

DISTRICT OF KITIMAT

BYLAW NO. 2019, 2022

A BYLAW TO AMEND THE KITIMAT MUNICIPAL CODE WITH RESPECT TO PART 1,  
DIVISION 5 - ELECTIONS

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WHEREAS Part 3 of the *Local Government Act* establishes regulation for conducting Local Government elections;

AND WHEREAS under the *Local Government Act*, a municipality may by bylaw establish or authorize certain parts of the conduct of a Local Government election;

AND WHEREAS, the District of Kitimat has a consolidation of regulatory bylaws referred to as the *Kitimat Municipal Code*;

NOW THEREFORE the Council of the District of Kitimat in open meeting assembled ENACTS AS FOLLOWS:

1. This bylaw may be cited as "Election Amendment Bylaw No. 2019, 2022".
2. Part 1, Division 5 of the *Kitimat Municipal Code* be replaced with the following:

Subdivision 1 - Interpretation

- 1.5.1. 1. In this Division, unless the context otherwise requires:

"Election" shall mean election of candidates, assent voting, referendums, plebiscites, or other event directed as a voting opportunity by Council conducted on behalf of the District of Kitimat or on contract to any other jurisdiction.

Subdivision 2 - Advance and Additional Advance Voting Opportunity

- 1.5.2. 1. For every Election, advance voting opportunities will be held on the 10<sup>th</sup> day and the 3<sup>rd</sup> day before general voting day between the hours of 8 a.m. and 8 p.m. at a location designated by the Chief Election Officer.
2. The Chief Election Officer is authorized to establish additional voting opportunities to be held in advance of general voting day and may designate the voting places and set the voting hours for these voting opportunities in a manner the Chief Election Officer considers appropriate.
3. The Chief Election Officer is authorized to establish additional general voting opportunities for general voting day and to designate the voting places and set the voting hours, within the limits set out in section 106 of the *Local Government Act*, for the additional general voting opportunities in any manner the Chief Election Officer considers appropriate.

Subdivision 3 - Special Voting Opportunities

- 1.5.3. 1. Special Voting Opportunities are authorized and to be established at a place, date and time as determined by the Chief Election Officer in order to give electors who may otherwise be unable to vote an opportunity to do so.
2. Special voting opportunities will be restricted to only electors admitted to, residing, visiting or working at designated locations where a special voting opportunity has been established by the Chief Election Officer.
3. A presiding election official may attend at locations established under subsection (1) to take the elector's vote.
4. Portable ballot boxes will be used by the presiding election officials in which the ballots containing the votes at the special

- opportunity voting places will be placed.
5. The presiding election officials appointed to attend at the special voting opportunity locations shall conduct the voting proceedings generally in accordance with the following:
    - (a) explain and demonstrate the voting procedures;
    - (b) all electors of special voting opportunities must register in accordance with the *Local Government Act*;
    - (c) have the elector sign the voting book;
    - (d) provide a ballot to the elector and any further instructions the elector requires;
    - (e) allow the elector to mark the ballot in private and place it into a portable ballot box.
  6. Bedside voting is authorized for patients and residents and will be conducted in consultation with the facility and with the assistance of the presiding election official.
  7. No other person may be present or adjacent to the elector during voting unless approved by the Chief Election Officer or designated presiding election official.
  8. The presiding election official will ensure that the portable ballot box is secured. As soon as the presiding election official has attended at all facilities or institutions as directed by the Chief Election Officer, the presiding election official must seal the portable ballot box and return it to the Chief Election Officer or their designate.
  9. The number of candidate representatives who may be present at a Special Voting Opportunity is limited to one.

