

# TOWN OF STEWIACKE

## BY-LAW NUMBER 2012 – 21

### Title

1. This By-law may be cited as the "Alternative Voting By-law".

### **Definitions**

2. In this by-law:
  - (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 ordinary polling day between the hours of 8:00 a.m. and 7:00 p.m., plus any additional hours and dates fixed by a resolution of 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 Stewiacke;
  - (g) "election" means an election held pursuant to the *Act*, including a school board election, a special election and a plebiscite;
  - (h) "Election Officer" means an "election official" under the *Act*;
  - (i) "elector" means a person qualified to vote at an election;
  - (j) "final list of electors" means the final list of electors completed pursuant to section 40 of the *Act*;

- (k) "friend voter" means a friend who votes for an elector pursuant to section 9 of this by-law;
- (l) "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;
- (m) "normal business hours" means the time between 8:30 am and 4:30 pm Monday through to and including Friday;
- (n) "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;
- (o) "PIN" means the Personal Identification Number issued to an elector for alternative voting on alternative polling days;
- (p) "plebiscite" means a plebiscite directed to be held by the Council pursuant to section 53 of the *Municipal Government Act*, S.N.S. 1998, c. 18 or section 56 of the *Act*;
- (q) "regular election year" means 2012 and every fourth year thereafter;
- (r) "rejected ballot" means an internet ballot or telephone ballot that has not been marked for any candidate;
- (s) "Returning Officer" means a Returning Officer appointed pursuant to the *Act*;
- (t) "seal" means to secure the virtual ballot box and prevent internet and telephone ballots from being cast;
- (u) "special election" means a special election held pursuant to the *Act*, including a special election for a vacancy on a school board;
- (v) "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;
- (w) "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;

- (x) "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;
- (y) "Town" means Town of Stewiacke;
- (z) "virtual ballot box" means a computer database in the system where cast internet ballots and telephone ballots are put.

### **Alternative Voting Permitted**

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

### **Notification of Electors**

- 5. (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 electors 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.

### **Polling Station for Alternative Voting**

- 6. (1) The Returning Officer may establish at least one polling station for alternative voting that is equipped with a computer to permit voting by internet ballot.
- (2) The polling station for alternative voting shall be:

- (i) available for electors who are voting with friend voters and for any other electors; and
- (ii) open on ordinary polling day, and on such other days as decided by the Returning Officer.

### **Form of Telephone and Internet Ballots**

- 7. (1) A telephone ballot and internet ballot shall:
  - (a) identify by the title "Election for Mayor" or "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**

- 8. 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*.

### **Electors**

- 9. No person shall vote by alternative voting unless:
  - (a) the person's name appears on the final list of electors on the date chosen by Council for the final list of electors to be completed pursuant to section 40 of the *Act*; or
  - (b) the person's name does not appear on the final 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 prescribed form to this by-law.

### **Proxy Voting**

10. There shall be no voting by proxy by alternative voting.

### **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 the elector is blind, the elector cannot read, or the elector has a physical disability that prevents him or her from voting by alternative voting; and

(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 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) Where the elector requests assistance, the Deputy Returning Officer may act as a friend of the elector but shall not be required to take the oath referred to in subsections (1) and (4).

(6) The Poll Clerk 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**

12. The system shall put internet ballots and telephone ballots cast by an elector in the virtual ballot box.

### **Seal**

13. The system shall seal the virtual ballot box at the close of ordinary polling day.

### **List of persons who voted**

14. Following the close of ordinary polling day, the system shall generate a list of all electors who voted by alternative voting, and this list shall be delivered to the Returning Officer within 24 hours.

### **Counting**

15.
  - (1) At the close of ordinary polling day, the system shall generate a count of the telephone ballots and internet ballots in the virtual ballot box that were cast for each candidate during alternative polling days.
  - (2) In counting the votes that were cast for each candidate during alternative polling days, the system shall not count rejected ballots.

### **Tallying of Rejected Ballots**

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

### **Recount by System**

17. 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.
18. If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.
19. (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 alternative voting, and
  - (b) attend while the final count is being regenerated.
- (2) The regenerated final count pursuant to subsection (1) shall be the final count of the votes cast by alternative voting.

### **Recount by Court**

20. (1) For elections for which there is no voting by paper ballot, there shall be no recount by a judge.
- (2) For a recount for elections for which there is voting by paper ballot and alternative voting:
  - (a) the judge shall only consider the final count by the system, as determined by section 18 or 19, of the total number of votes that were cast by alternative voting for each candidate; and
  - (b) the final count by the system, as determined by section 18 or 19, 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 paper ballot.

### **Secrecy**

21. Election Officer and System Election Officer shall maintain and aid in maintaining the secrecy of the voting.

22. 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**

23. 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.

### **Prohibitions**

24. 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.
25. 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.
26. No person shall, at any time, communicate or attempt to communicate any information as to the candidate for whom any other person has voted.

### **Offences and Penalty**

27. (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 S.N.S. c. 397, as amended, does not apply to a pecuniary penalty imposed by this by-law.

### **Repeal**

- 28. By-law 2008 – 17, “A By-law to Authorize the Voting by Telephone/Internet for the 2008 Municipal Elections”, is repealed.

**Annotations for Official Bylaw Book**

Date of first reading: March 22<sup>nd</sup> 2012  
Date of advertisement of Notice of Intent to Consider: April 7<sup>th</sup> 2012  
Date of second reading: April 26<sup>th</sup> 2012  
Date of advertisement of Passage of By-law: May 7<sup>th</sup> 2012  
Date of mailing to Minister a certified copy of By-law: May 8<sup>th</sup> 2012

I certify that this *Alternative Voting By-law* was adopted by Council and published as indicated above.

\_\_\_\_\_  
CAO / Clerk

\_\_\_\_\_  
Date