City of Merritt

# "City of Merritt Election and Assent Voting Bylaw 2357, 2023"

## Consolidated For Convenience – September 2, 2026

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| Bylaw 2357 | January 9, 2024 |
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**CITY OF MERRITT**
**BYLAW NO. 2357**

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

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

AND WHEREAS, the Council of the City of Merritt wishes to establish various procedures and requirements under these authorities;

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

## 1. INTERPRETATION

### Citation

1.1 This Bylaw may be cited as "City of Merritt Election and Assent Voting Bylaw No. 2357, 2023".

### Repeal

1.2 The "City of Merritt Election Procedure Bylaw No. 2237, 2018" is hereby repealed in its entirety including all amendments thereto.

### Definitions

1.3 In this Bylaw the following terms have the following meanings:

**"acceptable mark"** means a mark that 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 questions.

**"applicant"** means an elector who wants to vote by mail and makes a request for a mail ballot.

**"authorized person"** means a person that the **applicant** has authorized, on the **applicant's** behalf, to:

(a) pick up a mail ballot package; or
(b) drop off a completed mail ballot package

"**automated vote counting system"** means a system that counts, records votes and processes and stores election results, which is comprised of:

(a) a number of **ballot** scan **vote counting units**, each of which rests on two compartment ballot box, one compartment of which is for voted **ballots** and **returned ballots** which have been reinserted using the **ballot override procedure**, and the other of which is a **storage ballot compartment**;
(b) a number of **portable ballot boxes** into which voted **ballots** are deposited where a **vote counting unit** is not being used, for counting after the close of voting on general voting day; and

(c) A **data storage device**.

**"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 to be filled; and,
(b) all of the choices on all of the other voting questions on which the opinion of, or assent of, the electors is sought.

**"ballot return override procedure"** means the use, by an election official, of a device on a **vote counting unit**, which causes the unit to accept a **returned ballot.**

**"certification envelope"** means the envelope on which an **Applicant** records their full name and address and declaration of their entitlement to vote.

**"City"** means the City of Merritt.

**"data storage device"** means a device which plugs into the **vote counting unit** and into which is pre-programmed;

(a) the names of all of the candidates for each of the offices to be filled; and
(b) all of the choice for each question on the ballot;

and which records and retains information on the number of **acceptable marks** made for each.

**"election headquarters"** means City of Merritt City Hall, 2185 Voght Street, Merritt, British Columbia, or other location as designated by the Chief Election Officer.

**"portable ballot box"** means a ballot box for use in the election, where a **vote counting unit** is not being used at the time of voting.

**"results 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 for each candidate for each of the offices to be filled, and the number of votes for and against each bylaw or other matters on which the opinion or assent of the electors is sought.

**"returned ballot"** means a voted **ballot** which was inserted into the **vote counting unit**, but which was not accepted and which was returned to the elector with an explanation of the **ballot** marking error that caused the **ballot** not to be accepted.

**"secrecy envelope"** means an envelope that has no identifying marks in which a mail ballot is placed by the elector to preserve the secrecy of their **ballot.**

**"secrecy sleeve"** means an open-ended folder or envelope available which may be used to cover **ballots** to conceal the choices made by each elector.

**"storage 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 unit ceases to function.

**"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.

**2 . ELECTOR REGISTRATION**

2.1 As authorized under section 76 of the *Local Government Act* for all elections and opinion or assent voting, the most current available provincial list of voters prepared under the *Election* Act, becomes the register of resident electors on the 52nd day before general voting day.

**3. NOMINATION DOCUMENTS**

3.1 As authorized by section 89 of the *Local Government Act* and in addition to access under section 89(7)(a), public access to nomination documents will be provided by posting the documents on the City website as soon as practicable after the time of delivery to the Chief Election Officer until 30 days after the declaration of the election results under section 146 of the *Local Government Act.*

3.2 Number of Nominators:

(a) The minimum number of qualified nominators for Mayor or Councillor is 2.

**4. ORDER OF NAMES ON BALLOT**

4.1 The order of names of candidates on the ballot will be determined by lot in accordance with section 117 of the *Local Government Act*.

**5. USE OF VOTING MACHINES**

5.1 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.

**6 . AUTOMATED VOTING PROCEDURES**

6.1 The presiding election official for each voting place will 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.

6.2 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.

6.3 Upon receiving a ballot, and **secrecy sleeve** if so requested, the elector shall immediately proceed to a voting booth to vote.

