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**TOWN OF SIDNEY
BYLAW NO. 1715
(CONSOLIDATED)**

Amendment Bylaws incorporated as listed at the end of the document.

A BYLAW TO PROVIDE FOR AUTOMATED VOTING AND THE DETERMINATION OF VARIOUS PROCEDURES FOR THE CONDUCT OF LOCAL GOVERNMENT ELECTIONS AND OTHER VOTING

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

AND WHEREAS pursuant to the *Local Government Act*, Council may by bylaw determine various procedures and requirements to be applied in the conduct of local government elections and other voting:

AND WHEREAS Council wishes to establish various procedures and requirements under that authority:

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

1. Definitions:

In this bylaw:

“*Acceptable mark*” means a completed oval that:

- a) is identifiable by a vote-tabulating unit, and
- b) is made by an elector in the space provided on a ballot opposite the name of a candidate or opposite either ‘yes’ or ‘no’ on any assent 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 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 Mayor and Councillors; and
- b) all of the choices on all of the bylaws or other matters on which the assent of the electors is sought;

“*Ballot return Over-ride 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;

“*Memory card*” means the storage device that stores all of the permanent results for the vote-tabulating unit;

“*Portable ballot box*” means a ballot box which is used in the election, where a vote tabulating unit is not being used or not functioning;

“*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 offices to be filled and for and against each bylaw or other matter on which the assent of the electors is sought;

“*Returned ballot*” means a voted ballot, inserted by an elector into a vote tabulating unit, that is not accepted and is returned by the unit to the elector with an explanation of the 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;

“*Town*” means the Town of Sidney;

“*Vote tabulating unit*” means a 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 assent voting question.

2. Use of Voting Machines

Voting may be conducted in a general local election and assent voting in the Town using an automated vote counting system.

3. Automated Voting Procedures

3.1 Before a ballot is issued to the elector, the presiding election official for that voting place must offer and, if requested by the elector, must direct an election official to provide a demonstration to the elector of the method for voting by using an automated vote counting system, including the use of a secrecy sleeve.

3.2 After declining the offer or receiving a demonstration under subsection 1, an elector must proceed as instructed to the election official responsible for issuing ballots.

3.3 The election official responsible for issuing a ballot to an elector:

- a) must ensure that the elector:
 - i) is qualified to vote in the election, and
 - ii) completes the voting book as required by the *Local Government Act*, and
- b) after satisfying paragraph (a), must give to the elector a ballot, a secrecy sleeve if the elector requests it, and any further instructions requested by the elector.

3.4 After receiving a ballot, an elector:

- a) must proceed immediately to a voting compartment,

- b) may vote only by making an acceptable mark on the ballot:
 - i) 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
 - ii) beside either “yes” or “no” in the case of each bylaw or other matter on which the assent of the electors is sought,
 - c) must place the marked ballot into a secrecy sleeve, if applicable, proceed to the vote tabulating unit, and under the supervision of the election official in attendance, insert the ballot directly into the vote-tabulating unit without exposing the acceptable marks on the ballot, and
 - d) may request a replacement ballot by advising the election official in attendance if:
 - i) before inserting a ballot into the vote-tabulating unit, the elector decides that she or he made a mistake when marking the ballot, or
 - ii) a ballot is returned by the vote-tabulating unit.
- 3.5 The presiding election official must carry out the following procedures if an elector requests a replacement ballot in accordance with subsection 3.4(d):
- a) issue the replacement ballot to the elector;
 - b) mark as “spoiled” the ballot that is being replaced, and
 - c) retain all spoiled ballots separately from all other ballots.
- 3.6 Spoiled ballots must not be included in the counting of votes on ballots.
- 3.7 For the purpose of counting acceptable marks, the presiding election official must reinsert a returned ballot into the vote-tabulating unit by using the ballot return over-ride procedure if the elector:
- a) has not damaged the returned ballot to the extent that it cannot be reinserted, and
 - b) does not request a replacement ballot.
- 3.8 A ballot counted by the vote-tabulating unit is valid and all acceptable marks contained on that ballot must be counted subject to a determination made under a judicial recount.
- 3.9 An elector must immediately leave the voting place after the vote-tabulating unit indicates that the elector’s ballot has been accepted.
- 3.10 The election official supervising a vote-tabulating unit must insert into a portable ballot box all ballots delivered by electors during a time when the vote-tabulating unit is not functioning and is not replaced.
- 3.11 An election official must carry out the following procedures under the supervision of the presiding election official as soon as is reasonably possible after a nonfunctioning vote-tabulating unit becomes operational or is replaced with another vote-tabulating unit:

