

MUNICIPALITY OF THE COUNTY OF KINGS



For By-Law information contact the Municipal Clerk

Tel: (902) 678-6141 Fax: (902) 678-9279 E-mail: municipalclerk@countyofkings.ca

BY-LAW #108

ALTERNATIVE VOTING BY-LAW

A BY-LAW OF THE MUNICIPALITY OF THE COUNTY OF KINGS TO PERMIT VOTING IN THE 2020 MUNICIPAL ELECTION BY TELEPHONE AND INTERNET AS ADDITIONAL OPTIONS TO CASTING CUSTOMARY PAPER BALLOTS

WHEREAS section 146A(1) *Municipal Elections Act, 1989 R.S.N.S. c.300*, as amended, permits Council to authorize voters to vote by mail, electronically, or by another voting method; and

WHEREAS section 146A(3)(ca) *Municipal Elections Act* states the by-law may provide for voting by telephone, via the Internet or by any other electronic means, including a combination of different electronic means; and

WHEREAS section 146A(3)(cc) *Municipal Elections Act* states such by-law may provide for additional hours and dates for voting at an advance poll, including permitting voting twenty-four hours per day over a period of days; and

WHEREAS the Council of the Municipality of the County of Kings wishes to permit voting by customary paper ballot, or by Internet, or by telephone for the 2020 Municipal Election;

NOW THEREFORE BE IT RESOLVED THAT the Municipality of the County of Kings hereby enacts as follows:

1. Definitions

In this By-law:

- 1.1 "Act" means the *Municipal Elections Act, 1989 R.S.N.S. c.300*, as amended;
- 1.2 "advance poll" means the voting period between October 5, 2020 and October 15, 2020 at 7:00 pm Atlantic Daylight Time.
- 1.3 "alternative polling days" means any hours and dates fixed by a resolution of Council for alternative voting;
- 1.4 "alternative voting" means voting by telephone or via the internet and includes a combination of telephone and internet voting;
- 1.5 "ballot box" means a computer database in the system where cast internet ballots and telephone ballots are put;
- 1.6 "candidate" means a person who has been nominated as a candidate pursuant to the *Act*;
- 1.7 "Council" means the Council of the municipality;
- 1.8 "Deputy Returning Officer" means a person appointed under the *Act* to preside over a polling station;
- 1.9 "election" means an election held pursuant to the *Act*;
- 1.10 "Election Officer" means an "election official" under the *Act*;

- 1.11 “elector” means a person: qualified to vote pursuant to the *Act*; and entitled to vote for an election pursuant to section 5.2 of this By-law;
- 1.12 “final list of electors” means the final list of electors completed pursuant to s.38 of the *Act*;
- 1.13 “friend voter” means a friend who votes for an elector pursuant to s.5.4 of this By-law;
- 1.14 “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;
- 1.15 “municipality” means the Municipality of the County of Kings;
- 1.16 “normal business hours” means the time between 8:30 am and 4:30 pm Monday through to and including Friday;
- 1.17 “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;
- 1.18 “PIN” means the Personal Identification Number issued to an elector for alternative voting on alternative polling days;
- 1.19 “plebiscite” means a plebiscite directed to be held by the Council pursuant to s.53 *Municipal Government Act*;
- 1.20 “proxy voter” means an elector who votes by a proxy pursuant to the *Act*;
- 1.21 “rejected ballot” means the refusal by an elector to accept a ballot in a race;
- 1.22 “Returning Officer” means a Returning Officer appointed pursuant to the *Act*;
- 1.23 “seal” means to secure the ballot box and prevent internet and telephone ballots from being cast;
- 1.24 “special election” means a special election held pursuant to the *Act*, including a special election for a vacancy on the Conseil scolaire acadien board;
- 1.25 “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;
- 1.26 “system” means the technology, including software, that records and counts votes, and processes and stores the results of alternative voting during alternative polling days;
- 1.27 “System Elections Officer” means: a person who maintains, monitors, or audits the system, and a person who has access to the system beyond the access necessary to vote by alternative voting.
- 1.28 “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;

2. Alternative Voting

- 2.1 That the municipal election process for the Municipality of the County of Kings elections utilize voting by internet and telephone methods known as “Alternative Voting”.

- 2.2 That the 2020 Municipal Election process utilize alternative voting in the form of electronic voting via telephone and internet be used in conjunction with paper ballots.
- 2.3 That electronic voting, via telephone or internet, is the only form of voting during the advance polling days where the advance polling days shall be October 5-15, 2020, inclusive.
- Electronic voting shall be available to electors twenty-four hours per day during this period, beginning at 8:00 am Atlantic Daylight Time on October 5, 2020 and ending at 7:00 pm Atlantic Daylight Time on October 15, 2020.
- 2.4 That paper ballots only be available to electors on the Ordinary Polling Day, which is October 17, 2020.

2. Notification of Electors

- 3.1 The Returning Officer shall cause notice of alternative polling days to be published in a newspaper circulating in the municipality.
- 3.2 The notice of alternative polling days shall:
- 3.1.1 identify the alternative polling days for alternative voting; and
- 3.1.2 inform the elector that telephone voting and internet voting is permitted during alternative polling days.
- 3.3 The notice may include any other information the Returning Officer deems necessary.

4 Form of Telephone and Internet Ballots

- 4.1 A telephone ballot and internet ballot shall:
- 4.1.1 identify the title "Election for Mayor," "Election for Councillor," or "Election for Conseil scolaire acadien provincial board," as the case may be;
- 4.1.2 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
- 4.1.3 advise 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.
- 4.2 No title, honour, decoration, or degree shall be included with a candidate's name on an internet ballot or telephone ballot.

5 Swearing In and Voting on Election Day

Oath

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

Electors

- 5.2 No person shall vote by alternative voting unless:

- 5.2.1 the person's name appears on the final list of electors on the date chosen by Council for the revised list of electors to be completed pursuant to s.50A of the *Act*; or
- 5.2.2 the person's name does not appear on the final list of electors and:
 - 5.2.2.1 the person applies for an amendment to the list of electors by telephone, in writing, or in person to the Returning Officer or the Deputy Returning Officer; and
 - 5.2.2.2 the person swears an oath in the form prescribed by the *Act*.

Proxy Voting

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

Friend Voting

- 5.4 A friend voter shall only vote for an elector by alternative voting if:
 - 5.4.1 an elector is unable to vote because of any cause provided in s.86(1) of the *Act*; and
 - 5.4.2 the elector and the friend appear, in person, before the Returning Officer or the Deputy Returning Officer and take the prescribed oaths.
- 5.5 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.
- 5.6 The elector shall take an oath in the form prescribed by the *Act* providing that they are incapable of voting without assistance.
- 5.7 The friend of the elector shall take an oath in the prescribed form to this By-law that:
 - 5.7.1 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 friend of the elector;
 - 5.7.2 the friend will mark the ballot as requested by the elector; and
 - 5.7.3 the friend will keep secret the choice of the elector.
- 5.8 The Returning Officer shall enter in the poll book:
 - 5.8.1 the reason why the elector is unable to vote;
 - 5.8.2 the name of the friend; and
 - 5.8.3 the fact that the oaths were taken.

Voting

- 5.9 The system shall put internet ballots and telephone ballots cast by an elector in the ballot box.
- 5.10 The system shall put spoiled ballots in the ballot box.

Seal

- 5.11 Where alternative voting closes before the close of the polls on ordinary polling day, the system shall seal the ballot box until after the close of the poll on ordinary polling day.

- 5.12 The system shall seal the ballot box even where fewer than ten persons from any polling district voted for a candidate during alternative polling days.

List of persons who voted

- 5.13 Where alternative voting closes before the close of the polls on ordinary polling day, the system shall:
- 5.13.1 generate a list of all electors who voted by alternative voting; and
 - 5.13.2 on the Final List of Electors cause a line to be drawn through the name of all the electors who voted during alternative polling days.
- 5.14 A printed and electronic copy of the lists under section 1.12 shall be delivered to the Returning Officer within 24 hours of the close of alternative voting.
- 5.15 Where alternative voting closes at the close of the polls on ordinary polling day, the system shall generate a list of all electors who voted by alternative voting.

6 Method of Counting Ballots or Votes

Counting

- 6.1 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.
- 6.2 In counting the votes that were cast for each candidate during alternative polling days, the system shall count spoiled ballots and shall not count rejected ballots.

Tallying of Spoiled Ballots

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

Recount by System

- 6.4 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.
- 6.5 If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.
- 6.6 If the regenerated count and the initial count do not match, the Returning Officer shall:
- 6.6.1 direct one final count be regenerated by the system of the votes cast by alternative voting, and
 - 6.6.2 attend while the final count is being regenerated.
- 6.7 The regenerated final count pursuant to 6.6 shall be the final count of the votes cast by alternative voting.

Recount by Court

- 6.8 The final count by the system, as determined by section 6.6 or 6.7, 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.

Rejection of Ballots or Votes

6.9 Ballots or votes shall be rejected by the Deputy Returning Officer for any cause provided for in s.108 of the *Act*.

7 Secrecy

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

7.2 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.

8 Prohibitions

8.1 No person shall:

8.1.1 use another person's PIN to vote or access the system unless the person is a friend voter;

8.1.2 take, seize, or deprive an elector of his or her PIN; or

8.1.3 sell, gift, transfer, assign or purchase a PIN.

8.2 No person shall:

8.2.1 interfere or attempt to interfere with an elector who is casting an internet ballot or telephone ballot;

8.2.2 interfere or attempt to interfere with alternative voting; or

8.2.3 attempt to ascertain the name of the candidate for whom an elector is about to vote or has voted.

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

9 Offences and Penalty

9.1 A person who:

9.1.1 violates any provision of this By-law; or

9.1.2 permits anything to be done in violation of any provision of this By-law; is guilty of an offence.

9.2 A person who contravenes section 9.1 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.

9.3 In determining a penalty under section 9.2, a Judge shall take into account:

9.3.1 the number of votes attempted to be interfered with;

9.3.2 the number of votes interfered with; and

9.3.3 any potential interference with the outcome of an election.

9.4 Pursuant to section 146A of the *Act*:

- 9.4.1 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
- 9.4.2 *The Remission of Penalties Act, 1989 SNS c. 397*, as amended, does not apply to a pecuniary penalty imposed by this By-law.

10 Severability

- 10.1 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.

By-law Adoption					
First Reading	Notice of Second Reading	Second Reading	Notice of Passing	Certified Copy to Minister	Approval/Acknowledgement by Minister
July 7, 2020	July 18, 2020	Sept. 1, 2020	Sept. 5, 2020	Sept. 8, 2020	Sept. 18, 2020

By-law Amendments					
First Reading	Notice of Second Reading	Second Reading	Notice of Passing	Certified Copy to Minister	Approval/Acknowledgement by Minister