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## Alternative Voting By-law By-law No. 42

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### Part 1 Purpose

1.1 The purpose of this by-law is to identify Alternative Voting methods for municipal elections.

### Part 2 Definitions

2.1 **“Act”** means the Municipal Elections Act, 1989 R.S.N.S. c. 300, as amended;

2.2 **“Advance poll”** means:

2.2.1 the Tuesday immediately preceding Ordinary Polling Day; and

2.2.2 one other day fixed by the Council by resolution that is either Thursday, the ninth day before Ordinary Polling Day or Saturday, the seventh day before Ordinary Polling Day;

2.2.3 Any other day or days set by resolution of Council no sooner than the eleventh day before Ordinary Polling Day.

2.3 **“Alternative polling days”** means any dates fixed by a resolution of Council for Alternative Voting.

2.4 **“Alternative Voting”** means voting by telephone or via the internet and includes a combination of telephone and internet voting;

2.5 **“Ballot box”** means a computer database in the system where cast internet ballots and telephone ballots are put;

2.6 **“Candidate”** means a person who has been nominated as a candidate pursuant to the Act;

2.7 **“Council”** means the Council of the Municipality of the District of Barrington;

2.8 **“Election”** means an election held pursuant to the Act, including a school board election, a special

election, and a plebiscite;

2.9 **“Election Officer”** means an “election official” under the Act;

2.10 **“Elector”** means a person:

2.10.1 qualified to vote pursuant to the Act and the Education Act; and

2.10.2 entitled to vote on advance polling days for an election pursuant to this By-law;

2.11 **“Final list of electors”** means the final list of electors completed pursuant to the Act;

2.12 **“Friend voter”** means a friend who votes for an elector pursuant to this By-law;

2.13 **“Internet ballot”** means an image of a ballot on an internet enabled digital device screen, including all the choices available to an elector and the spaces in which an elector marks a vote;

2.14 **“Kiosk”** means an internet connected electronic device, such as a computer or tablet, which can be utilized to offer Alternative Voting at a convenient location;

2.15 **“Municipality”** means the Municipality of the District of Barrington;

2.16 **“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;

2.17 **“PIN”** means the Personal Identification Number issued to an elector for Alternative Voting on alternative polling days or on the Ordinary Polling Day;

2.18 **“Proxy voter”** means an elector who votes by a proxy pursuant to the Act;

2.19 **“Regular election year”** means 2024 and every fourth year thereafter;

2.20 **“Returning Officer”** means a Returning Officer appointed pursuant to the Act;

2.21 **“Seal”** means to secure the ballot box and prevent internet and telephone ballots from being cast;

2.22 **“Special election”** means a special election held pursuant to the Act, including a special election for a vacancy on a school board;

2.23 **“Spoiled ballot”** means an internet ballot or telephone ballot that has not been clearly marked for any candidate;

2.24 **“System”** means the technology, including software, that:

2.24.1 records and counts votes; and

2.24.2 processes and stores the results of Alternative Voting during advance polling days;

2.25 **“System Elections Officer”** means:

2.25.1 a person who maintains, monitors, or audits the system, and

2.25.2 a person who has access to the system beyond the access necessary to vote by Alternative Voting.

2.26 **“Telephone ballot”** means:

2.26.1 an audio set of instructions which describes the voting choices available to an elector; and

2.26.2 the marking of a selection by an elector by depressing the number on a touch tone keypad.

