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BYLAW NO. 3543

A BYLAW TO UPDATE THE ELECTION PROCEDURES BYLAW PROVISIONS FOR THE CONDUCT OF LOCAL GOVERNMENT ELECTIONS AND OTHER VOTING IN THE CAPITAL REGIONAL DISTRICT, INCLUDING THE USE OF AUTOMATED VOTING MACHINES

**Consolidated for Public Convenience
(This bylaw is for reference purposes only)**

ORIGINALLY ADOPTED JULY 9, 2008
(Consolidated with Amending Bylaws 3959, ~~and~~ 4250, and 4486)

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CAPITAL REGIONAL DISTRICT

BYLAW NO. 3543

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CONDUCT OF LOCAL GOVERNMENT ELECTIONS AND OTHER VOTING IN THE CAPITAL
REGIONAL DISTRICT, INCLUDING THE USE OF AUTOMATED VOTING MACHINES**

WHEREAS under the *Local Government Act*, the Board may, by bylaw, determine various procedures and requirements to be applied in the conduct of local government elections and other voting;

AND WHEREAS, pursuant to Section -112 of the *Local Government Act*, the Board is empowered to provide, by bylaw, for the use of automated voting machines, voting recorders, or other devices for voting in an election;

(Bylaw 4250)

AND WHEREAS, the Board wishes to establish various procedures and requirements under that authority;

NOW THEREFORE, the Board of the Capital Regional District, in open meeting assembled, enacts as follows:

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(Bylaw 4250)

PART 1 – INTRODUCTION

1. Definitions and Interpretations

- 1.1. If no meaning is given in section 1.1 for a word or expression in this Bylaw, that word or expression has the meaning given in the *Local Government Act*.

In this Bylaw:

"Acceptable mark" means a completed oval that:

- (a) the vote tabulating unit is able to identify, and
- (b) 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;

"Automated vote counting system" means a system that counts and records votes and processes and stores election results, and is comprised of the following equipment having the functions indicated:

- (a) a number of ballot- scanning vote tabulating units, each of which rests on a ballot box; and
- (b) a number of portable ballot boxes into which voted ballots are deposited, if a vote tabulating unit is not functioning or being used, for counting after the close of voting on general voting day;

"Ballot" means a single automated 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 of Electoral Area Director and for each office of Local Trustee as defined under the *Islands Trust Act*, and School Trustee, if applicable;
- (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 tabulating unit that causes the unit to accept a returned ballot;

"Board" means the Board of the Capital Regional District;

"Chief election officer" means the person appointed under section 58(1) of the *Local Government Act*;

(Bylaw 4250)

"Deputy chief election officer" means the person appointed under section 8(1) of the *Local Government Act*

(Bylaw 4250)

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

"Election officials" means the persons appointed by the chief election officer to assist with the administration and conduct of the election or other voting proceedings;

"General local election" means the elections held for the electoral area directors of the regional district which must be held in 2018 and every fourth year after that;

(Bylaw 4250)

"General voting day" means,

- (a) for a general local election, the third Saturday in October in the year of the election and includes other voting to be conducted on that date;
- (b) for other elections or other voting, the date set under the provisions of the *Local Government Act*;

(Bylaw 4250)

"Jurisdiction" means, in relation to an election, or other voting, the regional district electoral area for which the election or other voting, is being held;

"Local government" means the Board;

"Memory card" means the storage device that stores all the permanent results for the vote tabulating unit;

"Portable ballot box" means a ballot box that is used as a voting place in the election where a vote tabulating unit is not being used or is not functioning;

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

(Bylaw 4250)

"Regional District Website" means the information resource found at an internet address provided by the Capital Regional District.

"Register tape" means the printed record generated from a vote tabulating unit at the close of voting on general voting day, that shows the number of votes:

- (a) for each candidate for each of the offices of Electoral Area Director, and for each office of Local Trustee, and School Trustee, if applicable;
- (b) for the number of votes for and against each bylaw or other matter on which the assent of the electors is sought;

"Returned ballot" means a voted ballot which was inserted by an elector into the vote tabulating unit that is not accepted and is returned by the unit to the elector with an explanation of the ballot marking error that caused the ballot to be unacceptable;

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

"Vote tabulating unit" means the device into which voted ballots are inserted and that scans each ballot and records the number of votes for each candidate and for and against each other voting question.

PART 2 – CONDUCT OF ELECTIONS AND OTHER VOTING**2. Appointment of Election Officers**

- 2.1. The Board must appoint a Chief Election Officer and a Deputy Chief Election Officer under the *Local Government Act*.

