



# TOWN OF SHELBURNE

## ALTERNATIVE VOTING BYLAW

**BE IT ENACTED** by the Council of the Town of Shelburne, under the authority of Section 146A of the *Municipal Elections Act*, 1989 R.S.N.S., c.300, as amended, as follows:

### 1. **SHORT TITLE**

This By-law shall be known and cited as the “Alternative Voting Bylaw”.

### 2. **DEFINITIONS**

- a) “**Act**” means the *Municipal Elections Act*, 1989 R.S.N.S., c.300, as amended;
- b) “**Advance Polling Day**” means:
  - a) the Tuesday immediately preceding ordinary polling day; and
  - b) one other day fixed by the Council that is either Thursday, the ninth (9<sup>th</sup>) day before ordinary polling day or Saturday, the seventh (7<sup>th</sup>) day before ordinary polling day;
- c) “**Alternative Polling Days**” means any hours and dates fixed by a resolution of Shelburne Town Council for alternative voting;
- d) “**Alternative Voting**” means voting by telephone or via the internet and includes a combination of telephone and internet voting;
- e) “**Ballot Box**” means a computer database in the system where cast internet ballots and telephone ballots are put;
- f) “**Candidate**” means a person who has been nominated as a candidate pursuant to the *Act*;
- g) “**Council**” means the Council for the Town of Shelburne;
- h) “**Deputy Returning Officer**” means a person appointed under the *Act* to preside over a polling station;
- i) “**Education Act**” means the *Education (CSAP) Act*, Chapter 1 of the *Acts of 1995-96* as amended;
- j) “**Election**” means an election held pursuant to the *Act*, including a CSAP School Board election, a special election, and a plebiscite;
- k) “**Elector**” means a person:
  - a) Qualified to vote pursuant to the *Act* and the *Education (CSAP) Act*, and
  - b) Entitled to vote for an election pursuant to Section 7 of this By-law;
- l) “**Amended List of Electors**” means the amended List of Electors completed pursuant to Section 38 the *Act*;
- m) “**Friend Voter**” means a friend who votes for an elector pursuant to Section 11 of this By-law and pursuant to the *Act*;
- n) “**Internet Ballot**” means an image of a ballot on a computer screen including all the candidate choices available to an elector and the spaces in which an elector marks a vote;

## BYLAW

- o) “**Town**” means the Town of Shelburne;
- p) “**Normal Business Hours**” means the normal hours which the Town Office is opened as posted on the Town's website.
- q) “**Ordinary Polling Day**” means the third (3<sup>rd</sup>) Saturday in October in a regular election year and in the case of any other election means the Saturday fixed for the election;
- r) “**PIN**” means the Personal Identification Number issued to an elector for alternative voting on alternative polling days;
- s) “**Plebiscite**” – means a plebiscite directed to be held by the Council pursuant to section 53 of the *Municipal Government Act*.
- t) “**Proxy Voter**” means an elector who votes by a proxy pursuant to the *Act*;
- u) “**Regular Election Year**” means 2020 and every fourth (4<sup>th</sup>) year thereafter;
- v) “**Rejected Ballot**” means an internet or telephone ballot that has not been marked for any candidate;
- w) “**Returning Officer**” means a Returning Officer and/or an assistant officer appointed pursuant to the *Act*;
- x) “**Seal**” means to secure the ballot box and prevent internet and telephone ballots from being cast;
- y) “**Special Election**” means a special election held pursuant to the *Act*, including a special election for a vacancy on the Conseil Scholaire Acadien Provincial (CSAP) School Board;
- z) “**Spoiled ballot**” means an internet or telephone ballot that is accepted by the elector that is:
  - a) Not marked for any candidate in a race; or
  - b) Is marked by an elector indicating a refusal to cast a vote for any candidate in a race;
- aa) “**System**” means the technology, including software, that:
  - a) records and counts votes;
  - b) processes and stores the results of alternative voting during alternative polling days;
- bb) “**System Elections Officer**” (Auditor) 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;
- cc) “**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**

- 1) Council may, by resolution, provide that voting by a telephone and a personal computing device via internet shall be the only means of alternative voting.
- 2) Subject to this By-law, alternative voting shall be permitted on advance polling days pursuant to this By-law and the *Act*.
- 3) The Town may elect to use alternative voting on ordinary polling day and make available the equipment to use alternative voting at any polling station.