### **Part 3 Alternative Voting Permitted**

- 3.1 Subject to this By-law, Alternative Voting may be permitted on advance polling days and on the Ordinary Polling Day where Council has passed a resolution permitting one or more forms of Alternative Voting for an Election. Such resolution shall specifically state whether, in addition to Alternative Voting, there will be voting by paper ballot. Where Council does not authorize voting by paper ballot the provisions of the Act with respect to paper ballot voting shall not apply.
- 3.2 The Municipality may elect to use Alternative Voting on the Ordinary Polling Day and make available the equipment to use Alternative Voting at any poll.
- 3.3 In the event the Municipality elects to use Alternative Voting on the Ordinary Polling Day, the Municipality shall ensure that the equipment to use Alternative Voting is available at any poll.
- 3.4 Where voting by Internet Ballot is permitted through the unsupervised use of a personal computing device voting must also be permitted by some other means, such as by Telephone Ballot and/or paper ballot, on each advance polling day and on Ordinary Polling Day.
- 3.5 Not fewer than 60 days before the Ordinary Polling Day, the Returning Officer is directed to establish procedures and forms for the conduct of voting in accordance with the by-law and to provide a copy of the procedures and forms to each candidate for election.

### **Part 4 Notification of Electors**

- 4.1 The Returning Officer shall cause notice of advance polling days to be published in a newspaper circulating in the Municipality and to also be posted on the Municipal Website.
- 4.2 The notice of advance polling days shall:
- 4.2.1 identify the advance polling days for Alternative Voting;

- 4.2.2 inform electors that Alternative Voting is permitted during advance polling days.
- 4.3 The notice may include any other information the Returning Officer deems necessary to comply with the Act or this By-law.

#### **Part 5 Form of Telephone and Internet Ballots**

- 5.1 A telephone ballot and internet ballot shall:
  - 5.1.1 identify by the title “Election for Councillor”;
  - 5.1.2 identify candidate names or names by which they are commonly known, with given names followed by surnames, arranged alphabetically in order of their surnames and, where necessary, their given names; and
  - 5.1.3 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.

#### **Part 6 Oath**

- 6.1 Any oaths that are authorized or required shall be made in the form required by the Act.

#### **Part 7 Electors**

- 7.1 No person shall vote by Alternative Voting unless:
  - 7.1.1 the person’s name appears on the final list of electors on the date for the final list of electors to be completed pursuant to the Act;
  - 7.1.2 The person’s name does not appear on the final list of electors and:
    - 7.1.2.1 the person appears before the Returning Officer during normal business hours during advance polling days; and
    - 7.1.2.2 the person swears an oath in the prescribed form to the Act.

## **Part 8 Proxy Voting**

8.1 There shall be no voting by proxy by Alternative Voting.

## **Part 9 Kiosk Voting**

9.1 The Returning Officer may establish a Kiosk at the Municipal Office during normal business hours that fall within the Alternative Polling Days. The Returning Officer shall also establish a Kiosk at locations the Returning Officer deems appropriate during the Alternative Polling Days. The dates, times and locations of this Kiosk will be established and published thirty (30) days prior to the commencement of the Alternative Polling Days.

## **Part 10 Friend Voting**

10.1 A friend voter shall only vote for an elector by Alternative Voting if:

10.1.1 an elector is unable to vote because the elector is blind, the elector cannot read, or the elector has a physical disability that prevents them from voting by Alternative Voting; and

10.1.2 the elector and the friend appear in person before the Returning Officer and take the prescribed oaths.

10.2 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.

10.3 The elector shall take an oath in the prescribed form providing that they are incapable of voting without assistance.

10.4 The friend of the elector shall take an oath in the prescribed form that:

10.4.1 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 elector;

10.4.2 the friend will mark the ballot as requested by the elector; and

10.4.3 the friend will keep secret the choice of the elector.

10.5 Where the elector requests assistance, the Deputy Returning Officer or Returning Officer may act as a friend of the elector but shall not be required to take the oath referred to above.

10.6 The Deputy Returning Officer, Returning Officer or Poll Clerk shall enter in the log book:

10.6.1 the reason why the elector is unable to vote;

10.6.2 the name of the friend; and

10.6.3 the fact that the oaths were taken.

### **Part 11 Voting**

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

### **Part 12 Seal**

12.1 The system shall seal the virtual ballot box at the close of Ordinary Polling Day.

### **Part 13 List of Persons Who Voted**

13.1 Following the close of Ordinary Polling Day, the system shall generate a list of all electors who voted by Alternative Voting, and this list shall be delivered to the Returning Officer within 24 hours.

