

Part 1 – Title and Purpose

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

Short Title

1. This By-law shall be known as **Town of Port Hawkesbury’s Alternative Voting By-Law** and may be cited as the “Alternative Voting By-law”.

Part 2 – Definitions

Interpretation

2. In this by-law:
 - (a) **“Act”** means the *Municipal Elections Act*, 1989 R.S.N.S. c. 300, as amended;
 - (b) **“Advance Polling Day”** means:
 - i. the Tuesday immediately preceding ordinary polling day; and either
 - ii. one other day fixed by the Council by resolution that is either Thursday, the ninth (9th) day before ordinary polling day, or Saturday the seventh (7th) day before ordinary polling day;
 - (c) **“Alternative Polling Days”** means any hours and dates fixed by a resolution of 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) **“Candidate”** means a person who has been nominated as a candidate pursuant to the Act;
 - (f) **“Council”** means the Council of the Town of Port Hawkesbury;

- (g) **“Deputy Returning Officer”** means a person appointed under the Act to preside over a polling station;
- (h) **“Education Act”** means the *Education Act*, 1995-1996 S.N.S. c. 1, as amended;
- (i) **“Election”** means an election held pursuant to the Act, including a special election and a plebiscite;
- (j) **“Elector”** means a person:
 - (i) qualified to vote pursuant to the Act and
 - (ii) entitled to vote for an election pursuant to section 7 of this by-law;
- (k) **“Electronic Ballot Box”** means a computer database in the system where cast internet ballots and telephone ballots are put;
- (l) **“Amended List of Electors”** means the amended List of Electors completed pursuant to Section 38 of the Act;
- (m) **“Friend Voter”** means a friend who votes for an elector pursuant to section 11 of this by-law;
- (n) **“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.
- (o) **“Normal Business Hours”** means the time between 8:30 am and 4:30 pm Monday through to and including Friday;
- (p) **“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;
- (q) **“PIN”** means the Personal Identification Number issued to:
 - (i) an elector for alternative voting on alternative polling days; or
 - (ii) to a System Elections Officer;
- (r) **“Plebiscite”** means a plebiscite directed to be held by the Council pursuant to section 56 of the *Act*;
- (s) **“Proxy Voter”** means an elector who votes by a proxy pursuant to the Act;

- (t) **“Regular Election Year”** means 2008 and every fourth year thereafter;
- (u) **“Rejected Ballot”** means the refusal by an electoral officer to accept a ballot in a race;
- (v) **“Returning Officer”** means a Returning Officer appointed pursuant to the Act;
- (w) **“Seal”** means to secure the ballot box and prevent internet and telephone ballots from being cast;
- (x) **“Special Election”** means a special election held pursuant to the Act;
- (y) **“Spoiled Ballot”** means an internet ballot or telephone ballot that is accepted by the elector that:
 - (i) is not marked for any candidate in a race; or
 - (ii) is marked by an elector indicating a refusal to cast a vote for any candidate in a race;
- (z) **“System”** means the technology, including software, that:
 - (i) records and counts votes; and
 - (ii) processes and stores the results of alternative voting during alternative polling days;
- (aa) **“System Elections Officer”** means:
 - (i) a person who maintains, monitors, or audits the system, and
 - (ii) a person who has access to the system beyond the access necessary to vote by alternative voting, and
 - (iii) 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.
- (bb) **“Telephone Ballot”** means:
 - (i) an audio set of instructions which describes the voting choices available to an elector; and
 - (ii) the marking of a selection by an elector by depressing the number on a touch tone keypad.
- (cc) **“Town”** means the Town of Port Hawkesbury;

Part 3 – Alternative Voting Permitted

3. (1) Subject to this by-law, alternative voting shall be permitted on alternative polling days.
- (2) Unless Council decides otherwise, there shall be no voting by way of paper ballots.

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

Part 5 – Form of Telephone and Internet Ballots

5. (1) A telephone ballot and internet ballot shall:
 - a) identify by the title “Election for Mayor” or “Election for Councillor” or 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.

Part 6 – Oath

6. Any oath that is authorized or required shall be made:
 - (a) in the form specified by this by-law; or
 - (b) if the form is not specified by this by-law, in the form required by the Act.

Part 7 – Electors

7. No person shall vote by alternative voting unless:
 - (a) the person's name appears on the revised list of electors 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 or the Deputy Returning Officer during normal business hours during alternative polling days; and
 - (ii) the person swears an oath in the prescribed by the *Act*.

Part 8 – Polling Station for Alternative Voting

8. (1) If Council decided 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 with 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

Part 9 – Polling Locations

9. (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 a Returning Officer is not a polling station within the *Act*.

Part 10 - Proxy Voting

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

Part 11 - Friend Voting

11. (1) A friend voter shall only vote for an elector by alternative voting if:
 - (a) an elector is unable to vote because:
 - (i) the elector is blind;
 - (ii) the elector cannot read; or
 - (iii) the elector has a physical disability that prevents him or her from voting by alternative voting.
 - (b) the elector and the friend appear, in person, before the Returning Officer or the Deputy 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 he or she is incapable of voting without assistance.
- (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 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 enter in 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.

Part 12 – Voting

12. (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.

Part 13 - System Elections Officer

13. (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*.

Part 14 – Seal

14. (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.

Part 15 – Voter’s List

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

Part 16 – Counting

16. (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.
- (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.

Part 17 – Recount by System

17. (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 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.
- (4) The regenerated final count pursuant to subsection (1) shall be the final count of the votes cast by alternative voting.

Part 18 – Recount by Judge

18. (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.

Part 19 – Secrecy

19. (1) An Elections 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 the votes, shall maintain and aid in maintaining the secrecy of the voting.

Part 20 – Other Methods of Voting

20. 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 via telephone in person at a designated kiosk location in the Town on advance polling days and ordinary polling day.

Part 21 – Severability

21. 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 22 – Prohibitions

22. (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.

(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.
- (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 23 – Offences and Penalty

28. (1) 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; is guilty of an offence.
- (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 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 subsection (2), 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.
- (4) Pursuant to section 146A of the Act:
- (a) the limitation period for the prosecution of an offence under this by-law 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 by-law.

Date of First Reading: May 21, 2024

Date of Advertisement of Notice of Intent to Consider: June 5 & 12, 2024

Date of Second Reading: June 18, 2024

Date of Advertisement of By-law Passage and Approval: June 26, 2024

Date of Mailing Certified Copy to SNSMR:

Effective on the Date that the by-Law is Adopted June 18, 2024

I certify that the Alternative Voting By-Law for the Town of Port Hawkesbury was adopted by Council at a Public Meeting, held on

Terry Doyle P. Eng.

Chief Administrative Officer

Date