3. Required Additional Advance Voting Opportunity

- 3.1. As authorized under section 107(1)(b) of the *Local Government Act*, an additional advance voting opportunity will be held on the third day before general voting day.
(Bylaw 4250)

4. Further Advance Voting Opportunities

- 4.1. As authorized under section 108 of the *Local Government Act*, the Board authorizes the chief election officer to establish additional advance voting opportunities for each election, or other voting, to be held in advance of general voting day and to designate the voting places, establish the date and the voting hours for these voting opportunities.
(Bylaw 4250)

5. Voting Place for an Additional General Voting Opportunity Outside the Boundaries of the Jurisdiction

- 5.1. As authorized under sections 106 and 111 of the *Local Government Act*, the Board authorizes the chief election officer to establish an additional voting place for general voting day outside the boundaries of the jurisdiction, and to designate the voting place for this voting opportunity.
(Bylaw 4250)

6. Resolution of Tie Votes after Judicial Recount

- 6.1. 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*.
Bylaw 4250

7. Public Access to Nomination Documents by Posting on Website

- 7.1. In accordance with section 89 of the *Local Government Act* the Capital Regional District may provide for public access to nomination documents from the time of delivery until 30 days after the declaration of election results under section 146 of the *Local Government Act* by posting them on the regional district website.
(Bylaw 4250)

8. Use of Provincial List of Voters as the Register of Resident Electors”

- 8.1. As authorized under section 76 of the *Local Government Act*, the most current list of voters prepared under the *Election Act* existing at the time an election or other voting is to be held is the register of resident electors for the Capital Regional District.”
(Bylaws 3959 & 4250)
- 8.2. The Provincial list of voters becomes the register of resident electors **no later than 52** days before general voting day for each election or other voting for the Capital Regional District.”
(Bylaws 3959 & 4486)

PART 3 – AUTOMATED VOTING**9. Use of Voting Machines**

- 9.1. Voting may be conducted in a general local election and other voting for or in respect of one or more jurisdictions using an automated vote counting system.

10. Automated Vote Counting System Procedures

- 10.1. The chief election officer may decide to conduct any local government election or other voting for or in respect of one or more jurisdictions using an automated vote counting system.

(Bylaw 4250)

- 10.2. Where the chief election officer conducts a local government election or other voting using an automated voting counting system, the procedures outlined in sections 10.3 to 10.14 will apply within that jurisdiction.

(Bylaw 4250)

- 10.3. 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 to the elector, offer and if requested, direct an election official to provide a demonstration to an elector of the method for voting by using an automated vote counting system, including the use of a secrecy sleeve.

(Bylaw 4250)

- 10.4. Upon completion of the voting demonstration, if any, the elector must proceed as instructed, to the election official responsible for issuing ballots, who:

- (a) shall ensure that the elector:
- (i) is qualified to vote in the election or other voting; and
 - (ii) is voting in the correct jurisdiction; and
 - (iii) completes the voting book as required by the *Local Government Act*; and
- (b) upon fulfilment of the requirements of subsection (a), shall provide a ballot to the elector, a secrecy sleeve if requested by the elector, and any further instructions the elector requests.

(Bylaw 4250)

- 10.5. Upon receiving a ballot, and secrecy sleeve if so requested, the elector shall immediately proceed to a voting compartment to vote.

(Bylaw 4250)

- 10.6. The elector may vote only by making an acceptable mark on the ballot:

- (a) beside the name of the candidate of choice; 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.

(Bylaw 4250)

- 10.7. Once the elector has finished marking the ballot, the elector must place the ballot into the secrecy sleeve, if applicable, proceed to the vote tabulating unit and under the supervision of the election official in attendance, insert the ballot directly from the secrecy sleeve, if applicable, into the vote tabulating unit without the acceptable marks on the ballot being exposed.

(Bylaw 4250)

- 10.8. If, before inserting the ballot into the vote tabulating unit, an elector determines that he or she has made a mistake when marking a 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.

(Bylaw 4250)

- 10.9. Upon being advised of the replacement ballot request, the presiding election official or alternate 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 in the election.

(Bylaw 4250)

- 10.10. 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 shall, 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.

(Bylaw 4250)

- 10.11. 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.

(Bylaw 4250)

- 10.12. Once the ballot has been inserted into the vote tabulating unit and the unit indicates that the ballot has been accepted, the elector must immediately leave the voting place.

(Bylaw 4250)

- 10.13. During any period that a vote tabulating unit is not functioning, the election official supervising the unit shall 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 shall, 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.

(Bylaw 4250)

- 10.14. Any ballots which were temporarily stored in a portable ballot box which are returned by the vote tabulating 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 tabulating unit to ensure that any acceptable marks are counted.

(Bylaw 4250)

11. Advance Voting Opportunity Procedures

- 11.1. ~~Vote tabulating units may be used~~ ~~Vote tabulating units shall be used~~ to conduct the vote at all advance voting opportunities and voting procedures at the advance voting opportunities shall follow as closely as possible those described in Section 10 of this Bylaw.

