

C8 ELECTRONIC VOTING BYLAW

Short Title

1. This Bylaw shall be known as the “*Electronic Voting Bylaw.*”

Definitions

2. In this Bylaw:
 - (1) “*Act*” means the *Municipal Elections Act, 1989 R.S.N.S. c. 300*, as amended.
 - (2) “*advance poll*” means the Tuesday immediately preceding ordinary polling day; and either:
 - (a) 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 in accordance with the *Act*; or
 - (b) if Council has delegated its authority to fix a day to the Returning Officer, one other day fixed by the Returning Officer that is either Thursday, the ninth day before ordinary polling day, or Saturday the seventh day before ordinary polling day in accordance with the *Act*.
 - (3) “*electronic polling days*” means any hours and dates fixed by a resolution of Council for electronic voting, inclusive of the regulated advance poll dates.
 - (4) “*electronic voting*” means voting by telephone or via the internet and includes both telephone and internet voting.
 - (5) “*ballot box*” means a computer database in the system where cast internet ballots and telephone ballots are put.
 - (6) “*candidate*” means a person who has been nominated as a candidate pursuant to the *Act*.
 - (7) “*Council*” means the Municipal Council of the Municipality of the County of Annapolis.
 - (8) “*Education Act*” means the *Education Act, 1995-1996 S.N.S. c. 1*, as amended.
 - (9) “*election*” means an election held pursuant to the *Municipal Elections Act* or the *Education Act*, including a school board election, special election, and a plebiscite.
 - (10) “*Election Officer*” means an “*election official*” under the *Act*.
 - (11) “*elector*” means a person qualified to vote pursuant to the *Municipal Elections Act* and the *Education Act*.
 - (12) “*final list of electors*” means the final list of electors completed pursuant to section 40 of the *Act*.
 - (13) “*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.
 - (14) “*municipality*” means the Municipality of the County of Annapolis.

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- (15) “normal business hours” means the time between 8:30 am and 4:30 pm Monday through to and including Friday.
- (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.
- (17) “PIN” means the Personal Identification Number issued to an elector for electronic voting on electronic polling days.
- (18) “plebiscite” means a plebiscite directed to be held by the Municipal Council pursuant to Section 56(2) of the *Municipal Government Act*.
- (19) “regular election year” means 2016 and every fourth year thereafter.
- (20) “rejected ballot” means the refusal by an elector to accept a ballot in a race.
- (21) “Returning Officer” means a Returning Officer appointed pursuant to the *Act*.
- (22) “special election” means a special election held pursuant to the *Act*, including a special election for a vacancy on a school board.
- (23) “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.
- (24) “system” means the technology, including software, that:
- (a) records and counts votes; and
 - (b) processes and stores the results of electronic voting during electronic polling days.
- (25) “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 alternative voting.
- (26) “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.

Only Electronic Voting Permitted

3. Subject to this *Bylaw*, only electronic voting shall be permitted on all voting days.

Notification of Electors

4. (1) The Returning Officer shall cause notice of electronic polling days to be published in a newspaper circulating in the Municipality.
- (2) The notice of electronic polling days shall:
- (a) identify the electronic polling days for electronic voting; and
 - (b) inform the elector that telephone voting and internet voting is permitted during

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electronic polling days.

- (3) The notice may include any other information the Returning Officer deems necessary.

Form of Telephone and Internet Ballots

5. (1) A telephone ballot and internet ballot shall:
 - (a) identify the title “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.
- (2) No title, honour, decoration, or degree shall be included with a candidate’s name on an internet ballot or telephone ballot.

Oath

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

Electors

7. No person shall vote by electronic voting unless:
 - (1) the person’s name appears on the final list of electors on the date chosen by Municipal Council for the final list of electors to be completed pursuant to Section 40 of the *Act*;
or
 - (2) the person’s name does not appear on the final list of electors and:
 - (a) the person appears before the Returning Officer or Election Officer during normal business hours during electronic polling days; and
 - (b) the person swears an oath in the manner prescribed by the *Act*.

Voting

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

List of Persons Who Voted

9. (1) The system shall deliver a printed and electronic copy of the list of all electors who voted by electronic voting to the Returning Officer within 24 hours of the close of electronic voting.

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- (2) Where electronic voting closes at the close of the polls on ordinary polling day, the system shall generate a list of all electors who voted by electronic voting.

Counting

10. At the close of ordinary polling day, the system shall:

- (1) Generate a count of the telephone ballots and internet ballots in the ballot box that were cast for each candidate during electronic polling days; and
- (2) In counting the votes that were cast for each candidate during electronic polling days, the system shall count spoiled ballots and shall not count rejected ballots.

Tallying of Spoiled Ballots

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

Recount by System

12. 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.
13. If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by electronic voting.
14. (1) 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 electronic voting, and
 - (b) attend while the final count is being regenerated.
- (2) The regenerated final count pursuant to Sub-section (1) shall be the final count of the votes cast by electronic voting.

Recount by Court

15. For a recount, the judge shall only consider the final count by the system, as determined by Section 13 or 14 of the total number of votes that were cast by electronic voting for each candidate.

Secrecy

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

Severability

17. If a court of competent jurisdiction should declare any section or part of a section of this

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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.

Prohibitions

18. No person shall:

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

19. No person shall:

- (1) interfere or attempt to interfere with an elector who is casting an internet ballot or telephone ballot;
- (2) interfere or attempt to interfere with electronic voting; or
- (3) attempt to ascertain the name of the candidate for whom an elector is about to vote or has voted.

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

Offences and Penalty

21. (1) A person who:

- (a) violates any provision of this *Bylaw*; or
 - (b) permits anything to be done in violation of any provision of this *Bylaw*; is guilty of an offence.
- (2) A person who contravenes Sub-section (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 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.
- (3) In determining a penalty under Sub-section (2), a judge shall take into account:
- (a) the number of votes attempted to be interfered with; and
 - (b) the number of votes interfered 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 *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
 - (b) The *Remission of Penalties Act, 1989 SNS c. 397*, as amended, does not apply to a pecuniary penalty imposed by this *Bylaw*.

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Repeal and Replace

22. The *C8 Alternative Voting Bylaw* is repealed and replaced by this Bylaw.

Changes to Bylaw

23. A review of this bylaw and/or any changes will take place one full year in advance of the regular four-year election cycle.

Clerk's Annotation for Official Bylaw Book

Date of first reading: November 21, 2023

Date of advertisement of Notice of Intent to Consider: November 30, 2023

Date of final reading: December 19, 2023

Date of advertisement of Passage of Bylaw*: January 4, 2024

I certify that this bylaw was adopted / amended by Municipal Council and published as indicated above.

Carolyn Young

Municipal Clerk

January 5, 2024

Date

** Effective Date of the Bylaw unless otherwise specified*