

## ELECTRONIC VOTING BYLAW (INTERNET AND TELEPHONE)

### TITLE

1. This Bylaw shall be known as Chapter 57 and may be cited as the “Electronic Voting Bylaw”.

### DEFINITIONS

2. In this bylaw:
  - a. “**Act**” means the *Municipal Elections Act*, 1989 R.S.N.S. c. 300, as amended;
  - b. “**advance poll**” means:
    - i. the Tuesday immediately preceding ordinary polling day; and
    - ii. 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;
  - c. “**alternative polling days**” means any hours and dates fixed by a resolution of Council for alternative voting;
  - d. “**alternative voting**” means voting by telephone or via the internet through the unsupervised use of a personal computing device 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 of the Town of Middleton;
  - 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 Conseil Scolaire Acadien Provincial school board election or Plebiscite;
  - j. “**Election Officer**” means an “Election Official” under the Act;
  - k. “**elector**” means a person:
    - i. qualified to vote pursuant to the Act and the Education Act; and
    - ii. entitled to vote on advance polling days for an election pursuant to Section 10 of this bylaw, or entitled to vote on the ordinary polling day;
  - l. “**final list of electors**” means the final list of electors completed pursuant to Section 40 of the Act;
  - m. “**friend voter**” means a friend who votes for an elector pursuant to Section 12 of this by-law;
  - n. “**Internet ballot**” means an image of a ballot on an Internet enabled digital device screen including all the choices available to an elector and the spaces in which an elector marks a vote;
  - o. “**Municipality**” means the Town of Middleton
  - p. “**normal business hours**” means the time between 10 a.m. and 4 p.m., Monday through to and including Friday, except public holidays;
  - q. “**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;
  - r. “**PIN**” means the Personal Identification Number issued to an elector for alternative voting on alternative polling days or on the ordinary polling day;
  - s. “**proxy voter**” means an elector who votes by a proxy pursuant to the Act;
  - t. “**regular election year**” means 2016 and every fourth year thereafter;
  - u. “**spoiled ballot**” means an Internet ballot or telephone ballot that has not been marked for any candidate;
  - 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. “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 and on the ordinary polling day;
- y. “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;
- z. “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.

### **ALTERNATIVE VOTING PERMITTED**

- 3. Subject to this bylaw, alternative voting shall be permitted on alternative polling days and on the ordinary polling day.
- 4. The Municipality may elect to use alternative voting on the ordinary polling day and/or make available the equipment to use alternative voting at any poll.
- 5. Not fewer than sixty (60) days before the ordinary polling day, the Returning Officer is directed to establish procedures and forms for the conduct of voting in accordance with the bylaw and to provide a copy of the procedures and forms to each candidate for election.

### **NOTIFICATION OF ELECTORS**

- 6. The Returning Officer shall cause notice of advance poll days to be published as required by the Act.
- 7. The notice of advance poll days shall:
  - a. identify the advance poll days for paper voting and for alternative voting; and
  - b. inform the elector that telephone voting and internet voting is permitted during alternative polling days.
- 8. The Returning Officer shall cause notice of the ordinary polling day to be published as required by the Act.
- 9. The notice may include any information the Returning Officer deems necessary to comply with the Act or this bylaw.

### **FORM OF TELEPHONE AND INTERNET BALLOTS**

- 10. A telephone ballot and Internet ballot shall:
  - a. identify by the title “Election for Mayor”, “Election for Councillor” or “Election for Conseil Scolaire Acadien Provincial School Board Member”, as the case may be;
  - b. identify the name 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.
- 11. No title, honour, decoration or degree shall be included with a candidate’s name on an Internet ballot or telephone ballot.

### OATH

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

### ELECTORS

13. 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 the Act; or 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 advance polling days; and
    - ii. the person swears an oath in the prescribed form to the Act.

### PROXY VOTING

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

### FRIEND VOTING

15. 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 and take the prescribed oaths.
16. 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.
17. The elector shall take an oath in the prescribed form to the Act providing that he or she is incapable of voting without assistance.
18. The friend of the elector shall take an oath in the prescribed form to the Act 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.
19. 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.

### VOTING

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

### SEAL

21. At the close of the alternative polling days, the system shall seal the ballot box until after the close of the poll on ordinary polling day.

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

#### **LIST OF PERSONS WHO VOTED**

23. At the close of ordinary polling days, the system shall:
  - a. generate a list of all electors who voted either manually or by alternative voting; and
  - b. a list of voters who did not vote, if required by the Returning Officer.

#### **COUNTING**

24. 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 and on the ordinary polling day.

#### **RECOUNT BY SYSTEM**

25. 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.
26. If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.
27. 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.
28. The regenerated final count pursuant to subsection (1) shall be the final count of the votes cast by alternative voting.

#### **RECOUNT BY COURT**

29. For a recount, the judge shall only consider the final count by the system, as determined by Section 21 or 22, of the total number of votes that were cast by alternative voting for each candidate.
30. The final count by the system, as determined by Section 21 or 22, 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.

#### **SECURITY**

31. An Election Officer and System Election Officer shall maintain and aid in maintaining the secrecy of the voting.
32. 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.

#### **SEVERABILITY**

33. 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.

### PROHIBITIONS

34. 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.
  
35. 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.
  
36. 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 PENALTIES

37. 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.
  
38. 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 (\$5,000) dollars and not more than ten thousand (\$10,000) dollars and in default of payment, to imprisonment for a term of two years less a day, or both.
  
39. 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.
  
40. 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.

I, **Jennifer Boyd**, Town Clerk of the Town of Middleton, do hereby certify that the Bylaw, of which the foregoing is a true copy, was duly passed at a duly called meeting of the Town Council of the Town of Middleton held on the 20<sup>th</sup> day of July, 2020.

  
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Jennifer Boyd  
Town Clerk



<b>Bylaw Adoption</b>	
Date of First Reading:	June 18, 2012
Publication of Notice of Intent:	June 28, 2012
Date of 2 <sup>nd</sup> Reading & Passing:	July 16, 2012
Date of Publication of Notice of Passing:	July 26, 2012
Description: Passing of Original Bylaw	
<b>First Amendment</b>	
Date of First Reading:	May 16, 2016
Publication of Notice of Intent:	May 25 & June 29, 2016
Date of 2 <sup>nd</sup> Reading & Passing:	June 18, 2016
Date of Publication of Notice of Passing:	July 27, 2016
<b>Second Amendment</b>	
Date of First Reading:	June 15, 2020
Publication of Notice of Intent:	June 27, 2020
Date of 2 <sup>nd</sup> Reading & Passing:	July 20, 2020
Date of Publication of Notice of Passing:	July 25, 2020
Description: Second Amendment to the Repeal Bylaw amended this Bylaw by adding repealed bylaw Chapter 40 – Partial Tax Exemption Bylaw.	