**4. NOTIFICATION OF ELECTORS**

- 1) The Returning Officer shall cause notice of alternative polling days to be published in a newspaper circulating in the Town.
  - a. The notice of alternative polling days shall:
    - i. Identify the alternative polling days for alternative voting; and
    - ii. Inform the elector that telephone voting and internet voting is permitted during alternative polling days.
  - b. The notice may include any other information the Returning Officer deems necessary.
- 2) Council may, by resolution, deem alternative voting (telephone, internet) on ordinary polling day.
  - a. The Returning Officer shall cause notice of the ordinary polling day to be published as per the *Act*.
  - b. In addition to the requirements of the *Act*, the published notice of the ordinary polling day shall inform the electors that telephone voting and internet voting is authorized during the ordinary polling day.
  - c. The notice may include any other information the Returning Officer deems necessary to comply with the *Act* or this By-law.

**5. FORM OF TELEPHONE AND INTERNET BALLOTS**

- 1) A telephone ballot or internet ballot shall:
  - a. identify by the title "Election for Mayor"; or "Election for Councillor"; or "Election for CSAP 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;
  - c. warn the elector to "vote for one candidate only" or "vote for up to" (the number of candidates to be elected) candidates", as the case may be;
- 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 required by the *Act*.

**7. ELECTORS**

1) No person shall vote by alternative voting unless:

a) the person's name appears on the Amended List of Electors on the date chosen by Council for the amended list of electors to be completed pursuant to section 38 of the *Act*; or

b) the person's name does not appear on the Amended 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 form prescribed by the *Act*.

3) As per section 36 of the *Act*, a person may apply for an amendment to the Preliminary List of Electors by telephone after the first notice of the Preliminary List of Electors is given pursuant to section 34 of the *Act* and such amendments may be made by a Revising Officer, the Returning Officer, or the Assistant Deputy Officer in accordance with subsection 3.

4) Notwithstanding subsection 36(2) of the *Act*, an application by telephone to be added to any list of electors shall be sufficiently detailed to allow the Revising Officer or Returning Officer to determine whether the information can be verified from other sources available to the Revising Officer or Returning Officer and, if the Revising Officer or Returning Officer determines that this is not possible, then the applicant shall be required to personally appear, at the location and time determined by the Revising Officer or Returning Officer, and make an application accompanied by a declaration under oath administered by the Revising Officer or the Returning Officer of the facts that support the application.

**8. POLLING STATION FOR ALTERNATIVE VOTING**

1) If Council decides that voting by a telephone or by a personal computing device are the only means of voting in an election, the Returning Officer shall establish at least one polling station for alternative voting and each polling station established shall be equipped with at least one device that is capable of casting either an internet ballot or telephone ballot.

2) 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 advance polling days and the ordinary polling day; and

c) on such other days and times as decided by the Returning Officer.

**9. POLLING LOCATIONS FOR ALTERNATIVE VOTING**

- 1) In addition to establishing at least one polling station, the Returning Officer may establish one or more polling locations for alternative voting during alternative polling days.
- 2) A polling location may be at such places and during such times as may be determined by the Returning Officer and such location shall be equipped with at least one device that is capable of casting either an internet ballot or telephone ballot.
- 3) A polling location established by the Returning Officer is not a polling station within the meaning of the *Act*.

**10. PROXY VOTING**

A proxy voter shall not vote for an elector by alternative voting.

**11. FRIEND VOTING**

- 1) A friend voter shall only vote for an elector by alternative voting if
  - a) An elector is unable to vote because:
    - a) The elector is blind;
    - b) The elector cannot read; or
    - c) The elector has a physical disability that prevents them from voting by alternative voting.
  - b) The elector and the friend appear, in person, before the Returning Officer and take the prescribed oaths.
- 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.
- 3) The elector shall take an oath in the prescribed form to this By-law providing that they are incapable of voting without assistance.
- 4) The friend of the elector shall take an oath in the prescribed form, in person before the Returning Officer 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 mark the ballot as requested by the elector; and
  - c) The friend will keep secret the choice of the elector.
- 5) The Returning Officer shall, in accordance with section 86 of the *Act*, enter in a record book:
  - a) the form type used in accordance with the *Act*;
  - b) the name of the friend and elector; and
  - c) the date the oaths were taken.

