

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 3068

A Bylaw to provide for procedures for the conduct of elections and other voting.

WHEREAS under the *Local Government Act*, the Council may enact a bylaw to determine and set out procedures and requirements to be applied in the conduct of local government elections and assent voting;

NOW THEREFORE, the Council of the Corporation of the Township of Esquimalt, in open meeting assembled, enacts as follows:

1. CITATION

- 1.1 This Bylaw may be cited as "*Election and Assent Voting Procedures Bylaw, 2022, No. 3068.*"

2. DEFINITIONS

- 2.1 In this Bylaw all definitions shall be in accordance with the *Local Government Act*, except for the following:

Council means the Council of the Township of Esquimalt.

Election means an election for the number of persons required to fill a local government office.

Elector means a qualified resident elector or non-resident property elector of the municipality.

General local election means an election held in 2022 and in every 4th year after 2022 for the Mayor and all Councillors of the municipality.

General Voting Day means:

- a) For a general local election, the 3rd Saturday of October in the year of the election,
- b) For other elections, the date set under sections 54, 55, or 152 of the *Local Government Act*,
- c) For assent voting, the date set under the section 174 of the *Local Government Act*.

Municipality means the Corporation of the Township of Esquimalt.

Nominator means an elector of the municipality.

Other Voting means voting on a matter referred to in section 170 of the *Local Government Act*.

3. ELECTOR REGISTRATION

- 3.1 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 52 days prior to general voting day.

3.2 Where a by-election must be held pursuant to section 54 of the *Local Government Act*, the Chief Election Officer may determine the register of resident electors to be as provided for in section 3.1 or provide voting day registration under section 69 of the *Local Government Act*.

3.3 Electors not appearing on the provincial list of voters may register at the time of attendance at a voting opportunity in accordance with the requirements of sections 68, 72, and 73 of the *Local Government Act*.

5. ADVANCE VOTING OPPORTUNITIES

5.1 In addition to the required advance voting opportunity to be held 10 days before general voting day, an additional advance voting opportunity shall be held 3 days before general voting day.

5.2 The Chief Election Officer may:

- a) establish additional voting opportunities to be held in advance of general voting day; and
- b) designate the voting places and set the voting hours for these opportunities.

6. SPECIAL VOTING OPPORTUNITIES

6.1 The Chief Election Officer may establish the dates, locations, voting hours, and procedures within the limits set out in the *Local Government Act*, for the special voting opportunities.

6.3 The Chief Election Officer may limit the number of candidate representatives who may be present at the special voting opportunity

7. MAIL BALLOT VOTING

7.1 In accordance with section 110 of the *Local Government Act*, voting by mail ballot and elector registration by mail are authorized.

7.2 The Chief Election Officer shall determine the time limits in relation to voting by mail ballot.

7.3 The following procedures for voting by mail shall apply:

- a) An elector who wishes to vote by mail ballot must submit a request to the Chief Election Officer using the forms prescribed and within the time limits required by the Chief Election Officer.
- b) Upon receipt of an application for a mail ballot, the Chief Election Officer or designate shall:
 - (i) make available to the applicant, a mail ballot package described in section 110 of the *Local Government Act*; and
 - (ii) immediately record, and upon request in person by an election official, candidate representative or elector, make available for inspection by any such person, the name and address of the person to whom the Chief Election Officer issued the mail ballot package.
- c) To vote by mail ballot, the elector must mark the ballot with an acceptable mark and in accordance with any other instructions contained in the mail ballot package provided by the Chief Election Officer.

- d) After marking the ballot, the **elector** must:
 - (i) place the ballot in the secrecy envelope provided, and then seal the secrecy envelope;
 - (ii) place the secrecy envelope in the certification envelope, complete and sign the certification printed on the certification envelope, and then seal the certification envelope;
 - (iii) place the certification envelope, together with a completed elector registration application, if required, in the outer envelope, and then seal the outer envelope; and
 - (iv) mail or deliver the outer envelope and its contents to the Chief Election Officer at the address specified before the close of voting on general voting day.
 - e) Prior to the close of voting on general voting day, the Chief Election Officer or designate must either accept or reject the certification envelope.
 - f) When examining the certification envelope, the Chief Election Officer or designate shall:
 - (i) mark the certification envelope as "accepted" if they:
 - 1) Confirm the identity of the elector as an Applicant on the Register of Mail Ballots;
 - 2) 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
 - 3) Determine the completeness of the certification envelope, or
 - (ii) mark the certification envelope as "rejected" if the Chief Election Officer or designate:
 - 1) is not satisfied as to the identity of the of the elector; or
 - 2) the elector has not completed the application to register properly and indicate the reason for the rejection and set aside the rejected certification envelope unopened so as not to count the ballot contained in the certification envelope in the election.
 - g) The Chief Election Officer shall retain in their custody all opened and unopened certification envelopes.
 - h) After 8:00 p.m. on general voting day, the Chief Election Officer, in the presence of at least one (1) other person, shall:
 - (i) deal with any challenges to the electors involving the accepted certification envelopes;
 - (ii) open the certification envelopes;
 - (iii) remove the secrecy envelope containing the ballot; and
 - (iv) open the secrecy envelope and run the ballot through the automated voting machine, or place the secrecy envelope containing the ballot in the ballot box if using a manual count.
- 7.4 As provided for in the *Local Government Act*, to be counted, a mail ballot must be received by the Chief Election Officer before the close of voting on general voting day.
- 7.5 The Chief Election Officer shall keep sufficient records so that challenges of the elector's rights to vote may be made in accordance with the intent of section 126 of the *Local Government Act*.
- 7.6 A person exercising the right to vote by mail ballot may be challenged in accordance with, and on the grounds specified in section 126 of the *Local Government Act*.

- 7.7 If an elector's right to vote using a mail ballot is challenged, the Chief Election Officer will proceed, as far as practical, in accordance with section 126 of the *Local Government Act*.
- 7.8 If an elector unintentionally spoils a mail ballot before returning to the Chief Election Officer:
- a) the elector may request a replacement ballot by advising the Chief Election Officer of the ballot spoilage, and mailing or otherwise delivering by an appropriate means, the spoiled ballot package in its entirety to the Chief Election Officer; and
 - b) upon receipt of the spoiled mail ballot package, the Chief Election Officer shall record such fact and proceed in accordance with section 7 of this Bylaw.
- 7.10 Notwithstanding section 7.1 of this Bylaw, where a by-election must be held pursuant to section 54 of the *Local Government Act*, mail ballot voting may be provided at the discretion of the Chief Election Officer.

8. ADDITIONAL GENERAL VOTING OPPORTUNITIES

- 8.1 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.

9. RESOLUTION OF TIE VOTE AFTER JUDICIAL RECOUNT

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

10. GENERAL

- 10.1 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.
- 10.2 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 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.

11. REPEAL OF PREVIOUS BYLAW

- 11.1 Bylaw No. 2928 cited as "*Election Procedures and Automated Vote Counting System Authorization Bylaw, 2018*", and all amendments thereto, are hereby repealed.

READ a first time by the Municipal Council on the 25th day of April, 2022.

READ a second time by the Municipal Council on the 25th day of April, 2022.

READ a third time by the Municipal Council on the 25th day of April, 2022.

ADOPTED by the Municipal Council on the 2nd day of May, 2022.



BARBARA DESJARDINS
MAYOR



DEBRA HOPKINS
CORPORATE OFFICER