6.4 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; and
(b) beside a choice, up to the maximum number of choices permitted, on any other question on the ballot.

6.5 Once the elector has finished marking the ballot, the elector must place the ballot into the **secrecy sleeve**, if one has been requested; and proceed to the **vote counting units**, and under the supervision of the election official in

attendance, insert the ballot directly from the **secrecy sleeve**, if applicable, into the **vote counting unit** without the **acceptable marks** on the ballot being exposed.

6.6 If, before inserting the ballot into the **vote counting unit**, an elector determines that a mistake has been made when marking the ballot or if the ballot is returned by the **vote counting unit**, the elector may return to the voting booth to correct the ballot or request a replacement **ballot** by informing the election official in attendance.

6.7 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.

6.8 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 counting unit,** the election official shall, using the **ballot return override procedure**, reinsert the **returned ballot** into the **vote counting unit** to count any **acceptable marks** which have been made correctly.

6.9 Any ballot counted by the **vote counting unit** is valid and any **acceptable marks** contained on such **ballots** will be counted, subject to any determination made under a judicial recount.

6.10 Once the **ballot** has been inserted into the **vote counting unit** and the unit indicates that the **ballot** has been accepted, the elector must immediately leave the voting place.

6.11 During any period that a **vote counting unit** is not functioning, the election official supervising the unit shall insert all **ballots** delivered by the electors during this time, into the **storage ballot compartment,** on the understanding that if the **vote counting unit**:

(a) becomes operational, or
(b) is replaced with another **vote counting unit**;

the **ballots**, in the **storage ballot compartment** 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 counting unit** to be counted.

6.12 Any **ballots** which were temporarily stored in a **storage ballot compartment** during a period when the **vote counting unit** was not functioning, which are returned by the **vote counting 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 counting unit** to ensure that any **acceptable marks** are counted.

6.13 A ballot used in an **automated vote counting unit** may be in the form set out by the Chief Election Officer.

## 7. ADVANCE VOTING PROCEDURES

7.1 Required Advance Voting Opportunities

(a) As required under section 107 of the *Local Government Act*, in addition to the required advance voting opportunity on the 10th day before general voting day, the 3rd day before general voting day is hereby established as an advance voting opportunity for elections and voting on bylaws or other matters on which the opinion or assent of the electors is sought.

(b) Voting hours for advance voting opportunities shall be from 8:00 am to 8:00 pm at locations designated by the Chief Election officer.

7.2 **Vote counting 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 6 of this Bylaw.

7.3 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 counting unit**;
(b) the **storage ballot compartment** is sealed to prevent insertion of any **ballots**;
(c) the **results tapes** in the **vote counting unit** are not generated; and
(d) the **data storage device** of the **vote counting unit** is secured.

7.4 At the close of voting at the final advance voting opportunity the presiding election official shall:

(a) ensure that any remaining **ballots** in the **storage ballot compartment** are inserted into the **vote counting unit**;
(b) secure the **vote counting unit** so that no more **ballots** can be inserted; and
(c) deliver the **vote counting unit** together with the **data storage device** and all other materials used in the election and return to the Chief Election Officer at **election headquarters**.

## 8. SPECIAL VOTING OPPORTUNITIES

8.1 The Chief Election Officer may establish the dates, locations, and voting hours within the limits set out in section 109 of the *Local Government Act*, for special voting opportunities.

8.2 **Vote counting units** shall be used at all special voting opportunities and voting procedures at the special voting opportunities shall follow as closely as possible, those described in section 6 of this Bylaw.

8.3 The following restrictions apply as to who may vote at the special voting opportunities:

(a) only residents of the location where the special voting opportunity has been established; and
(b) one (1) candidate representative may be present at the special voting opportunity for each elected office and that candidate representative is chosen by consensus of the candidates for that elected office or, failing such consensus, by the Chief Election Officer.

8.4 At the close of the special voting opportunity the presiding election official shall ensure that:

(a) any remaining **ballots** in the **storage ballot compartment** are inserted into the **vote counting unit**;
(b) secure the **vote counting unit** so that no more **ballots** can be inserted; and
(c) deliver the **vote counting unit** together with the **data storage device** and all other materials used in the election and return to the Chief Election Officer at **election headquarters**.

## 9. MAIL BALLOT VOTING

**Authorization**

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

9.2 The Chief Election Officer may establish the time limits in relation to voting by mail that are not otherwise established in this Bylaw.

**Mail Ballot Application Procedures**

9.3 An **applicant** shall apply to vote by mail ballot by giving their name and address to the Chief Election Officer during the period established by the Chief Election Officer in the form prescribed by the Chief Election Officer.

9.4 Upon receipt of an application for a mail **ballot**, the Chief Election Officer shall:

(a) make available to the **applicant**, a mail **ballot** package which contains:

(i) the content described in section 110(7) of the *Local Government Act*;
(ii) additional instructions; and
(iii) a statement advising the elector that the elector must meet the eligibility to vote criteria and that the elector must attest to such fact; and

(b) record in the register of mail **ballots**, and, upon request in person by an election official, candidate representative or elector, make available for inspection by any such person:

(i) the name and address of the person to whom the Chief Election Officer issued the mail **ballot** package;
(ii) the number of the elector or "new elector", if that person is not registered as an elector; and
(iii) any other information that the Chief Election Officer deems helpful to maintain the register of mail **ballots**.

9.5 As per the **applicant's** direction and subject to any time limits established by the Chief Election Officer, the Chief Election Officer may distribute the mail **ballot** package in any of the following ways:

(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 time and location designated by the Chief Election Officer; or
(d) having the mail **ballot** package picked up by an **authorized person** at a time and location designated by the Chief Election Officer.

9.6 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.

**Voting Procedure**

9.7 In order to vote using a mail **ballot,** the elector must mark the ballot in accordance with this Bylaw and any instructions contained in the mail **ballot** package provided by the Chief Election Officer.

9.8 After marking the **ballot**, the elector must:

(a) place the **ballot** in the **secrecy envelope** provided, and then seal the **secrecy envelope**;
(b) place the **secrecy envelope** in the **certification envelope**, complete and sign the certification printed on

the **certification 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 the Chief Election Officer receives it no later than 8:00 p.m. on general voting day.

**Mail Ballot Acceptance or Rejection**

9.9 Upon receipt of the outer envelope and its content, the Chief Election Officer must immediately record the date of receipt in the register of mail **ballots**, open the outer envelope, remove and examine the certification envelope and completed elector registration application, if applicable and if satisfied as to:

(a) the identity of the elector as an **applicant** on the register of mail **ballots**;
(b) the entitlement to vote of the elector named in the certification;
(c) the completeness of the certification; and
(d) if a person is registering as a new elector, fulfilment of the requirements of Sections 65 & 66 and section 70 of the *Local Government Act* and completeness of the application to register,

mark the **certification envelope** as "accepted" and place the accepted **certification envelope** with the other **certification envelopes**.

9.10 If the Chief Election Officer:

(a) is not satisfied as to the identity and entitlement to vote of the elector named in the certification, or the completeness of the certification;
(b) is not satisfied that a person registering as a new elector has fulfilled the requirements of sections 65 or 66 and Section 70 of the *Local Government Act*; or has completed the application to register properly; or
(c) receives the outer envelope after 8:00 p.m. on general voting day;

the Chief Election Officer must not open the **certification envelope**, and must mark the **certification envelope** as 'rejected', note the reason for the rejection, set aside the rejected **certification envelope**, and not count the ballot contained in the rejected **certification envelope** in the election.

9.11 A **certification envelope** rejected under section 9.10 of this Bylaw must remain unopened.

9.12 The Chief Election Officer shall retain in their custody all opened and unopened **certification envelopes**.

9.13 Each **certification envelope** accepted under section 9.9 must be inserted in a **portable ballot box** maintained in the custody of the Chief Election Officer until the **certification envelope** containing the secrecy envelope is opened in accordance with sections 9.19 and 9.20 of this Bylaw.

9.14 Each **certification envelope**, whether 'accepted' or 'rejected', and any related elector registration applications must remain in the custody of the Chief Election Officer for the purpose of dealing with any challenge.

**Challenge of Elector**

9.15 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**

9.16 If the Chief Election Officer determines that another person has already voted or received a mail **ballot** in that elector's name, section 127 of the *Local Government Act* applies to the extent applicable.

**Replacement of Spoiled Ballots**

9.17 If an elector unintentionally spoils a mail **ballot** before returning it to the Chief Election Officer, the elector may request a replacement **ballot** by returning the spoiled **ballot** package in its entirety to the Chief Election Officer before 8:00 p.m. on general voting day.

9.18 Upon receipt of a spoiled **ballot** package, the Chief Election Officer must record such fact, mark the spoiled **ballot** package as spoiled, set aside the spoiled **ballot** package, and not count the **ballot** contained in the spoiled **ballot** package in the election.

