

1. Title:

This Bylaw shall be titled and referred to as the “Electronic Voting Bylaw”.

2. Definitions:

In this Bylaw;

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

“**Advance Polling day**” means:

- i. The Tuesday immediately preceding ordinary polling day; and
- ii. One other day that is either Thursday, the ninth day before ordinary polling day or Saturday, the seventh day before ordinary polling day;

“**Electronic polling days**” means the period of nine (9) days before regular polling day starting on a Thursday of the week, prior to the week before regular polling day through to the Friday, the day before regular polling day. Electronic polling is available 24 hours a day with the exception of the Friday before regular polling day when the polls will close at 8 pm;

“**Electronic voting**” means voting by telephone or via the internet;

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

“**Council**” means the Council of the Town of Wolfville

“**Election**” means an election held pursuant to the Act, including any school board election, a special election and a plebiscite;

“**Town**” means the Town of Wolfville;

“**Municipal Elections Act**” means the Nova Scotia Municipal Elections Act;

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

“**Elector**” means a person qualified to vote at an election:

“**Friend-voter**” means a friend who votes for an elector pursuant to section 7.a. of this Bylaw;

“**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;

“**Regular polling day**” means the third Saturday in October in a regular election year and in the case of another election means the Saturday fixed for the election;



“**PIN**” means the Personal Identification Number issued to an elector for electronic voting;

“**Plebiscite**” means a plebiscite directed to be held by the Council pursuant to section 53 of the Municipal Government Act, S.N.S. 1998, c. 18 or section 56 of the Act,

“Regular election year” means 2020 and every fourth year thereafter;

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

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

“**Revised list of electors**” means the revised list of electors completed pursuant to section 50A of the Act;

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

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

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

- Records and counts votes; and
- Processes and stores the results of electronic voting

“**System Elections 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 electronic voting
- c. A person who, pursuant to section 146A(3)(cd) of the Act, is appointed as auditor to audit and monitor the performance of the system of voting.

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

“**Telephone ballot**” means:

- An audio set of instructions which describes the voting choices available to an elector; and
- The marking of a selection by an elector by depressing the number on a touch tone keypad;

3. Electronic Voting Permitted

- a. Subject to this Bylaw, electronic voting shall be permitted on each of the nine (9) days before the regular polling day, including the Advance Polling days. To clarify, the period of nine (9) days before regular polling day, begins on the Thursday of the week, prior to the week before regular polling day through to the Friday, the day before regular polling day. Electronic polling is available 24 hours a day with the exception of the Friday, the day before regular polling day, when the electronic polls will close at 8 pm;
- b. Only paper ballots will be available on regular polling day;

4. Notification of Electors

- a. The Returning Officer shall cause notice of electronic polling days to be published in a newspaper circulating in the Town;
- b. The notice of electronic polling days shall:
 - i. Identify the electronic polling days for electronic voting; and
 - ii. Inform electors that telephone voting and internet voting is permitted during electronic polling days;
- c. The notice may include any other information the Returning Officer deems necessary.

5. Polling Station for Electronic Voting:

- a. The Returning Officer shall establish at least one polling station for electronic voting that is equipped with a computer or other device to permit voting by internet ballot and a telephone to permit voting by telephone ballot;
- b. The polling station for electronic voting shall be available for electors who are voting with friend voters and for any other electors, and open on each advance polling day from 8.30 a.m. to 8.00 pm., and on such other days as decided by the Returning Officer.
- c. Despite s. 58(1) of the Act, the Returning Officer may appoint a Deputy Returning Officer and poll clerk for each polling station for electronic voting, but is not required to do so.

6. Form of Telephone and Internet Ballots:

A telephone ballot and internet ballot shall:

- a. Identify by the title "Election for Mayor" or "Election for Councillor" or "Election for School Board Member"; as the case may be;
- b. Identify the names or names by which they are commonly known of the candidates 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;

- d. No title, honour, decoration or degree shall be included with a candidate's name on an internet ballot or telephone ballot;

7. Oath

Any oath that is authorized or required shall be made:

- a. In the form specified by this Bylaw, or
- b. If the form is not specified by this Bylaw, in the form required by the Act

8. Electors

No person shall vote by electronic voting unless:

- a. The person's name appears on the revised list of electors on the date for the revised list of electors to be completed pursuant to Section 50A of the Act; or
- b. The person's name does not appear on the revised list of electors and
 - i. The person appears before the Returning Officer during normal business hours during alternative polling days; and
 - ii. The person swears an oath in the prescribed form to this Bylaw

9. Proxy Voting:

- a. There shall be no voting by proxy by electronic voting;

10. Friend Voting:

- a. A friend voter shall only vote for an elector by electronic voting if:
 - i. 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 electronic voting; and
 - ii. The elector and the friend appear, in person, before the Returning Officer and take the prescribed oaths.
- b. 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.
- c. The elector shall take an oath in the prescribed form to this Bylaw providing that they are incapable of voting without assistance.
- d. The friend of the elector shall take an oath in the prescribed form to this Bylaw that:
 - i. 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;
 - ii. The friend will mark the ballot as requested by the elector; and
 - iii. The friend will keep secret the choice of the elector.