#### Subdivision 4 - Mail Ballot Voting and Registration

- 1.5.4.
  1. Voting and registration by mail are authorized in accordance with the *Local Government Act* and any regulations as amended.
  2. The Chief Election Officer may establish the time limits in relation to voting by mail.
  3. In section 1.5.4:
 

“Applicant” means an elector who wants to vote by mail and make a request for a mail ballot;

“Authorized Person” means a person that the applicant has authorized, on the applicant’s behalf, to:

    - a) pickup a mail ballot package; or
    - b) drop off a completed mail ballot package

“Register of Mail Ballots” means the records that the Chief Election Officer must keep in order to address any challenges to an elector’s right to vote.
  4. An Applicant shall apply by submitting to the Chief Election Officer their name and address during the period:
    - a) commencing at the start of the nomination period; and
    - b) ending at 4:00 pm (local time) two (2) days before general voting day.
  5. Upon receipt of a request for a mail ballot, the Chief Election Officer shall, between the time the ballots are ready and 4:00 p.m. (local time) two (2) days before general voting day:
    - a) Make available to the Applicant a mail ballot package which contains:
      - i. the content set out in section 110 (7) of the *Local Government Act*;
      - ii. instructions and information advising the Applicant how to vote and register by mail; and
      - iii. a statement advising the Applicant that
        - a. the Applicant must meet the eligibility to

- vote criteria; and
- b. must attest to such fact; and

- b) Record in the Register of Mail Ballots and, upon request, make available for inspection:
  - i. the name and address of all Applicants who request and are issued a mail ballot and elector registration package; and
  - ii. any other information that the Chief Election Officer deems helpful to maintain the Register of Mail Ballots.
- 6. At the Applicant's direction, the Chief Election Officer may distribute the mail ballot package in any of the following ways by:
  - a) sending the mail ballot package by Canada Post;
  - b) sending the mail ballot package by courier at the expense of the Applicant;
  - c) having the mail ballot package picked up by the Applicant at a designated time and location; or
  - d) having the mail ballot package picked up by an Authorized Person at a designated time and location.
- 7. The Chief Election Officer may request that the Authorized Person show identification and sign a form before providing the Authorized Person with the mail ballot package.

#### Mail Ballot Voting Procedure

- 8. To vote by 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.
- 9. 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; 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 by the Chief Election Officer no later than the close of voting on general voting day.
- 10. In accordance with section 110 (4) of the *Local Government Act*, electors who register by mail are not required to produce to an election official a copy of proof of their identity and place of residence; however, they must attest to the fact they are eligible to vote and meet the registration criteria in the presence of a witness and record having done so on the certification envelope.

#### Mail Ballot Acceptance or Rejection

- 11. Where a mail ballot and its contents are received by the Chief Election Officer by 2:00 p.m. (local time) on the Friday prior to General Voting Day, the Chief Election Officer shall, upon receipt of the returned envelope and its contents:
  - a) immediately record the date of receipt in the Register of Mail Ballots; and
  - b) open the return envelope and examine the certification envelope.
- 12. When the Chief Election Officer examines the certification envelope, the Chief Election Officer shall:
  - a) confirm the identity of the elector on the Register of Mail