### **Part 14 Counting**

14.1 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 advance polling days and on Ordinary Polling Day.

14.2 In counting the votes that were cast for each candidate during advance polling days and on Ordinary Polling Day, the system shall not count spoiled ballots.

### **Part 15 Tallying of Spoiled Ballots**

15.1 At the close of Ordinary Polling Day, the system shall tally the number of spoiled ballots that were cast during advance polling days and on Ordinary Polling Day and the tally shall be delivered to the Returning Officer.

### **Part 16 Recount by System**

16.1 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.

16.2 If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by Alternative Voting.

- 16.3 If the regenerated count and the initial count do not match, the Returning Officer shall:
- 16.3.1 direct one final count be regenerated by the system of the votes cast by Alternative Voting, and
  - 16.3.2 attend while the final count is being regenerated.
- 16.4 The regenerated final count pursuant to this by-law shall be the final count of the votes cast by Alternative Voting.

### **Part 17 Recount by Court**

- 17.1 For a recount, the judge shall only consider the final count by the system, as determined by this by-law, of the total number of votes that were cast by Alternative Voting for each candidate.

### **Part 18 Secrecy**

- 18.1 An election officer and system election officers shall maintain and aid in maintaining the secrecy of the voting.
- 18.2 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.

### **Part 19 Severability**

- 19.1 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.

### **Part 20 Prohibitions**

- 20.1 No person shall:
- 20.1.1 use another's person's PIN to vote or access the system unless the person is a friend voter;
  - 20.1.2 take, seize, or deprive an elector of his or her PIN; or
  - 20.1.3 sell, gift, transfer, assign or purchase a PIN.
- 20.2 No person shall:

- 20.2.1 interfere or attempt to interfere with an elector who is casting an internet ballot or telephone ballot;
  - 20.2.2 interfere or attempt to interfere with Alternative Voting; or
  - 20.2.3 attempt to ascertain the name of the candidate for whom an elector is about to vote or has voted.
- 20.3 No person shall, at any time, communicate or attempt to communicate any information relating to the candidate for whom an elector has voted.

## **Part 21 Offences and Penalty**

- 21.1 A person who:
- 21.1.1 violates any provision of this By-law; or
  - 21.1.2 permits anything to be done in violation of any provision of this By-law;
- is guilty of an offence.
- 21.2 A person who contravenes subsection (1) of this section is guilty of an offence and is liable, on summary conviction, to a penalty of not less than five thousand dollars (\$5,000.00) and not more than ten thousand dollars (\$10,000.00) and in default of payment, to imprisonment for a term of two years (2) less a day, or both.
- 21.3 In determining a penalty under subsection (2), a judge shall take into account:
- 21.3.1 the number of votes interfered with; and
  - 21.3.2 any potential interference with the outcome of an election.
- 21.4 Pursuant to Section 146A of the Act:
- 21.4.1 the limitation period for the prosecution of an offence under this By-law is two (2) years from the later of the date of the commission of the offence and the date on which it was discovered that an offence had been committed; and
  - 21.4.2 The Remission of Penalties Act, 1989 SNS c.397, as amended, does not apply to a pecuniary penalty imposed by this By-law.

**Municipal Clerk's Annotation for Official By-law Book**

Date of first reading:	February 28, 2023
Date of advertisement of Notice of Intent to Consider:	March 8, 2023
Date of second and final reading:	March 28, 2023
*Date of advertisement of Passage of By-law:	April 5, 2023
Date of mailing to Minister a certified copy of By-law:	April 5, 2023

I certify that Council adopted By-law No. 42 "Alternative Voting By-law" on March 28, 2023 and published as indicated above.

\_\_\_\_\_  
Lesa Rossetti,  
Municipal Clerk

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Date

\*Effective Date of the By-law unless otherwise specified in the text of the By-Law.