- a) remove the ballots contained in the portable ballot box that temporarily replaced the nonfunctioning vote-tabulating unit, and
- b) insert into the functioning vote-tabulating unit the ballots removed under paragraph (a).

3.12 Under the supervision of the presiding election official, an election official must use the ballot return override procedure to reinsert into a vote-tabulating unit ballots that were temporarily stored in a portable ballot box under subsection 3.10 and that are treated as returned ballots by the vote-tabulating unit into which they were placed under subsection 3.11.

3.13 A ballot used in an automated vote counting system may be in the form set out in Schedule 'A'.

4. Required Advanced Voting Opportunities

As authorized under section 107 of the *Local Government Act*, the following required advanced voting opportunities are established for each election, and other voting:

- a) one on the 10th day before general voting day from 8:00 a.m. to 8:00 p.m.; and
- b) one on the 3rd day before general voting day from 8:00 a.m. to 8:00 p.m.

5. Advance Voting Opportunity Procedures

5.1 Vote tabulating units must be used to conduct the vote at all advance voting opportunities.

5.2 Voting procedures at advance voting opportunities must follow as closely as possible to those described in Section 3 of this bylaw.

5.3 At the close of voting at each advance voting opportunity the presiding election official must 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.

5.4 At the close of voting at the final advance voting opportunity the presiding election official must:

- 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.

6. Special Voting Opportunity Procedures

6.1 A portable ballot box must be used for all special voting opportunities unless the Chief Election Officer determines that it is practical to use a vote-tabulating unit.

6.2 The presiding election official at a special voting opportunity must proceed in accordance with:

- a) Sections 3.2, 3.3 and 3.4 to the extent that they are applicable when a portable ballot box is being used; and
- b) Section 3 when a vote-tabulating unit is being used.

6.3 The presiding election official at a special voting opportunity:

- a) must ensure that a portable ballot box is secured when not in use; and
- b) at the close of voting at the final special voting opportunity must seal a portable ballot box and return it together with all other election materials to the Chief Election Officer.

7. Mail Ballot Voting Authorization and Procedure

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

7.2 In accordance with section 110 of the *Local Government Act*, all eligible electors may vote using a mail ballot option.

7.3 Application Procedure

- a) An elector may request a mail ballot package in person or by mail, fax or email by presenting to the Chief Election Officer a written request stating their name, address and whether the mail ballot package is to be delivered by mail or picked up from Town Hall.
- b) Upon receipt of an application for a mail ballot package by the Chief Election Officer, the Chief Election Officer shall record on a mail ballot application list the name and address of the elector in respect of whom the application is made.
- c) The Chief Election Officer shall make the mail ballot application list available for public inspection at the Town Hall during its regular office hours until 30 days after the declaration of the election results under section 146 of the *Local Government Act*. Before inspecting the list, a person must sign a statement that the person will not inspect the list or use the information contained in it except for the purposes of the Part 3 of the *Local Government Act*.
- d) The Chief Election Officer, an election official, a candidate representative or a person who is qualified as an elector of the Town of Sidney may challenge, in person to the Chief Election officer before 4:00p.m. on the first business day after an application for a mail ballot package has been received by the Chief Election Officer, the right of a person to vote by mail ballot in accordance with section 126(2)(b) of the *Local Government Act*.
- e) Following the challenge period under section 7.3(c), the Chief Election Officer shall either:
 - (i) except where subsection 7.3(e)(ii) applies, in the manner requested by the elector, either mail or make available for pickup a mail ballot package that meets the requirements of section 110(7) of the *Local Government Act*; or

- (ii) in respect of an application for which a challenge is made under section 7.3(c), notify the applicant of the challenge, the basis for the challenge and of the requirements of section 126(3) and 126(4) of the *Local Government Act* in order for the applicant to receive a ballot.
- f) The Chief Election Officer may establish the time limit to apply for a mail ballot package and any other time limits in relation to voting by mail ballot that are not established under this bylaw.