(Bylaw 4486)

- 11.2. 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 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.
- 11.3. At the close of voting at the final advance voting opportunity the presiding election official shall:
- (a) ensure that any remaining ballots in the 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 election headquarters, **as soon as reasonably possible**.

(Bylaw 4486)

12. Special Voting Opportunity Procedures

- 12.1. Unless the chief election officer determines it is practical to use a vote tabulating 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 Section 10 of this Bylaw so far as applicable, except that the voted ballots shall be deposited into the portable ballot box supplied by the presiding election official.
- 12.2. 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.
- 12.3. If a vote tabulating 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 Section 11 of this Bylaw as if it were an advance voting opportunity.

13. Procedures After Close of Voting on General Voting Day

- 13.1. 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 and special voting opportunities,
- (a) each presiding election official shall:
 - (i) ensure that any remaining ballots in the portable ballot box are inserted into the vote tabulating unit;
 - (ii) secure the vote tabulating unit so that no more ballots can be inserted;
 - (iii) generate three copies of the register tape from the vote tabulating unit; and
 - (iv) deliver one copy of the register tape along with the vote tabulating unit to the chief election officer at election headquarters; and

- (b) each alternate presiding election official shall:
 - (i) 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;
 - (ii) complete the ballot account and place the duplicate copy in the election materials transfer box;
 - (iii) seal the election materials transfer box;
 - (iv) 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 completed administrative forms into the chief election officer portfolio; and
 - (v) transport all equipment and materials to election headquarters.

13.2. 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 tabulating units were used, to proceed in accordance with Section 13.1 of this Bylaw.

13.3. 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 shall be removed and inserted into a vote tabulating unit to be counted, after which the provisions of Sections 13.1, so far as applicable, shall apply.

14. Recount Procedure

14.1. If a recount is required it 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 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 – MAIL BALLOT VOTING

15. Mail Ballot Voting and Registration Authorized

15.1. Voting by mail ballot and elector registration by mail in conjunction with mail ballot voting are authorized.

(Bylaw 3959)

~~15.2. In accordance with the provisions of section 110(3) of the Local Government Act the only electors who may vote by mail ballot are:~~

- ~~(a) persons who have a physical disability, illness or injury that affects their ability to vote at another voting opportunity, and~~
- ~~(b) persons who expect to be absent from the regional district on general voting day and at the times of all advance voting opportunities.~~

(Bylaws 3959 & 4250)

~~15.3—15.2.~~ Once a mail ballot package has been accepted by the chief election officer, that voter may only vote by mail ballot.

(Bylaws 3959 & 4486)

16. Application Procedure for Mail Ballot

16.1. A person wishing to vote by mail ballot must apply by providing their name and address to the chief election officer or to an election official designated by the chief election officer for such purposes, using the form required by the chief election officer, within the time limits required by the chief election officer, which time limits the Board authorizes the chief election officer to establish.

(Bylaw 3959)

16.2. Upon receipt of a request for a mail ballot, the chief election officer or designated election official must, within the time limits established by the chief election officer:

(a) make available to the applicant a mail ballot package as specified in section 100(7) of the *Local Government Act* together with, where required, an elector registration application;

(Bylaw 4486)

~~(a) — make available to the applicant, a mail ballot package as specified in section 110(7) of the *Local Government Act*, together with:~~

~~(i) — a statement advising the elector that the elector must meet one or more of the mail ballot requirements specified in Section 15.2 of this bylaw, and that they must attest to such fact; and~~

~~(ii) — where required, an elector registration application;~~

(b) immediately record and, upon request, make available for inspection:

(i) the name and address of the person to whom the mail ballot package was issued; and

(ii) information as to whether or not the person is registered as an elector.

(Bylaws 3959 & 4250)

17. Voting Procedure for Mail Ballot

17.1. 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.

(Bylaw 3959)

17.2. 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 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 no later than the close of voting on general voting day.

(Bylaw 3959)

18. Mail Ballot Acceptance or Rejection

- 18.1. Until 4:00 p.m. on the Thursday two days before general voting day, upon receipt of the outer envelope and its contents, the chief election officer or designated election official must immediately record the date of such receipt and must then open the outer envelope and remove and examine the certification envelope and the completed elector registration application, if applicable, and if satisfied as to:

- (a) the identity and entitlement to vote of the elector whose mail ballot is enclosed; and
(b) the completeness of the certification; and
(c) the fulfillment of the requirements of section 70 of the *Local Government Act* in the case of a person who is registering as a new elector;

the chief election officer or designated election official must mark the certification envelope as "accepted", and must retain all such certification envelopes in custody to deal with any challenges made in accordance with Section 19 of this bylaw.

