



# **Local Government Election and Assent Voting**

Bylaw 1381

Effective May 2022

**CASTLEGAR**

## Bylaw 1381

**A Bylaw to provide for the determination of various procedures for the conduct of local government elections and assent voting and for the use of automated voting machines.**

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

AND WHEREAS under the *Local Government Act*, Council may, by bylaw, provide for the use of automated voting machines, voting recorders or other devices for voting in an election;

AND WHEREAS Council wishes to establish voting procedures and requirements under that authority;

NOW THEREFORE, the Council of the City of Castlegar, in open meeting assembled, enacts as follows:

**1. CITATION**

This bylaw may be cited for all purposes as "Local Government Election and Assent Voting Bylaw No. 1381".

**2. DEFINITIONS**

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

**"Acceptable mark"** means a completed oval that the vote tabulating unit is able to identify, and that 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, processes and stores election results and is comprised of the following:

- a. a number of ballot scan vote tabulating units.
- b. a number of ballot boxes into which voted ballots are deposited after being scanned by a ballot scan vote tabulating unit and used for the secure storing of voted ballots.
- c. a number of portable ballot boxes into which voted ballots are deposited where a vote tabulating unit is not 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 mayor, councillor and/or school trustee.
- 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.

**"Election headquarters"** means the voting place on general voting day at which the Chief Election Officer has an office and the count procedure will be made.

**"Emergency ballot box"** means a separate ballot box into which voted ballots are temporarily deposited in the event that the unit ceases to function.

**"Memory Card"** means a removable storage device used in the automated vote tabulating unit to record ballot results and to store polling location information such as:

- a. The names of all of the candidates for each of the offices of mayor, councillor and/or school trustee.
- b. The alternatives of 'yes' or 'no' for each bylaw or other matter on which the assent or opinion of the electors is being sought.
- c. A mechanism to record and retain information on the number of acceptable marks made for each.

**"Portable ballot box"** means a ballot box that is used at a voting place where a vote tabulating unit is not being used.

**"Register tape"** means the printed record generated from a vote tabulating unit at the close of voting on general voting day which shows the number of votes for each candidate for each of the office of mayor, councillor and/or school trustee, and the number of votes for and against each bylaw or other matter on which the assent or opinion of the electors is sought.

**"Returned ballot"** means a voted ballot that was inserted into the vote tabulating unit by the elector but was not accepted and 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.

**"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, for and against each bylaw or other matter on which the assent or opinion of the electors is sought.

### 3. AUTOMATIC REGISTRATION BY INCLUSION ON PROVINCIAL LIST OF VOTERS

- 3.1 As authorized under the Section 76 of the *Local Government Act*, for all elections and assent voting, the most current available Provincial list of voters prepared under the *Elections Act* shall become the register of resident electors on the 52nd day prior to the general voting day.

### 4. REQUIRED ADVANCE VOTING OPPORTUNITIES

- 4.1 As required under section 107 of the *Local Government Act*, in addition to the required advance voting opportunity on the 10<sup>th</sup> day before general voting day, a required advance voting opportunity will be held on the 3<sup>rd</sup> day before general voting day for elections and assent voting.

### 5. SPECIAL VOTING OPPORTUNITIES

- 5.1 The Chief Election Officer may establish the dates and voting hours within the limits set out in the *Local Government Act* section 109, for the special voting opportunities at the following places if permitted, and for the electors specified:
  - a. Castlewood Village - 525 Columbia Ave, Castlegar, BC  
Only electors who are residents or workers at this location may vote at this special voting opportunity.
  - b. Talarico Place, 709 - 10<sup>th</sup> Street, Castlegar, BC  
Only electors who are residents or workers at this location may vote at this special voting opportunity.

- c. Castlevue Care Centre, 2300 – 14<sup>th</sup> Avenue, Castlegar, BC  
Only electors who are residents or workers at this location may vote at this special voting opportunity.

- 5.2. As authorized under section 109 of the *Local Government Act*, the number of candidate representatives who may be present at a special voting opportunity is limited to one.

## 6. MAIL BALLOT VOTING

- 6.1. As authorized under Section 110 of the *Local Government Act*, voting may be done by mail ballot and elector registration may be done by mail in conjunction with mail ballot voting.

## 7. MAIL BALLOT TIME LIMITS AND DEADLINES

- 7.1. In accordance with Section 110 of the *Local Government Act* the Chief Election Officer is authorized to establish time limits in relation to voting by mail ballot, registering for a mail ballot and elector registration package, and for other matters to which mail ballot voting time limits are not established under this Bylaw.
- 7.2. As proved 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.