7.4 Voting Procedure

- a) To vote using a mail ballot, the elector shall mark the ballot in accordance with the instructions contained in the mail ballot package provided by the Chief Election Officer.
- b) After marking the ballot, the elector shall:
 - i) place the ballot in the secrecy envelope provided and seal the secrecy envelope;
 - ii) place the secrecy envelope in the certification envelope, and complete and sign the certification printed on such envelope, and then seal the certification envelope;
 - iii) place the certification envelope, together with a completed elector registration, if required, in the outer envelope, and then seal the outer envelope;
 - iv) mail the outer envelope and its contents to the Chief Election Officer at the address specified on the outer envelope, or deliver the outer envelope and its contents to the Town Hall or any place where voting is being conducted, so that in either case it is received no later than the close of voting on general voting day.

7.5 Procedure for Received Ballot Packages

- a) Upon the receipt of a mail ballot package, the Chief Election Officer or other presiding election official shall, in the presence of at least one other person, record the date of such receipt, open the outer envelope and examine the certification envelope and, if applicable, the completed elector registration application.
- b) If a certification envelope is complete and, where required, a registration application is complete in accordance with the requirements of the *Local Government Act*, the Chief Election Officer or other presiding election official, shall mark the certification envelope as “accepted” and shall open the certification envelope and place the secrecy envelope in a sealed ballot box.
- c) If a certification envelope is not complete or, where required, a registration application is not complete in accordance with the requirements of the *Local Government Act*, the Chief Election Officer or other presiding election official shall mark the certification envelope as

“rejected” and shall note the reasons therefor, and any ballot contained therein shall not be counted in the election.

- d) Any certification envelopes rejected in accordance with subsection 7.5(c) shall remain unopened and shall be subject to the provisions of section 160(8) of the *Local Government Act* with regard to their destruction.
- e) In order to be counted for an election, a mail ballot must be received in accordance with subsection 7.4(iv) before the close of voting on general voting day and it is the obligation of the person wishing to vote by mail ballot to ensure that the mail ballot is received by the Chief Election Officer within this time limit.
- f) As soon as possible following the close of voting on general voting day, the Chief Election Officer or other presiding election official shall, in the presence of at least one other person and any scrutineers present:
 - (i) open the sealed secrecy envelope ballot box; and
 - (ii) for each secrecy envelope:
 - a. remove the secrecy envelope;
 - b. remove the ballot within; and
 - c. insert the ballot into the vote tabulating unit.

7.6 Elector's Name Already Used

Where, 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 provisions of section 127 of the *Local Government Act* shall apply, so far as applicable.

7.7 Replacement of Spoiled Ballot

- a) Where 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 of the ballot spoilage and by mailing or delivering the spoiled ballot package in its entirety to the Chief Election Officer.
- b) The Chief Election Officer shall, upon receipt of the spoiled ballot package, record such fact, and proceed in accordance with subsection 7.3 (e)(i).

8. Procedures After Close of Voting on General Voting Day

8.1 After the close of voting on general voting day, each presiding election official at a voting opportunity, other than advance and special voting opportunities, where a vote-tabulating unit was used in an election must:

- 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;
- c) generate three copies of the register tape from the vote-tabulating unit; and

- d) deliver one copy of the register tape together with the vote-tabulating unit to the Chief Election Officer.

