

## 1. SHORT TITLE

1.1. This By-law shall be cited as the “Alternative Voting By-Law.”

## 2. DEFINITIONS

2.1 In this By-law:

- i. “Act” means the *Municipal Elections Act*, 1989 R.S.N.S. c. 300, as amended;
- ii. “Advance Poll” means the 9 days immediately preceding ordinary polling day;
- iii. “Alternative Polling Days” means any hours and dates fixed by a resolution of Council for alternative voting;
- iv. “Alternative Voting” means voting by telephone or via the internet and includes a combination of telephone and internet voting;
- v. “Ballot Box” means a computer database in the system in which internet ballots and telephone ballots are placed;
- vi. “Candidate” means a person who has been nominated as a candidate pursuant to the Act;
- vii. “Council” means the Council of the Town of Mahone Bay;
- viii. “Deputy Returning Officer” means a person appointed by the Returning Officer pursuant to the Act to preside over a polling station;
- ix. “Election” means an election held pursuant to the Act, including a school board election, special election, and a plebiscite;
- x. “Election Officer” means an “election official” under the Act;
- xi. “Elector” means a person:
  - a. Qualified to vote pursuant to the Act; and
  - b. Entitled to vote for an election pursuant to section 7 of this by-law;
- xii. “Final List of Electors” means the final list of electors completed pursuant to section 40 of the Act;
- xiii. “Friend Voter” means a friend who votes for an elector pursuant to Section 9 of the by-law;
- xiv. “Internet Ballot” means an image of a ballot on a computer screen including all the choices available to an elector and the spaces in which an elector marks a vote;
- xv. “Town” means the Town of Mahone Bay;
- xvi. “Normal Business Hours” means the time between 8:30 am and 4:00 pm Monday through to and including Friday;

- xvii. “Ordinary Polling Day” means the third Saturday in October in a regular election year and in the case of any other election means the Saturday fixed for the election;
- xviii. “PIN” means the Personal Identification Number issued to an elector for alternative voting on alternative polling days;
- xix. “Plebiscite” means a plebiscite directed to be held by the Council pursuant to section 56(2) of the *Municipal Government Act*;
- xx. “Proxy Voter” means an elector who votes by a proxy pursuant to the Act;
- xxi. “Regular Election Year” means 2020 and every fourth year thereafter;
- xxii. “Rejected Ballot” means the refusal by an elector to accept a ballot in a race;
- xxiii. “Returning Officer” means a Returning Officer appointed by Council pursuant to the Act;
- xxiv. “Seal” means to prevent internet and telephone ballots from being cast;
- xxv. “Special Election” means a special election held pursuant to the Act, including a special election for a vacancy on a school board;
- xxvi. “Spoiled Ballot” means an internet ballot or telephone ballot marked by an elector indicating a refusal to cast a vote for any candidate in a race;
- xxvii. “System” means the technology, including software that:
  - a. Records and counts votes; and
  - b. Processes and stores the results of alternative voting during alternative polling days;
- xxviii. “System Election Officer” means:
  - a. A person who maintains, monitors, or audits the system, and
  - b. A person who has access to the system beyond the access necessary to vote by alternative voting.
- xxix. “Telephone Ballot” means:
  - a. An audio set of instructions which describes the voting choices available to an elector; and
  - b. The marking of a selection by an elector by depressing the number on a touch tone keypad.

### 3. ALTERNATIVE VOTING PERMITTED

3.1 Subject to this by-law, alternative voting shall be permitted on all days of advance polling and on ordinary polling day.

### 4. NOTIFICATION OF ELECTORS

4.1 The Returning Officer shall cause notice of alternative polling days to be published in a newspaper circulating in the Town.

4.2 The notice of alternative polling days shall:

- a. identify the alternative polling days for alternative voting; and

b. inform the elector that telephone voting and internet voting is permitted during alternative polling days.

4.3 The notice may include any other information the Returning Officer deems necessary.

## 5. FORM OF TELEPHONE AND INTERNET BALLOTS

5.1 A telephone ballot and internet ballot shall:

- a. identify the title “Election for Mayor” or “Election for Councillor” or “Election for School Board Member” as the case may be.
- b. identify the names by which the candidates are commonly known with given names followed by surnames, arranged alphabetically in order of their surnames and, where necessary, their given names, and;
- c. warn the elector to “vote for one candidate only” or “vote for not more than (the number of candidates to be elected) candidates” as the case may be.

5.2 No title, honour, decoration or degree shall be included with a candidate’s name on an internet ballot or telephone ballot.

## 6. OATH

Any oath that is authorized or required shall be made in the form specified by the Act.

## 7. ELECTORS

No person shall vote by alternative voting unless:

- a. the person’s name appears on the final list of electors on the date chosen by Council for the final list of electors to be completed pursuant to section 40 of the Act; or
- b. the person’s name does not appear on the final list of electors and:
- c. the person appears before the Returning Officer or the Deputy Returning Officer during normal business hours during alternative polling days; and
- d. the person swears an oath in the manner prescribed by the Act.

## 8. PROXY VOTING

8.1 A proxy voter shall not vote for an elector by alternative voting during advanced polling pursuant to the Act.

## 9. FRIEND VOTING

9.1 A friend voter shall only vote for an elector by alternative voting if:

- a. an elector is unable to vote because:
- b. the elector is blind;

- c. the elector cannot read;
- d. the elector has a physical disability that prevents him or her from voting by alternative voting;
- e. the elector and the friend voter appear, in person, before the Returning Officer or the Deputy Returning Officer and take the prescribed oaths.