- Ballots and their entitlement to vote;
  - 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; and
  - c) determine the completeness of the certification envelope.
13. If the Chief Election Officer is satisfied that the elector has met the requirements in section 11, the Chief Election Officer shall:
- a) mark the certification envelope as “accepted”; and
  - b) place the accepted and unopened certification envelope with any other certification envelopes in a designated mail ballot box.
14. If the Chief Election Officer determines that:
- a) The Chief Election Officer is not satisfied as to the identity of the elector; or
  - b) the elector has not completed the application to register in accordance with this Division or the *Local Government Act*, or
  - c) the returned mail ballot envelope is received by the Chief Election Officer after the close of voting on general voting day,
- the Chief Election Officer shall mark the unopened returned mail ballot envelope or rejected certification envelope as “rejected”, indicate the reason for the rejection on the rejected mail ballot and place it in a designated ballot box with the other rejected mail ballots.
15. The Chief Election Officer shall secure and retain in their custody all opened and unopened, accepted and rejected mail ballots and certification envelopes in order to manage any challenges made in accordance with this Division.
16. After 2:00 p.m. (local time) on the Friday prior to general voting day at a time and place decided by the Chief Election Officer, the Chief Election Officer shall invite candidate representatives to observe the opening of the accepted certification envelopes received up to 2:00 pm on the Friday prior to general voting day for the purpose of preparing the mail ballots for counting and to provide an opportunity for challenges to be made. At such time, the Chief Election Officer, in the presence of at least one (1) election official and any candidate representatives, shall:
- a) deal with any challenges to the electors involving the accepted certification envelopes;
  - b) open the accepted certification envelopes;
  - c) remove the secrecy envelopes containing the ballots; and
  - d) unless the right of a person identified on the accepted certification envelope has been challenged and not resolved in favour of that person being permitted to vote, place the secrecy envelope containing the ballot in a designated mail ballot box.
17. Any returned mail ballot enveloped received after the time and date set out in section 15 will be handled and processed in accordance with sections 10 through 14 until the close of general voting.
18. As soon as practicable after the close of voting on general voting day, in the presence of at least one election official and any candidate representatives, the Chief Election Officer shall ensure that the unopened accepted certification envelopes, previously processed secrecy envelopes, and any other unopened returned mail ballots packages received in time are opened, duly processed in accordance with this subdivision, and the accepted ballots contained therein are counted in accordance with the provisions of this Division and the *Local Government Act*.

### Challenge of Elector

19. 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*.

### Elector's Name Already Used

20. 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*.

### Replacement of Spoiled Ballot

21. If an elector unintentionally spoils a mail ballot before returning it to the Chief Election Officer, the elector may request a replacement ballot by:
  - a) advising the Chief Election Officer of the ballot spoilage; and
  - b) mailing or otherwise delivering by any appropriate means, the spoiled ballot package in its entirety to the Chief Election Officer.
22. Upon receipt of the spoiled ballot package and request for replacement, the Chief Election Officer shall record such fact and proceed in accordance with 1.5.4.5 – 1.5.4.7 so far as practicable within the applicable time limitations.

### Subdivision 5 – Registration and Voters Lists

- 1.5.5.
  1. For the purposes of all local elections and assent voting under Parts 3 and 4 of the *Local Government Act*, the most current available Provincial list of voters prepared under the *Election Act*, shall become the register of resident electors on the 52nd day prior to the general voting day for such elections and submissions to the electors.
  2. Pursuant to section 77 (8) of the *Local Government Act*, a fee of TWENTY-FIVE (25¢) cents per page will be imposed for providing any additional copies of the list of registered electors and any copy or other record of information of referred to in section 59 of the *Local Elections Campaign Financing Act*.
  3. An eligible voter who is not on the Provincial list of voters may register as an elector on general voting day, at an advance voting opportunity, special voting opportunity, or by mail in accordance with Part 1, Division 5, Subdivision 4.

### Subdivision 6 – Access to Nomination Documents

- 1.5.6.
  1. Public access to nomination documents will be provided by viewing of the documents on the District of Kitimat website as soon as possible from time of delivery of nomination documents to the Chief Election Officer until 30 days after the declaration of the election results pursuant to section 146 of the *Local Government Act*. This is in addition to the documents being made available for inspection in the District Office during regular office hours.

### Subdivision 7 – Recount Procedure

- 1.5.7.
  1. If, in order to determine the results, in the Chief Election Officer's sole discretion, it is necessary or desirable to conduct a recount of the votes for any position or question, the Chief Election Officer may conduct a recount generally in accordance with this Division and the *Local Government Act*. To obtain the election results, the Chief Election Officer shall tally the votes and communicate the total election results.

3. This bylaw shall take effect and be binding upon all persons as from the date of adoption.

READ a first time this	13 <sup>th</sup> day of	June	, 2022
READ a second time this	13 <sup>th</sup> day of	June	, 2022
READ a third time this	13 <sup>th</sup> day of	June	, 2022
FINALLY ADOPTED this	20 <sup>th</sup> day of	June	, 2022

MAYOR

Original Signed  
Philip Germuth

CORPORATE OFFICER

Original Signed  
Kiona Enders