8.2 After the close of voting on general voting day, each presiding election official at a voting opportunity, other than advance and special voting opportunities, where a vote-tabulating unit was used in an election must:

- a) 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;
- b) complete the ballot account and place the duplicate copy in the election materials transfer box;
- c) seal the election materials transfer box;
- d) place the voting books, the original copy of the ballot account, one copy of the register tape, completed registration cards, keys and all completed administrative forms into the Chief Election Officer's portfolio; and
- e) transport all equipment and materials to election headquarters.

8.3 At the close of voting on general voting day the Chief Election Officer must 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 subsections 7.1 and 7.2.

8.4 At the close of voting on general voting day the following procedures must be followed:

- a) under the direction of the Chief Election Officer all portable ballot boxes used in the election must be opened;
- b) all ballots in portable ballot boxes must be removed and for counting be inserted into a vote-tabulating unit;
- c) after the procedures set out in paragraphs (a) and (b), the procedures set out in Subsections 7.1 and 7.2 must be followed to the extent that they are applicable.

9. Recount Procedure

If a recount is required it must be conducted under the direction of the Chief Election Officer using the automated vote counting system and generally in accordance with the following procedures:

- a) the memory cards of all vote-tabulating units must be cleared;
- b) vote-tabulating units must be designated for each voting place;
- c) all ballots must be removed from the sealed ballot boxes; and
- d) all ballots, except spoiled ballots, must be reinserted in the appropriate vote-tabulating units under the supervision of the Chief election Officer.

10. Resolution of Tie Votes after Judicial Recount

In the event that the results of an election cannot be declared because there is an equality of valid votes for two or more candidates after the completion of a judicial recount, the tie vote will be resolved by conducting a lot in accordance with section 151 of the *Local Government Act*.

11. Use of Provincial List of Voters as the Register of Resident Electors

As authorized under section 76 of the *Local Government Act*, the most current available Provincial list of voters, prepared under the *Election Act*, becomes the register of resident electors for the Town on the 52nd day before general voting day for each election or assent voting of the Town.

12. Electronic Access to Nomination Documents and Disclosure Statements

12.1 In accordance with section 89(8) of the *Local Government Act*, the Council provides for public access to nomination documents via the Sidney website from the time of filing until 30 days after the declaration of the election results.

12.2 In accordance with section 89(8) and 93(6) of the *Local Government Act*, the Council provides for public access to the endorsement documents via the Sidney website from the time of filing until seven years after general voting day for the election to which they relate.

13. Repeal

"Town of Sidney Election Procedures Bylaw No.1524" and all of its amendments are hereby repealed.

14. Citation

This Bylaw may be cited as "**Town of Sidney Automated Vote Counting System Authorization & Election Procedure Bylaw No. 1715, 2002**".

Introduced and read a first time the 25th day of February, 2002.

Read a second time the 25th day of February, 2002.

Read a third time the 25th day of February, 2002.

Reconsidered, and finally adopted the 11th day of March, 2002.

MAYOR

CORPORATE ADMINISTRATOR

Bylaw No. 1994, Amendment No. 1
Bylaw No. 2061, Amendment No. 2
Bylaw No. 2159, Amendment No. 3
Bylaw No. 2234, Amendment No. 4

SCHEDULE 'A'

v

**TOWN OF SIDNEY
MUNICIPAL ELECTION—NOVEMBER 16, 2002**

To Vote : Completely fill in the oval beside the candidate(s) of your choice.

Ballot for the office of:

MAYOR

You may vote for ONE (1) Candidate for this office.

Joe Bloe

Red Green

Ali Oop

Ballot for the office of:

COUNCILLOR

You may vote for up to SIX (6) Candidates for this office.

Jack Bean

Mary Cute

Lori Lue

Sky Blue

Drive Bay

Brown Cow

Sea Dog

Ballot for the Office of:

SCHOOL TRUSTEE

You may vote for ONE (1) Candidate for this office.

Billy Bob

Doug Doolittle

Freedra Fright

Joe Jontly

Do you believe Municipalities should be Responsible for voter Registration?

YES NO

