be opened, under the direction of the Chief Election Officer, at the close of voting on general voting day and all ballots shall be removed and inserted into a vote counting unit to be counted, after which the provision of sections 19.1 (a) to (h) of this Bylaw, as far as applicable, shall apply.

19.4 Upon the fulfilment of the provisions of sections 19.1 to 19.3 inclusive, the Chief Election Officer shall, to obtain the election results, direct an election official to place the results in a spreadsheet, which may be used for display in the 7360 Columbia Street, Port Hardy, BC, indicating the total results.

20. RECOUNT PROCEDURE

20.1 Any recount after the preliminary election results are announced shall 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 packs of the applicable vote counting units will be cleared;
- b) a vote counting unit will be designated for each voting place.
- c) all voted ballots for the applicable voting counting units will be removed from the sealed election materials boxes, except spoiled ballots, and reinserted in the vote counting unit under the supervision of the Chief Election Officer.
- d) any ballots returned by the vote counting unit during the recount process shall,

through the use of the ballot return override procedure, be reinserted in the vote counting unit to ensure that any acceptable marks are counted.

PART 4– GENERAL

21. ORDER OF NAMES ON BALLOT

21.1 The order of names of candidates on the ballot will be determined by lot in accordance with section 117 the *Local Government Act*.

22. NUMBER OF SCRUTINEERS AT VOTING PLACES

22.1 The number of scrutineers for each candidate that may attend at an election is one (1) scrutineer for each ballot box in use.

23. NUMBER OF SCRUTINEERS FOR ASSENT VOTING

23.1 As authorized under section 181 of the *Local Government Act*, for assent voting, the number of scrutineers for the question and the number of scrutineers against the question that may attend each voting place is one scrutineer.

24. RESOLUTION OF TIE VOTE AFTER JUDICIAL RECOUNT

24.1 In the event of a tie vote after a judicial recount, the tie vote will be resolved by conducting a lot in accordance with section 151 of the *Local Government Act*.

25. SEVERABILITY

25.1 If a court of competent jurisdiction declares any portion of this bylaw invalid, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

26. REPEAL

26.1 Bylaw No. 07-2011 and any amendments thereto is hereby repealed in its entirety.

Read a first time the 14th day of June, 2022.

Read a second time the 14th day of June, 2022.

Read a third time the 14th day of June, 2022.

Adopted the 28th day of June, 2022.

Original signed:

DIRECTOR OF CORPORATE SERVICES

MAYOR

Certified to be a true copy of District of Port Hardy
Local Government Elections Bylaw No. 1149-2022.

DIRECTOR OF CORPORATE SERVICES