- e. Where the elector requests assistance, the Returning Officer may act as a friend of the elector but shall not be required to take the oath referred to above.
- f. The Deputy Returning Officer, Returning Officer or Poll clerk shall enter in the poll book:
 - i. The reason why the elector is unable to carry out their vote ;
 - ii. The name of the friend; and
 - iii. The fact that oaths were taken.

11. Voting:

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

12. Seal:

- a. Where electronic voting closes before the close of the polls on regular polling day, the system shall seal the virtual ballot box until after the close of the poll on regular polling day. To clarify, the system shall seal the virtual ballot box at the end of the Electronic Voting period at 8 pm on Friday, the day before regular polling day.
- b. The system shall seal the ballot box even where fewer than ten persons from any polling district voted for a candidate during electronic polling day.

13. List of persons who voted:

Where electronic voting closes before the close of the polls on regular polling day, the system shall:

- a. generate a list of all electors who voted by electronic voting; and
- b. on the revised list of electors cause a line to be drawn through the name of all the electors who voted during electronic polling days
- c. A printed and electronic copy of the lists in a. and b. above shall be delivered/accessible to the Returning Officer

14. Counting:

- a. At the close of regular polling day, the system shall generate a count of the total telephone ballots and internet ballots in the virtual ballot box that were cast for each candidate;
- b. In counting the votes that were cast for each candidate the system shall not count rejected ballots.

15. Tallying of Rejected Ballots:

At the close of regular polling day, the system shall tally the number of rejected ballots that were cast during polling days and the tally shall be made available/accessible to the Returning Officer.

16. Recount by System:

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.

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

- a. If the regenerated count and the initial count do not match, the Returning Office shall:
 - i. Direct one final count be regenerated by the system of the votes cast by electronic voting, and
 - ii. Attend while the final count is being regenerated
- b. The regenerated final count pursuant to subsection a. shall be the final count of the votes cast by electronic voting.

17. Secrecy:

- a. The Returning Officer shall maintain and aid in maintaining the secrecy of the voting;
- b. 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.

18. Severability:

If a court of competent jurisdiction should declare any section or part of a section of this Bylaw 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 Bylaw and it is hereby declared that the remainder of the Bylaw shall be valid and shall remain in force.

19. Prohibitions:

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 their PIN; or
- c. Sell gift, transfer, assign or purchase a PIN.
- d. Interfere or attempt to interfere with an elector who is casting an internet or telephone ballot;
- e. Interfere or attempt to interfere with electronic voting; or
- f. Attempt to ascertain the name of the candidate for whom an elector is about to vote or has voted.

- g. At any time communicate or attempt to communicate any information as to the candidate for whom any other person has voted.

20. Offences and Penalty:

- a. A person who violates any provision of this Bylaw; or permits anything to be done in violation of any provision of this Bylaw; is guilty of an offence.
- b. A person who contravenes a. above is guilty of an offence and is liable, on summary conviction, to a penalty of not less than five thousand dollars and not more than ten thousand dollars and in default of payment, to imprisonment for a term of two years less a day, or both.
- c. In determining a penalty under b. above, a judge shall take into account:
 - i. The number of votes attempted to be interfered with;
 - ii. The number of votes interfered with; and
 - iii. Any potential interference with the outcome of an election.
- d. Pursuant to section 146A of the Act;
 - i. The limitation period for the prosecution of an offence under this Bylaw is two 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
 - ii. The Remission of Penalties Act, 1989 S.N.S. c. 397, as amended, does not apply to a pecuniary penalty imposed by this Bylaw.

Clerk's Annotation for Official Bylaw Book

Date of first reading: March 3, 2020

Date of advertisement of Notice of Intent to Consider: April 27, 2020

Date of second reading: May 19, 2020

Date of advertisement of Passage of By-law: May 23, 2020

Date of mailing to Minister a certified copy of By-law: May 25, 2020

I certify that this **Electronic Voting Bylaw 102**-- was adopted by Council and published as indicated above.



E. BEAUDIN -Town Clerk/CAO

May 25, 2020
Date