**Processing of Mail Ballots**

9.19 On general voting day, during the period established by the Chief Election Officer, the Chief Election Officer or presiding election official will, in the presence of at least one other person and any candidate representative:

(a) deal with any challenges to the electors involving the accepted **certification envelopes**;
(b) open the **certification envelopes**;
(c) remove the **secrecy envelope** containing the **ballots**;
(d) open the **secrecy envelope** and insert the **ballots** into the **vote counting unit** designated for mail **ballot** voting; and
(e) secure the **vote counting unit** so that no more **ballots** can be inserted.

9.20 After 8:00 p.m. on general voting day, the Chief Election Officer or presiding election official will follow the procedures in Section 9.19 for all remaining accepted **certification envelopes** from mail **ballot** packages received by 8:00 p.m. on general voting day but not yet processed.

**10. PROCEDURES AFTER CLOSE OF VOTING ON GENERAL VOTING DAY**

10.1 After the close of voting on general voting day each presiding election official, except those responsible for advance voting opportunities, special voting opportunities and mail **ballot** voting, shall undertake all of the following, generally in the order stipulated:

(a) ensure that any remaining **ballots** in the **storage ballot compartment** are inserted into the **vote counting unit**;
(b) ensure that any mail **ballots** received are inserted into the mail ballot **vote counting unit**;
(c) secure the **vote counting unit** so that no more **ballots** can be inserted;
(d) generate three copies of the **results tape** from the **vote counting unit;**
(e) account for the unused, spoiled and voted **ballots** and place them, packaged and sealed separately, together with the **data storage device** from the **vote counting unit** and one copy of the **results tape**, into the **ballots** and results box;
(f) complete the **ballot** account and place a copy in the **ballots** and results box;
(g) seal the **ballots** and results box;
(h) place the voting books, list of electors, the original copy of the ballot account, one copy of the **results tape**, completed registration forms, keys and all completed forms into the election materials box; and
(i) deliver, or have available for pick-up the sealed **ballots** and results box, **vote counting units** and the election materials box, to the Chief Election Officer at **election headquarters**.

10.2 At the close of voting on general voting day, the Chief Election Officer shall, for the advance voting opportunity where vote counting units were used, proceed in accordance with Section 10.1 of this bylaw so far as applicable.

10.3 At the close of voting on general voting day, the Chief Election Officer shall, for the special voting opportunity where vote counting units were used, proceed in accordance with Section 10.1 of this bylaw so far as applicable.

10.4 At the close of voting on general voting day, the Chief Election Officer shall, for the voting opportunity where mail **ballots** were used, proceed in accordance with section 10.1 of this Bylaw so far as applicable.

10.5 If the **vote counting unit** is not functioning, **ballots** shall be counted manually.

10.6 The **data storage devices** of all **vote counting units** shall not be cleared of the official election results, but shall be retained for the period of time required for retention of election materials unless a recount is required.

10.7 Upon the fulfilment of the provisions of section 10, the Chief Election Officer shall, to obtain the election results, direct an election official to place the results in a spreadsheet, which may be used for display on the City's website, indicating the total preliminary election results.

**11. RECOUNT PROCEDURES**

11.1 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 procedures:

(a) the **data storage devices** of all **vote counting units** will be cleared;
(b) **vote counting units** will be designated for each voting place;
(c) all voted **ballots** will be removed from the sealed ballot boxes, except spoiled **ballots**, and reinserted in the appropriate **vote counting unit** under the supervision of the Chief Election Officer; and
(d) any **ballots**, returned by the **vote counting unit** during the recount process shall, through the use of the **ballot return override procedure**, be reinserted in the **vote counting unit** to ensure that any **acceptable marks** are counted or, if the **vote counting unit** is not functioning, **ballots** shall be counted manually,
(e) to obtain election results, the Chief or Deputy Chief Election Officer shall place the results of each voting place on spreadsheets so as to tally the total election results.

11.2 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*.

**12. GENERAL**

12.1 Any enactment referred to herein is a reference to the enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time.

12.2 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 effect the validity of the remainder which shall continue in full force and effect and be constructed as if the bylaw had been adopted without the invalid portion.

**READ A FIRST TIME** this 12th day of December, 2023.

**READ A SECOND TIME** this 12th day of December, 2023.

**READ A THIRD TIME** this 12th day of December, 2023.

**ADOPTED** this 9th day of January, 2024.

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| _____ | _____ |
| Michael Goetz | Linda Brick |
| Mayor | Corporate Officer |