9.2 A candidate shall not act as a friend voter unless the elector is a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate.

9.3 The elector shall take an oath in the form prescribed by the Act providing that he or she is incapable of voting without assistance.

9.4 The friend of the elector shall take an oath in the prescribed form to this by-law that:

- a. the friend has not previously acted as a friend for any other elector in the election other than an elector who is a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend of the elector;
- b. the friend will vote as requested by the elector; and
- c. the friend will keep secret the choice of the elector.

9.5 The Returning Officer shall enter into the poll book:

- a. the reason why the elector is unable to vote;
- b. the name of the friend; and
- c. the fact that the oaths were taken.

## 10. VOTING

10.1 The system shall put internet ballots and telephone ballots cast by an elector in the ballot box.

- a. The system shall put spoiled ballots in the ballot box.

10.2 Where alternative voting closes at the close of the polls on ordinary polling day, the system shall seal the ballot box at the close of the poll on ordinary polling day.

- a. The system shall seal the ballot box even where fewer than ten persons from any polling district voted for a candidate during alternative polling

## 11. ADVANCE POLL

11.1 The Advance Poll will take place during the 9 days preceding ordinary polling Day.

11.2 The Returning Officer shall establish a polling station for alternative voting at Town Hall, equipped with a computer or other device to permit voting by internet ballot.

11.3 The polling station for alternative voting shall be:

- a. Available for electors who are voting with friend voters and for any other electors; and
- b. Open on each advance polling day.

## 12. LIST OF PERSONS WHO VOTED

12.1 Where alternative voting closes at the close of the polls on ordinary polling day, the system shall:

- a. generate a list of all electors who voted by alternative voting; and
- b. on the Final List of Electors cause a line to be drawn through the name of all the electors who voted during alternative polling days.

12.2 A printed and electronic copy of the lists under section 12.1 shall be delivered to the Returning Officer within 24 hours of the close of alternative voting.

## 13. COUNTING

13.1 At the close of ordinary polling day, the system shall generate a count of the telephone ballots and internet ballots in the ballot box that were cast for each candidate during alternative polling days.

13.2 In counting the votes that were cast for each candidate during alternative polling days, the system shall count spoiled ballots and shall not count rejected ballots.

## 14. TALLYING OF SPOILED BALLOTS

At the close of ordinary polling day, the system shall tally the number of spoiled ballots that were cast during alternative polling days and the tally shall be delivered to the Returning Officer.

## 15. RECOUNT BY SYSTEM

15.1 In the event of a recount, the system shall regenerate the election count and a printed copy of the regenerated count shall be given to the Returning Officer.

15.2 If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.

15.3 If the regenerated count and the initial count do not match, the Returning Officer shall:

- a. direct one final count be regenerated by the system of the votes cast by alternative voting, and;
- b. attend while the final count is being regenerated

15.4 The regenerated final count pursuant to subsection 14.3(a) shall be the final count of the votes cast by alternative voting.

## 16. SECRECY

16.1 An election officer and system election officer shall maintain and aid in maintaining the secrecy of the voting.

16.2 Every person in attendance at a polling station, or at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting.

## 17. SEVERABILITY

If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

## 18. PROHIBITIONS

18.1 No person shall:

- a. use another person's PIN to vote or access the system unless the person is a friend voter;
- b. take, seize, or deprive an elector of his or her PIN; or
- c. sell, gift, transfer, assign or purchase a PIN.

18.2 No person shall:

- a. interfere or attempt to interfere with an elector who is casting an internet ballot or telephone ballot;
- b. interfere or attempt to interfere with alternative voting; or
- c. attempt to ascertain the name of the candidate for whom an elector is about to vote or has voted.

18.3 No person shall, at any time, communicate or attempt to communicate any information relating to the candidate for whom an elector has voted.

18.4 A person who:

- a. violates any provision of this by-law; or
- b. permits anything to be done in violation of any provision of this by-law;
- c. is guilty of an offense.

18.5 A person who contravenes 18.4 of this by-law is guilty of an offense and is liable, on summary conviction, to a penalty.

18.6 In determining a penalty under 18.5, a judge shall take into account:

- a. the number of votes attempted to be interfered with;
- b. the number of votes interfered with; and
- c. any potential interference with the outcome of an election.

18.7 Pursuant to section 146A of the Act;

- a. the limitation period for the prosecution of an offense under this by-law is two years from the later of the date of the commission of the offense and the date on which it was discovered that an offense had been committed; and
- b. the Remission of Penalties Act, 1989 SNS c. 397, as amended, does not apply to a pecuniary penalty imposed by this by-law.

**19. BY-LAW ENFORCEMENT**

It shall be the duty of the Returning Officer, appointed for the Town of Mahone Bay under the Nova Scotia Municipal Elections Act, to report all violations of this By-Law.

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David W. Devenne, Mayor

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Kelly Redden, Town Clerk

This is to certify that the foregoing is a true copy of the by-law passed at a duly convened meeting of the Council of the Town of Mahone Bay, held the 29<sup>th</sup> day of June, 2023.

Given under the hand of the Mayor and the Town Clerk and the seal of the Town of Mahone Bay this 4<sup>th</sup> day of July, 2023.

**CLERK'S NOTATION**

First Reading:	May 9, 2023
"Notice of Intent" Publication:	May 31, 2023
Second Reading:	June 29, 2023
Ministerial Approval:	N/A
Date of Publishing:	July 4, 2023
Forwarded to the Minister:	July 5, 2023
Forwarded to Town Website:	July 4, 2023