(Bylaws 3959 & 4250)

- 18.2. The unopened certification envelopes must remain in the secure custody of the chief election officer or designated election official until 4:00 p.m. on the Thursday two days before general voting day, at which time the certification envelopes containing the secrecy envelopes must be opened in the presence of at least one other person, including any scrutineers present.

(Bylaw 3959)

- 18.3. At 4:00 p.m. on the Thursday two days before general voting day, the chief election officer or designated election official must place all secrecy envelopes received up until that time into a ballot box specified for such purpose, where such secrecy envelopes were received from persons whose right to vote using a mail ballot has not been challenged, or where such challenge has been resolved and the challenged person permitted to vote.

(Bylaw 3959)

- 18.4. Where an outer envelope and its contents are received by the chief election officer or designated election official between 4:00 p.m. on the Thursday two days before general voting day and the close of voting on general voting day, the provisions of Section 18.1 of this bylaw with regard to ballot acceptance apply and the chief election officer or designated election official must retain such envelope in custody until the close of voting and at that time must open such certification envelopes in the presence of at least one other person, including any scrutineers present, and place the secrecy envelopes containing the ballot into the ballot box containing the other unopened secrecy envelopes.

(Bylaw 3959)

- 18.5. After all of the secrecy envelopes have been placed in the ballot box designated for that purpose, and following the close of voting on general voting day, the following procedures must be followed:

- (a) under the direction of the chief election officer or designated election official the ballot box containing the secrecy envelopes must be opened;
- (b) in the presence of at least one other person including any scrutineers present, the secrecy envelopes must be removed and opened and the ballots contained in those envelopes inserted for counting into a vote tabulating unit or portable ballot box; and
- (c) after the procedures set out in paragraphs (a) and (b), the procedures set out in Sections 10 and 13 of this bylaw must be followed to the extent that they are applicable.

(Bylaw 3959)

18.6. Where:

- (a) upon receipt of an outer envelope, 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, the chief election officer is not satisfied that the person registering as a new elector has fulfilled the requirements of section 70 of the *Local Government Act*; or
- (c) the outer envelope is received by the chief election officer or designated election official after the close of voting on general voting day,

the certification envelope must remain unopened, and the chief election officer or designated election official must mark such envelope as “rejected”, and must note his or her reasons for doing so, and the mail ballot contained in such envelope must not be counted in the election.

(Bylaws 3959 & 4250)

- 18.7. Any certification envelopes and their contents rejected in accordance with Section 18.6 of this bylaw must remain unopened and are subject to the provisions of section 160 of the *Local Government Act* with regard to their destruction.

(Bylaws 3959 & 4250)

19. Challenge of Elector

- 19.1. 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* until 4:00 p.m. on the Thursday two days before general voting day.

(Bylaws 3959 & 4250)

- 19.2. The provisions of section 126(2) and (5) of the *Local Government Act* apply, so far as applicable, where a challenge of an elector voting by mail ballot has been made.

(Bylaws 3959 & 4250)

20. Elector’s Name Already Used

- 20.1. Where, upon receiving a request for a mail ballot, the chief election officer or designated election official determines that another person has voted or has already been issued a mail ballot in that elector’s name, the provisions of section 127 of the *Local Government Act* apply, so far as applicable.

(Bylaws 3959 & 4250)

Replacement of Spoiled Ballot

20.2. Where an elector

- (a) unintentionally spoils a mail ballot before returning it to the chief election officer or designated election official; and
- (b) gives the spoiled ballot package in its entirety to the chief election officer or designated election official;

the elector may request a replacement ballot.

(Bylaw 3959)

20.3. The chief election officer must, upon receipt of the spoiled ballot package, record such fact, and must proceed to issue a replacement mail ballot in accordance with Section 16.2 of this bylaw."

(Bylaw 3959)

PART 5 – GENERAL

(Bylaw 3959)

21. Validity of Election

21.1. Nothing in this Bylaw is intended to require the setting aside of the results of an election or other voting because of the failure of the chief election officer, deputy chief election officer or an election officer to comply with the provisions of this Bylaw or because an election is not conducted in accordance with this Bylaw.

(Bylaw 3959)

22. Repeal

22.1. Bylaw No. 2162, "Capital Regional District Election and Other Voting Procedures Bylaw, 1993" is hereby repealed.

(Bylaw 3959)

23. Citation

23.1. This Bylaw may be cited as "Capital Regional District Election and Voting Procedures Bylaw, 2008"

(Bylaw 3959)

READ A FIRST TIME THIS	11 th	day of	June	2008
READ A SECOND TIME THIS	11 th	day of	June	2008
READ A THIRD TIME THIS	11 th	day of	June	2008
ADOPTED THIS	9 th	day of	July	2008