**12. SYSTEM ELECTIONS OFFICER**

- 1) A System Elections Officer shall have access to the system prior to the commencement of alternative voting to verify the count for each candidate is zero.
- 2) Notwithstanding the day and time set for alternative voting, alternative voting shall not commence until the counts for each of the candidates is zero.
- 3) A System Elections Officer shall comply with the procedures and forms established by the Returning Officer pursuant to subsection 146A(4) of the Act.

**13. VOTING**

- 1) The electronic system shall put internet and telephone ballots cast by an elector in the system's electronic ballot box
- 2) The system shall put spoiled ballots in the ballot box.

**14. SEAL**

- 1) Alternative voting closes at the end of ordinary polling day. The system shall seal the ballot box at the close of ordinary polling day.
- 2) The Returning Officer has the authorization to "unseal" the ballot box and print out the tabulated results of the alternative voting.

**15. VOTER'S LIST**

The Town shall have a "live" voter's list available at the polling stations during the advance and ordinary polling days.

**16. COUNTING**

- 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 voting days.
- 2) In counting the telephone and internet ballots in the ballot box, the system shall count spoiled ballots but shall not count rejected ballots.
- 3) In counting the telephone and internet ballots, the system shall tally the number of spoiled ballots and the tally shall be delivered to the Returning Officer.

**17. RECOUNT BY SYSTEM**

- 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.
- 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.
- 3) If the initial count and the regenerated count do not match, the Returning Officer shall:
  - a) Direct one final count regenerated by the system of the votes cast by alternative voting; and
  - b) Attend while the final count is being regenerated.
- 4) The regenerated final count, pursuant to subsection (1), shall be the final count of the votes by alternative voting.

**18. RECOUNT BY JUDGE**

- 1) For a recount, the judge shall only consider the final count by the system, as determined by Section 17, of the total number of votes that were cast by alternative voting for each candidate.
- 2) The final count by the system, as determined by Section 17, of the total number of votes that were cast by alternative voting for each candidate shall be added to the judge's count of the number of votes for each candidate cast by non-alternative voting.

**19. SECRECY**

- 1) An Election Officer and System Election Officer shall maintain and aid in maintaining the secrecy of the voting.
- 2) Every person in attendance at a polling station, or at the counting of votes, shall maintain and aid in maintain the secrecy of the voting.

**20. OTHER METHODS OF VOTING**

- 1) If voting via the internet through the unsupervised use of a personal computing device is permitted during an election, voting shall be permitted by some other means on each advance polling day and on ordinary polling day.
- 2) Council may, by resolution, provide that voting by a telephone and by a personal computing device shall be the only means of voting for an election.

**21. 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 as it is, hereby, declared that the remainder of the By-law be valid and shall remain in force.

**22. PROHIBITIONS**

- 1) No person shall:
  - a) use another person's PIN (Personal Identification Number) 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.
- 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 for or has voted for.
- 3) No person shall, at any time, communicate or attempt to communicate any information relating to the candidate for whom an elector has voted.

**23. OFFENCES & PENALTIES**

- 1) Any 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; is guilty of an offence.
- 2) A person who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a penalty of not less than five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000) and in default of payment, to imprisonment for up to a maximum term of two (2) years less a day, or both.
- 3) In determining a penalty under subsection (2), a judge shall take into account:
  - a) The number of votes attempted to be interfered with;
  - b) The number of votes interfere with; and
  - c) Any potential interference with the outcome of an election.
- 4) Pursuant to Section 146A of the *Act*:
  - a) 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



b) The *Remission of Penalties Act*, 1989 SNS c. 397, as amended, does not apply to a pecuniary penalty imposed by this By-law.

**24. REPEAL & SUPERSEDE**

This bylaw shall repeal and supersede any and all previous regulations and / or bylaws held by the Town of Shelburne regarding Alternative Voting.

THIS IS TO CERTIFY that the By-Law of which the foregoing is a true copy and was duly passed at duly called meeting of the Council of the Town of Shelburne, held on the 4th day of August 2020.

GIVEN under the hand of the Clerk and the corporate seal of the said Town this 4th day of August 2020.

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Mayor, Harold Locke

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CAO, Sherry Doane

Date of First Reading: July 6, 2020  
Date of Advertisement in Vanguard: July 13, 2020  
Date of Second Reading: August 4<sup>th</sup>, 2020  
Date of Advertisement of Passage in Vanguard: December 16, 2020  
Date Mailed to Minister: