



ELECTION AND ASSENT VOTING BYLAW

Bylaw No. 3837

CONSOLIDATION

This consolidation is a copy of a bylaw consolidated under the authority of section 139 of the *Community Charter* and in accordance with section 1 of Consolidation and Revision Authority Bylaw 3514, 2013.

Current to November 21, 2024

Last amended on November 20, 2024

This Bylaw has been consolidated and printed under and by authority of the Corporate Officer for the Corporation of the District of North Cowichan.



The Corporation of the District of North Cowichan

Election and Assent Voting Bylaw

Bylaw No. 3837

Contents

- 1 Citation
- 2 Definitions
- 3 Access to nomination and endorsement documents
- 4 Elector registration
- 5 Use of voting machines
- 6 Automated voting procedures
- 7 Spoiled ballot
- 8 Procedure when vote counting unit malfunctions
- 9 Advance voting opportunities
- 10 Advance voting procedures
- 11 Additional general voting opportunities
- 12 Special voting opportunities
- 13 Special voting procedures
- 14 Mail ballot voting
- 15 Mail ballot voting procedures
- 16 Mail ballot acceptance or rejection
- 17 Challenge of right to vote by mail ballot
- 18 Elector's name already used
- 19 Spoiled mail ballot
- 20 Procedures after close of voting on general voting day
- 21 Determination of results by lot if tie vote
- 22 Recount procedure
- 23 General

WHEREAS under the *Local Government Act* Council may, by bylaw, determine various procedures and requirements to be applied to the conduct of elections and assent voting, including the use of automated voting machines, voting recorders or other devices for voting in elections or assent voting;

AND WHEREAS the Council of the District of North Cowichan wishes to establish various procedures and requirements under that authority;

NOW THEREFORE, the Council of The Corporation of the District of North Cowichan, in open meeting assembled, enacts as follows:

PART 1 Citation

1. This Bylaw may be cited as "Election and Assent Voting Bylaw No. 3837, 2022".

PART 2 Definitions

2. In this Bylaw the following terms have the following meanings:

ACCEPTABLE MARK means a completed mark 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 designed for use in an *Automated Vote Counting System*, 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*.

CERTIFICATION ENVELOPE means the envelope on which an *Applicant* records their full name and address and declaration of their entitlement to vote.

ELECTION HEADQUARTERS means the Municipal Hall, located at 7030 Trans-Canada Highway, Duncan, British Columbia.

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* to not be accepted.

SECRECY ENVELOPE means an envelope that has no identifying marks in which a mail ballot is placed by the elector to preserve the secrecy of their *Ballot*.

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.

PART 3 Access to nomination and endorsement documents

3. The chief election officer must give public access to nomination documents by electronic means from the time of filing until eight years after the general voting day for the election to which they relate and without limiting the generality of the foregoing, they may be published on the Internet.
4. The chief election officer must give public access to elector organization endorsement documents by electronic means from the time of filing until eight years after the general voting day for the election to which they relate and without limiting the generality of the foregoing, they may be published on the Internet.

PART 4 Elector registration

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 on the 52nd day prior to general voting day.

PART 5 Use of voting machines

6. 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.

PART 6 Automated voting procedures

7. The presiding election official for each voting place shall offer, and 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.

8. 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.
9. Upon receiving a *Ballot* the elector shall 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 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. If an elector is unable to proceed to a voting compartment at a special, advanced or general voting opportunity because of impaired mobility, they may request to vote elsewhere in the facility and, after receiving the request, the presiding election official or a person designated by the presiding election official must attend the elector for the purpose of allowing the elector to receive and make an *Acceptable Mark* on the *Ballot*.
16. 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.

PART 7 Spoiled ballot

17. 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.

PART 8 Procedure when vote counting unit malfunctions

18. 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.
19. 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.

PART 9 Advance voting opportunities

20. In addition to the required advance voting opportunity on the 10th day before general voting day, a second required advance voting opportunity shall be held on the 4th day before general voting day.
21. The chief election officer may:
 - (a) establish additional advance 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.

PART 10 Advance voting procedures

22. *Vote Counting Units* shall be used at all advance voting opportunities and voting procedures at the advance voting opportunities shall follow, as closely as possible, those described in Part 6 of this Bylaw.
23. 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.
24. 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*.

PART 11 Additional general voting opportunities

25. The chief election officer may designate the voting places and set the hours within the limits set out in the *Local Government Act*, for the additional general voting opportunities.

PART 12 Special voting opportunities

26. The chief election officer may establish the dates, locations, and voting hours within the limits set out in the *Local Government Act*, to provide special voting opportunities for electors who are:

- (a) residents or workers at a seniors care facility; or
- (b) residents, patients or workers at a hospital; or
- (c) students, faculty or staff at a post-secondary education facility,

so that they may vote at the location where the special voting opportunity is taking place.

27. The chief election officer may limit the number of candidate representatives who may be present at the special voting opportunity.

PART 13 Special voting procedures

28. 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 Part 6 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.

29. 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.

30. 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 Part 6 of this Bylaw as if it were an advance voting opportunity.

PART 14 Mail ballot voting

31. Voting may be done by mail ballot and registration of an elector may be done by mail in conjunction with mail ballot voting.

32. The chief election officer may establish the time limits in relation to voting by mail.

33. An *Applicant* shall apply by giving their name and address to the chief election officer.

34. Upon the *Applicant* making a request for a mail ballot, the chief election officer shall:

- (a) 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

- (b) 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 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*.

35. 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.

36. 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.

PART 15 Mail ballot voting procedures

37. To vote by a mail ballot, the elector shall make an *Acceptable Mark* on the *Ballot* in accordance with the instructions contained in the mail ballot package provided by the chief election officer.

38. 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.

PART 16 Mail ballot acceptance or rejection

39. 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.

40. 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*.

41. If the chief election officer is satisfied that the elector has met the requirements in section 40 of this Bylaw, the chief election officer shall:
 - (a) mark the *Certification Envelope* as "accepted";
 - (b) place the accepted *Certification Envelope* with the other *Certification Envelopes*.

42. If the chief election officer determines that:
 - (a) the chief election officer is not satisfied as to the identity of the elector; or
 - (b) the elector has not completed the application to register and declare their identity and eligibility to vote properly;the chief election officer shall mark the *Certification Envelope* as "rejected", indicate the reason for the rejection and set aside the rejected *Certification Envelope* unopened.

43. The chief election officer shall retain in their custody all opened and unopened *Certification Envelopes*.

44. After 4:00 p.m. on the Thursday, two days before general voting day, the chief election officer, in the presence of at least one other person, including any candidate representatives, shall:
 - (a) deal with any challenges to the electors involving the accepted *Certification Envelopes*;
 - (b) open the accepted *Certification Envelopes*;
 - (c) remove the *Secrecy Envelopes* containing the *Ballots*; and
 - (d) place the *Secrecy Envelope* in the *Portable Ballot Box*.

45. If the chief election officer receives a return envelope with its contents after 4:00 p.m. on the Thursday, two days before general voting day but before the close of general voting, the chief election officer shall:
 - (a) handle those return envelopes in accordance with sections 39 to 42 of this Bylaw at the time that the chief election officer receives the return envelopes;
 - (b) retain all sealed and accepted *Certification Envelopes* until the close of general voting day; and
 - (c) in the presence of at least one other person and any candidate representatives, the chief election officer shall supervise, after the close of general voting day, the opening of the accepted *Certification Envelopes* and removal of the *Secrecy Envelopes* containing the *Ballots*; and
 - (d) place the *Secrecy Envelopes* in the *Portable Ballot Box* after opening under section 46(a) of this Bylaw.

46. As soon as possible after all of the *Secrecy Envelopes* have been placed in the *Portable Ballot Box*, in accordance with sections 44 and 45 of this Bylaw, in the presence of at least 1 other person and any candidate representatives, the chief election officer shall supervise:
 - (a) the opening of the *Portable 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*.

47. 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.

PART 17 Challenge of right to vote by mail ballot

48. 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 4:00 p.m. on the Thursday, two days before general voting day.

PART 18 Elector's name already used

49. 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*.

PART 19 Spoiled mail ballot

50. 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.

51. Upon receipt of the spoiled ballot package, the chief election officer shall, record such fact, and proceed in accordance with Part 14 of this Bylaw.

PART 20 Procedures after close of voting on general voting day

52. 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 three 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*.

53. At the close of voting on general voting day, the chief election officer shall direct the presiding election official to proceed in accordance with Section 52 of this Bylaw for the advance voting opportunities and any special voting opportunities where *Vote Counting Units* were used.
54. 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 52 (a) to (h), so far as applicable, shall apply.
55. Upon the fulfilment of the provisions of Section 52 to 54 inclusive of this Bylaw, 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 *Election Headquarters*, indicating the total results.

PART 21 Determination of results by lot if tie vote

56. If at the completion of a judicial recount the results of an election cannot be determined because there is an equal number of valid votes for two or more candidates, the results must be determined by lot, in accordance with section 151 of the *Local Government Act*.

PART 22 Recount procedure

57. 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 all *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 *Vote Counting Units* will be removed from the sealed ballots and results box, except spoiled *Ballots*, and reinserted in the *Vote Counting Unit* under the supervision of the chief election officer; and ^[B:3837]
 - (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 23 General

58. Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time.
59. 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 shall be severed and the decision that it is invalid shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if the Bylaw had been adopted without the invalid portion.
60. Election Bylaw No. 3544, 2014, and any amendments thereto, are repealed.

READ a first, second and third time on March 16, 2022

READ a third time on March 16, 2022

ADOPTED on April 5, 2022