

Town of Creston
Bylaw No. 1926

Consolidated to
April 12, 2022

A bylaw to provide for the determination of various procedures for the conduct of local government elections and other 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 of the Town of Creston wishes to establish voting procedures and requirements under that authority;

NOW THEREFORE, the Council of the Town of Creston, in open meeting assembled, enacts as follows:

Part 1 Citation

- 1.1 This bylaw may be cited as “Local Government Election and Assent Voting Bylaw No. 1926, 2021”.

Part 2 Severability

- 2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Part 3 Previous Bylaw Repeal

- 3.1 Town of Creston Bylaw No. 1785, cited as “General Local Government Election and Voting Machine Authorization Bylaw No.1785, 2013” and all amendments thereto, are hereby repealed.

Part 4 Definitions

- 4.1 In this Bylaw unless the context otherwise requires:

“**Acceptable Mark**” means a completed ballot 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. If a traditional ballot is used, an acceptable mark means an “x” or “✓” with no other markings which could be identifiable made by an elector in the space provided on the ballot or traditional ballot.

“Automated Vote Counting System” means a system that counts and records votes and processes and stores election results and is comprised of the following:

- a) a number of ballot scan vote counting units which rests on a two compartment ballot box, one compartment which is for:
 - (i) voted ballots and returned ballots that have been reinserted using the ballot override procedure; and
 - (ii) the temporary storing of voted ballots during such time as the vote counting unit is not functioning;
- b) a number of portable ballot boxes into which voted ballots are deposited when a vote counting unit is not being used, for counting after the close of voting on general voting day.

“Ballot” means a single automated or traditional ballot card which contains the names of the election candidates as well as all other choices on all of the other voting questions on which the opinion or ascent of the electors is sought.

“Ballot Return Override Procedure” means the use, by the Chief Election Officer or Deputy Chief Election Officer, of a device on a vote counting unit, which causes the unit to accept a returned ballot.

“Chief Election Officer” means the election official appointed under Section 41(1) of the *Local Government Act*, to conduct the General Local Election.

“Curbside Voting” means a voting opportunity based on a request made to the Chief Election Officer and/or Deputy Chief Election Officer for a mobile voting station to be brought outside the place of voting so that elector(s) may vote from within their vehicle(s).

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

“Elector” means a resident elector or non-resident property owner of the Town of Creston as defined under the *Local Government Act*.

“Emergency Ballot Compartment” means one of two separate compartments in the ballot box under each vote counting unit into which voted ballots are temporarily deposited in the event that the vote counting unit ceases to function or is not properly functioning.

“General Local Election” means the election held for the Mayor and all Councillors of the municipality, every fourth year from 2014 forward or as set out in the *Local Government Act*.

“Manual Voting and Vote Counting Process” means a voting and vote counting process that involves using separate traditional ballots that contain the names of the election candidates as well as all other choices on all of the other voting questions on which the opinion or ascent of the electors is sought; after being completed by the elector they are inserted into the ballot box and manually counted by elections officials.

“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.

“Municipality” means the body incorporated as the Town of Creston and the Town’s territorial jurisdiction, according to its context in this Bylaw.

“Officer” means, for the purpose of this Bylaw, the officer positions appointed by Council and identified in the current Officers and Employees Bylaw for the Town.

“Other Voting” means voting on a matter referred to in Section 158 of the *Local Government Act* and includes voting on a referendum, as directed under the *Local Government Act*.

“Portable Ballot Box” means a ballot box which is used to cast ballots during the election, where a vote counting unit is unavailable for use. The Portable Ballot Box is used for special voting opportunities where a vote counting unit is unavailable or impractical.

“Register 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 cast for each candidate for the offices of Mayor and Councillor, and the number of votes for and against each other voting matter on which the opinion or ascent of the electors is sought.

“Returned Ballot” means a voted ballot which was inserted into the vote counting unit but was not accepted, being returned to the elector with an explanation of the ballot marking error; allowing the elector to either re-submit a new ballot or to allow the vote counting unit to accept the ballot in its current state (Ballot Override Procedure).

“Secrecy Sleeve” means an open-ended folder or envelope used to cover ballots in order to conceal the choices made by each elector.

“This Bylaw” means General Local Government Election and Assent Voting No. 1926, 2021.

“Traditional Ballot” means a paper ballot that is only used as part of a manual voting and vote counting process.

“Town” means the Town of Creston.

“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 5 Automatic Registration by Inclusion on Provincial List of Voters

- 5.1 As authorized under Section 76 of the *Local Government Act*, for all elections and assent voting, the most current available Provincial list of voters prepared under the *Election Act* becomes the register of resident electors no later than 52 days before the general voting day for each of those elections.

Part 6 Advance Voting

- 6.1 Advance voting for the Town of Creston shall be held on the 3rd and 10th days before General Voting Day, pursuant to Section 107 of the *Local Government Act*, between the hours of 8:00 a.m. and 8:00 p.m. **BL#1955**
- 6.2 The Chief Election Officer is authorized to establish dates for additional advance voting opportunities in advance of general voting day pursuant to Section 108 of the *Local Government Act*, providing notice of additional advance voting opportunity in any manner the Chief Election Officer considers appropriate.
- 6.3 Advance Voting shall be conducted in accordance with the procedures contained in this Bylaw so far as applicable.
- 6.4 If an Automated Vote Counting System is used:
- 6.4.1 At the close of voting on each Advance Voting Day, any remaining ballots in the emergency ballot compartment and portable ballot box shall be inserted into the vote counting unit by the Chief Election Officer or Deputy Chief Election Officer as soon as possible, under the supervision of the Chief Election Officer, Deputy Chief Election Officer or Officer.
- 6.4.2 At the end of each Advance Voting Opportunity, the presiding election official shall ensure that the vote counting unit, including the emergency ballot compartments, memory card and portable ballot box, is secured, sealed and returned along with all other election materials to the custody of the Chief Election Officer.
- 6.5 If an Automated Vote Counting System is not used by the Town of Creston, Advance Voting shall be conducted by using a manual voting and vote counting process or another means as decided by the Chief Election Officer or Deputy Chief Election Officer and authorized by the *Local Government Act*.

Part 7 Special Voting Opportunities

- 7.1 To give electors who may otherwise be unable to vote an opportunity to do so, the Council for the Town of Creston will provide Special Voting Opportunities as authorized under Section 109 of the *Local Government Act* and authorizes the Chief Election Officer to establish special voting opportunities for each election, and to designate the location, the date and the voting hours within the limits as set out in the *Local Government Act*.
- 7.2 Resident electors and non-resident property electors who are employed at the locations established by the Chief Election Officer for special voting opportunities may vote at such locations; however, such locations shall not be available for general voting purposes.
- 7.3 Special Voting Opportunities shall be conducted in accordance with the procedures contained in this Bylaw as far as applicable.
- 7.4 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.
- 7.5 Once the elector has completed his or her ballot, it shall be deposited into the portable ballot box supplied by the presiding election official.

- 7.6 At the end of each Special Voting Opportunity, the presiding election official shall ensure that the portable ballot box is secured, sealed and returned along with all other election materials to the custody of the Chief Election Officer or Deputy Chief Election Officer.
- 7.7 If an Automated Vote Counting System is not used by the Town of Creston, Special Voting Opportunities shall be conducted by using a manual voting and vote counting process or another means as decided by the Chief Election Officer or Deputy Chief Election Officer and authorized by the *Local Government Act*.
- 7.8 The number of candidate representatives who may be present at a special voting opportunity is limited to one.

Part 8 Mail Ballot Voting

- 8.1 As authorized under Section 110 of the *Local Government Act*, voting is permitted by mail ballot and elector registration may be done in conjunction with this voting. **BL#1955**
- 8.2 The following procedures for voting and registration must apply:
- 8.2.1 Sufficient record will be kept by the Chief Election Officer or Deputy Chief Election Officer so that challenges of the elector's right to vote may be made in accordance with the intent of Section 126 of the *Local Government Act*; and,
- 8.2.2 A person exercising the right to vote by mail under the provisions of Section 110 may be challenged in accordance with, and on the grounds specified in Section 126 of the *Local Government Act*, until 4:30 p.m. two days before General Voting Day.
- 8.3 After marking the ballot, the elector must do the following:
- 8.3.1 Place the ballot in the secrecy sleeve or envelope provided, and then seal the secrecy sleeve or envelope;
- i. Place the secrecy sleeve/envelope inside the certification envelope, and complete and sign the certification printed on such envelope, and then seal the certification envelope;
 - ii. Place the certification envelope, together with a completed elector registration application, if required, in the outer envelope, and then seal the outer envelope
 - iii. 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.
- 8.4 The time limits in relation to voting by mail ballot will be determined by the Chief Election Officer or Deputy Chief Election Officer in accordance with the *Local Government Act*.
- 8.5 As provided in the *Local Government Act*, a mail ballot must be received by the Chief Election Officer or Deputy Chief Election Officer before the close of voting on General Voting Day in order to be counted for an election, and it is the obligation of the person applying to vote by mail ballot to ensure that the mail ballot is received by the Chief Election Officer or Deputy Chief Election Officer within this time limit.

- 8.6 If an Automated Vote Counting System is used; upon receipt of the mail ballot, the ballot must not be inserted in a portable ballot box until 8:00 p.m. on General Voting day, after which time the Chief Election Officer or Deputy Chief Election Officer shall, in the presence of at least one other election official, enter the ballot into the vote counting unit to be counted.
- 8.7 If an elector unintentionally spoils a mail ballot, the elector may, prior to 8:00 p.m. on General Voting Day, return the spoiled ballot package in its entirety to the Chief Election Officer or Deputy Chief Election Officer and receive a replacement ballot.
- 8.8 If an elector's right to vote using a mail ballot is challenged, the Chief Election Officer or Deputy Chief Election Officer will then proceed according to Section 126 of the *Local Government Act*.
- 8.9 If the Chief Election Officer or Deputy Chief Election Officer determines that another person has already voted or received a mail ballot in the name of an elector who wishes to vote, the Chief Election Officer or Deputy Chief Election Officer will proceed according to Section 127 of the *Local Government Act*.
- 8.10 If an Automated Vote Counting System is not used by the Town of Creston, Mail Ballot Voting shall be conducted by using a manual voting and vote counting process or another means as decided by the Chief Election Officer or Deputy Chief Election Officer and authorized by the *Local Government Act*.

Part 9 Use of Automated Vote Counting System

- 9.1 The conduct of a General Local Election, by-election and any other voting or election by use of an automated vote counting system is hereby authorized by the Town of Creston as per Section 112(1) of the *Local Government Act*.

Part 10 Automated Voting Procedures

- 10.1 A designated election official shall, before the ballot is issued, offer and if requested, provide or direct another election official to provide a demonstration to an elector of how to use an automated vote counting system for the purpose of voting. This demonstration may take place at any of the following locations:
- a) The voting location on General Election Day;
 - b) The voting location on Advanced Voting Day; and,
 - c) Any Special Voting Opportunity location.
- 10.2 Upon completion of the voting demonstration (if conducted), the elector shall proceed to an election official that is responsible for issuing ballots; a ballot, along with a secrecy sleeve, if requested, will be issued once the elector completes the voting book as required by the *Local Government Act*, and is deemed qualified to vote in the election.
- 10.3 Once given a ballot, the elector shall proceed to a voting compartment to vote.
- 10.4 The elector may vote only by making an acceptable mark on the ballot beside the name of each candidate of choice up to the maximum number of candidates to be elected for the offices of Mayor, Councillor, School Trustee and, if necessary, beside either "yes" or "no" in the case of a referendum or other question.

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- 10.5 Once the elector has completed marking the ballot, the *elector* must place the ballot into a secrecy sleeve, if requested, and proceed to the vote counting unit where, under the supervision of an election official, the elector must insert the ballot directly from the secrecy sleeve (if applicable) into the vote counting unit without the acceptable marks on the ballot being exposed.
- 10.6 The elector may request a replacement ballot by advising an election official under the following circumstances:
- a) The elector determines that they have made a mistake when marking the original *ballot*, or
 - b) The original ballot was returned by the vote counting unit.
- 10.7 Once requested, the election official shall issue a replacement ballot to the elector, mark the returned ballot “spoiled” and keep the “spoiled” ballots separate from all other ballots, not counting them in the election.
- 10.8 If the original ballot is returned by the vote counting unit and the elector declines the opportunity to complete a replacement ballot, the original ballot, provided it has not been damaged to the extent where it cannot be reinserted into the vote counting unit, shall be reinserted into the vote counting unit and the ballot return override procedure will be used to count any acceptable marks that have been correctly made.
- 10.9 The elector must remain in the voting place until the ballot has been inserted and accepted by the vote counting unit.
- 10.10 Subject to the results of any judicial recount that may take place, all acceptable marks counted by the vote counting unit are valid and will be counted in the election.
- 10.11 If a vote counting unit is not functioning, the election official supervising the unit shall insert all ballots completed by electors into either the emergency ballot compartment or the portable ballot box, to be reinserted into the vote counting unit as soon as possible, under the supervision of the Chief Election Officer or Deputy Chief Election Officer.
- 10.12 At the end of General Voting Day, all remaining ballots or ballots which are temporarily stored in the emergency ballot compartment or portable ballot box shall be, at the earliest time, inserted into the vote counting unit by the Chief Election Officer or Deputy Chief Election Officer as soon as possible, under the supervision of the Chief Election Officer or Deputy Chief Election Officer.
- 10.12.1 Any ballots returned by the vote counting unit shall be subject to the vote override procedure and, under the supervision of the Chief Election Officer or Deputy Chief Election Officer, will be re-inserted into the vote counting unit to ensure that any acceptable marks present on the ballot will be counted.
- 10.13 At the end of General Voting Day and after the completion of Section 10.12, the Chief Election Officer or Deputy Chief Election Officer shall ensure that the vote counting unit is secured and generate three copies of the register tape from the vote counting unit.
- 10.14 The Chief Election Officer shall also account for and seal all unused, spoiled and voted ballots separately along with one copy of the register tape.

- 10.15 The Chief Election Officer will then place all other remaining materials in the materials transfer box and secure the box at Town Hall (238 - 10th Avenue North, Creston, BC).
- 10.16 If an Automated Vote Counting System is not used by the Town of Creston, all elections and other voting opportunities shall be conducted by using a manual voting and vote counting process or another means as decided by the Chief Election Officer or Deputy Chief Election Officer and authorized by the *Local Government Act*.

Part 11 Order of Names on Ballot

- 11.1 The order of candidate names on the ballot shall be alphabetical by surname, pursuant to Section 116 of the *Local Government Act*.

Part 12 Number of Scrutineers at Voting Place

- 12.1 The number of scrutineers permitted to be present at the Advance Voting and Special Voting Opportunities, on behalf of each candidate, shall be one (1).
- 12.2 As authorized under Section 120(3) of the *Local Government Act*, for voting other than a General Local Election, the number of scrutineers permitted at the General Voting Place shall be a maximum of two (2), or one per each ballot box in use, if less than two ballot boxes are being used.

Part 13 Recount Procedures

- 13.1 If a recount is required, it shall be conducted under the direction of the Chief Election Officer or Deputy Chief Election Officer and generally in accordance with the following procedure:
- 13.1.1 The memory cards of all vote-counting units at the close of voting on general voting day will be stored along with other election documents.
 - 13.1.2 Additional memory cards will be programmed for the purposes of the recount.
 - 13.1.3 The Chief Election Officer or Deputy Chief Election Officer will remove the protective seal from the ballots and re-insert all ballots into the vote counting unit, using the ballot return override procedure to detect all acceptable marks on ballots returned by the vote counting unit.
- 13.2 Once all ballots have been successfully inserted and processed by the vote counting unit, three register tapes will be generated from the vote counting unit.
- 13.3 If an Automated Vote Counting System is not used by the Town of Creston, a recount of traditional ballots shall be manually conducted under the direction of the Chief Election Officer or Deputy Chief Election Officer.
- 13.4 If, after the recount, a candidate cannot be declared elected because two (2) or more candidates have received an equal number of valid votes, then the Chief Election Officer or Deputy Chief Election Officer must refer the election to a judicial recount.
- 13.5 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*.

Part 14 General

14.1 This Bylaw shall come into full force and effect upon adoption.

READ A FIRST TIME by title and SECOND TIME by content this 11th day of May, 2021.

READ A THIRD TIME by title this 11th day of May, 2021.

ADOPTED this 25th day of May, 2021.

“Ron Toyota”
Mayor Ron Toyota

“Kirsten Dunbar”
Kirsten Dunbar, Corporate Officer

INDEX OF AMENDING BYLAWS

Bylaw #1955 Adopted April 12, 2022

NOTE TO USERS

"WHEREAS each bylaw consolidation shall be proof, in the absence of evidence to the contrary, of the original bylaw, of all bylaws amending it and of the fact of passage of the original and all amending bylaws", pursuant to 'Authority to Consolidate Municipal Bylaws No. 1533', which was adopted on the 11th day of June, 2001.