## 8. MAIL BALLOT VOTING PROCEDURES

- 8.1. A person wishing to vote by mail must request a mail ballot application and submit the completed form to the Chief Election Officer or the person designated by the Chief Election Officer for such purposes, at the location and within the time limit as set by the Chief Election Officer.
- 8.2. Upon the applicant making a request for a mail ballot, the Chief Election Officer or designate shall, between the time the printed ballots are available and before the date as determined by the Chief Election Officer:
  - a. Make available to the applicant a mail ballot voting package as specified in Section 110(7) of the *Local Government Act*.
  - 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.
    - ii. The number of the elector, the division in which the person is registered as an elector, or "new elector", if that person is not registered as an elector.
    - iii. Any other information that the Chief Election Office deems helpful to maintain the register of mail ballots.
- 8.3. As per the Applicant's direction, the Chief Election Officer may distribute the mail ballot package in any of the following ways:
  - a. Send the mail ballot package by Canada Post.
  - b. Send the mail ballot package by courier at the expense of the applicant.
  - c. Have the mail ballot package picked up by the applicant at a designated time and location.

- d. Have the mail ballot package picked up by an authorized person at a designated time and location.

The Chief Election Officer may request the authorized person show identification and sign a form before providing the authorized person with the mail ballot package.

- 8.4. To vote by mail ballot, the elector shall mark the ballot in accordance with the instructions contained in the mail ballots package provided by the Chief Election Officer.
- 8.5. 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.
  - 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.
- 8.6. Elector responsibility: the City of Castlegar and the Chief Election Officer are not responsible for:
  - a. Failure to mail or forward to an elector a mail ballot application form or a mail ballot voting package if the request is not received at all.
  - b. If the mail ballot application form or a mail ballot voting package is not received before the time limit.
  - c. Failure of delivery method used by the elector to return the mail ballot voting package, and the package is not received prior to close of general voting, or at all.

## 9. MAIL BALLOT ACCEPTANCE OR REJECTION:

- 9.1. Upon receipt of the outer envelope and its contents, the Chief Election Officer or designate shall:
  - a. Immediately record the date of receipt in the register of mail ballots.
  - b. Open the outer envelope, remove and examine the certification envelope and the completed elector registration application.
- 9.2. 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.
  - c. Determine the completeness of the certification envelope.
- 9.3. If the Chief Election Officer is satisfied that the elector has met the requirements in section 9.2, the Chief Election Officer shall:
  - a. Mark the certification envelope as "accepted".
  - b. Place the accepted certification envelope with the other certification envelopes.

- 9.4. If the Chief Election Officer determines that:
- a. The Chief Election Officer is not satisfied as to the identify to the elector.
  - b. The elector has not completed the application to register properly;
- the Chief Election shall mark the certification envelope as "rejected", indicate the reason for the rejection and set aside the rejected certification envelope unopened.
- 9.5. The Chief Election Officer shall retain in their custody all opened and unopened certification envelopes.
- 9.6. On the Thursday prior to general election day the Chief Election Officer, in the presence of at least 1 other person, including 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.
  - d. Place the secrecy envelope containing the ballot in a portable ballot box.
- 9.7. If the Chief Election Officer receives a return envelope with its contents after Thursday prior to general voting day but before the close of general voting, the Chief Election Officer shall:
- a. Handle those return envelopes in accordance with sections 9.1 and 9.2 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 9.2 to 9.5 after the close of general voting day.
- 9.8. At the close of voting on general voting day, as soon as possible after all of the secrecy envelopes have been placed in the ballot box, in the presence of at least 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.
  - c. The counting of the ballots in accordance with the provisions of the *Local Government Act*.
- 9.9. 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.
  - c. Place the unopened return envelope with the other rejected return envelopes.

## 10. CHALLENGE OF ELECTOR

- 10.1. 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 the time mail ballot voting packages are to be sent to qualified electors.

**11. ELECTOR'S NAME ALREADY USED**

- 11.1. 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*.

**12. REPLACEMENT OF SPOILED BALLOT**

- 12.1. If an elector unintentionally spoils a mail ballot before returning it to the Chief Election Officer, the elector may request a replacement ballot by advising the Chief Election Officer or designate of the ballot spoilage, and by mailing or otherwise delivering by an appropriate means, the spoiled ballot package in its entirety to the Chief Election Officer.
- 12.2. The Chief Election Officer shall, upon receipt of the spoiled mail ballot voting package, record such fact and proceed in accordance with Section 8 of this Bylaw and Section 128 of the *Local Government Act*.

**13. USE OF VOTING MACHINES**

- 13.1. Council hereby provides for the use of 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.

**14. AUTOMATED VOTING PROCEDURES AT GENERAL VOTING**

- 14.1. 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.
- 14.2. 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, and any further instructions the elector requests.
- 14.3. Upon receiving a ballot, the elector shall immediately proceed to a voting compartment to vote.
- 14.4. 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.
  - 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.
- 14.5. Once the elector has finished marking the ballot, the elector may place the ballot into the secrecy sleeve, if one has been requested, or turn the ballot upside down and 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.
- 14.6. If, before inserting the ballot into the vote tabulating unit, an elector determines that a mistake has been made when marking the ballot, or if the ballot is returned by the vote tabulating unit, the elector may return to the voting compartment to correct the ballot or request a replacement ballot by advising the election official in attendance.

- 14.7. 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.
- 14.8. 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 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 that have been made correctly.
- 14.9. Any ballot counted by the vote tabulating unit is valid and any acceptable marks contained on such ballots will be counted, subject to any determination made under a judicial recount.
- 14.10. 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.
- 14.11. 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 the emergency 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 emergency 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.
- 14.12. Any ballots that were temporarily stored in the emergency ballot box during a period when the vote tabulating unit was not functioning, 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.

## 15. ADVANCE VOTING OPPORTUNITY PROCEDURES

- 15.1. Vote tabulating 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 Section 14 of this Bylaw.
- 15.2. 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 emergency ballot compartment is sealed to prevent insertion of any ballots.
  - c. The register tapes in the vote tabulating unit are not generated.
  - d. The memory card of the vote tabulating unit is secured.
- 15.3. At the close of voting at the final advance voting opportunity the presiding election official shall:
  - a. Ensure that any remaining ballots in the emergency ballot box are inserted into the vote tabulating unit.
  - b. Secure the vote tabulating unit so that no more ballots can be inserted.



- 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.

## 16. SPECIAL VOTING OPPORTUNITY PROCEDURES

- 16.1. A portable ballot box shall be used for all special voting opportunities and the presiding election official appointed to attend at each special voting opportunity shall proceed in accordance with Section 14 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.
- 16.2. 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.

## 17. PROCEDURES AFTER CLOSE OF VOTING ON GENERAL VOTING DAY

- 17.1. After the close of voting on general voting day at voting opportunities where a vote tabulating unit was used in the election, each presiding election official except those responsible for advance, special, and mail ballot voting opportunities, shall undertake all of the following, generally in the order stipulated:
  - a. ensure that any remaining ballots in the emergency ballot box are inserted into the vote tabulating unit;
    - i. secure the vote tabulating unit so that no more ballots can be inserted,
    - ii. generate the required copies of the register tape from the vote tabulating unit, and
    - iii. deliver copies of the register tape, along with the memory pack and 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.
- 17.2. 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 17.1 of this Bylaw.
- 17.3. 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 Section 17.1, so far as applicable, shall apply.

**18. RECOUNT PROCEDURE FOR AUTOMATED VOTING MACHINES**

- 18.1. 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 at the close of voting on general voting day will be stored along with other election documents,
  - b. additional memory cards will be programmed for the purposes of the recount,
  - c. vote tabulating units will be designated for each voting place,
  - d. all ballots will be removed from the sealed ballot boxes, and
  - e. all ballots, except spoiled ballots, will be reinserted in the appropriate vote tabulating units under the supervision of the Chief Election Officer.

**19. RESOLUTION OF TIE VOTES AFTER JUDICIAL RECOUNT**

- 19.1 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*.

**20. GENERAL**

- 20.1. 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.
- 20.2. 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.

**21. REPEAL**

- 21.1. Local Government Elections and Assent Voting Bylaw No. 1263 is hereby repealed.

READ A FIRST TIME this 2<sup>nd</sup> day of May, 2022.

READ A SECOND TIME this 2<sup>nd</sup> day of May, 2022.

READ A THIRD TIME this 2<sup>nd</sup> day of May, 2022.

ADOPTED this 16<sup>th</sup> day of May, 2022.

  
 \_\_\_\_\_  
 Mayor

  
 \_\_\_\_\_  
 Director of Corporate Services