

Revised to include changes approved by Regional Council Motion of May 13, 2008

HALIFAX REGIONAL MUNICIPALITY BY-LAW NUMBER A - 400

RESPECTING ALTERNATIVE VOTING FOR ORDINARY MUNICIPAL ELECTIONS

BE IT ENACTED by the Council of the Halifax Regional Municipality, 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 By-law Number A - 400 and 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) “advance polling days” means the period of time from 8:00 am on Saturday October 4, 2008 until 8:00 pm on Monday, October 6, 2008;
 - (d) “alternative voting” means voting by telephone or via the internet 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 municipality;
 - (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 school board election;
 - (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 7 of this by-law;

(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 9 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) “municipality” means the Halifax Regional Municipality;

(p) “normal business hours” means the time between 8:30 am and 4:30 pm Monday through to and including Friday;

(q) “ordinary polling day” means the third Saturday in October in a regular election year;

(r) “PIN” means the Personal Identification Number issued to an elector for alternative voting on advance polling days;

(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 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 advance polling days;

(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.

(y) “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 by-law, alternative voting shall be permitted on advance polling days.

Notification of Electors

4. (1) The Returning Officer shall cause notice of advance polling days to be published in a newspaper circulating in the municipality.

(2) The notice of advance polling days shall:

- (a) identify the advance polling days for alternative voting; and
- (b) inform the elector that telephone voting and internet voting is permitted during advance 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 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

6. Any oath that is authorized or required shall be made:

(i) in the form specified by this by-law, or

(ii) if the form is not specified by this by-law, in the form required by the Act.

Electors

7. 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;

(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 advance polling days; and

(ii) the person swears an oath in the prescribed form to this by-law; or

(c) following the completion of the final list of electors and not later than five o'clock in the evening on September 26th of a regular election year, the person applies for a certificate of eligibility to vote pursuant to sections 41A (2)-(7) inclusive of the Act.

Proxy Voting

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

Friend Voting

9. (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 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.

Voting

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

Seal

11. (1) At the close of the advance polling days, the system shall seal the ballot box until after the close of the poll on ordinary polling day.

(2) 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

12. At the close of alternative voting, the system shall generate a list of persons who voted using alternative voting and deliver to the Returning Officer a printed and electronic copy of the completed list.
13. A Returning Officer shall, on the final list of electors to be used at each polling station for an advance poll, cause a line to be drawn through the names of all electors who voted at the advance polling days.

Counting

14. (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 advance polling days.

(2) In counting the votes that were cast for each candidate during advance polling days, the system shall not count rejected ballots.

Tallying of Rejected Ballots

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

Recount by System

16. 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.
17. If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.
18. (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

19. (1) For a recount, the judge shall only consider the final count by the system, as determined by section 17 or 18, 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 or 18, 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.

Secrecy

20. An election officer and system election officer shall maintain and aid in maintaining the secrecy of the voting.
21. 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.

Other Methods of Voting

22. Notwithstanding this by-law, non alternative voting is permitted at advance polls held pursuant to the Act.

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's 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 relating to the candidate for whom an elector 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 SNS c. 397, as amended, does not apply to a pecuniary penalty imposed by this by-law.

Done and passed in Council this

day of June, 2008.

CLERK

FORM 26

SECTION 9

**OATH OR AFFIRMATION OF FRIEND OF ELECTOR REQUIRING ASSISTANCE
FOR ALTERNATIVE VOTING
(UNRELATED)**

(For use by a person who is not a candidate and who is not related to the elector)

You swear (or solemnly affirm) that:

- (a) you have not previously acted as a friend for any other elector in the election who is not a child, grandchild, brother, sister, parent, grandparent, or spouse;
- (b) you will carry out the wishes of the elector on whose behalf you act; and
- (c) you will keep secret the name of the candidate or candidates for whom you mark the internet ballot or telephone ballot.

NOTE: **A candidate shall not act as a friend of an elector who is not a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate. A person who is not a candidate may act as a friend for one unrelated elector and any number of electors who are a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend.**

FORM 26A

SECTION 9

**OATH OR AFFIRMATION OF FRIEND OF ELECTOR REQUIRING ASSISTANCE
FOR ALTERNATIVE VOTING
(CANDIDATE/RELATIVE)**

(For use by a person, including a candidate, who is related to the elector)

You swear (or solemnly affirm) that:

- (a) the elector on whose behalf you acted is a child, grandchild, brother, sister, parent, grandparent, or spouse,
- (b) you will carry out the wishes of the elector on whose behalf you act; and
- (c) you will keep secret the name of the candidate or candidates for whom you mark the internet ballot or telephone ballot.

NOTE: **A candidate shall not act as a friend of an elector who is not a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate. A person who is not a candidate may act as a friend for one unrelated elector and any number of electors who are a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend.**

FORM 31
SECTION 7
OATH OF AFFIRMATION OF ELECTOR
NOT ON LIST OF ELECTORS

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Halifax Regional Municipality.
2. I have been ordinarily resident in the Halifax Regional Municipality for a period of three months immediately preceding ordinary polling day in this election.
3. I have not voted before in this election.
4. I am a Canadian citizen and of the full age of eighteen years, or will be on ordinary polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name Being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(*write "yes" or "no")

Sworn (or affirmed) at _____
in the Halifax Regional Municipality,
this _____ day of _____, _____, before me

Returning Officer

The Voters List may be used in future municipal, provincial or federal elections.
(Date of Birth will be removed from final list of electors).

**FORM 31A
SECTION 7
OATH OR AFFIRMATION OF ELECTOR NOT ON LIST OF ELECTORS
FOR USE WHEN ELECTOR CAN VOTE ONLY FOR
REGIONAL/DISTRICT SCHOOL BOARD**

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Halifax Regional Municipality.
2. I have been ordinarily resident in the school region/district in which my polling division is located for a period of three months immediately preceding ordinary polling day in this election.
3. I have not voted before in this election.
4. I am a Canadian citizen and of the full age of eighteen years, or will be on ordinary polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name Being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(*write "yes" or "no")

Sworn (or affirmed) at _____
in the Halifax Regional Municipality,
this _____ day of _____, _____, before me

Returning Officer

The Voters List may be used in future municipal, provincial or federal elections.
(Date of Birth will be removed from final list of electors).

FORM 31B
SECTION 7
OATH OR AFFIRMATION OF ELECTOR NOT ON LIST OF ELECTORS
FOR USE WHEN ELECTOR CAN VOTE ONLY FOR
CONSEIL SCOLAIRE ACADIEN PROVINCIAL

I swear (or solemnly affirm) that:

1. On this date I actually reside in Polling Division Number _____ of the Halifax Regional Municipality.
2. I have been ordinarily resident in the Province of Nova Scotia for a period of three months immediately preceding ordinary polling day in this election.
3. I have not voted before in this election.
4. I am a Canadian citizen and of the full age of eighteen years, or will be on ordinary polling day.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.

Address of Elector	Elector's Date of Birth	Signature of Elector	Consents to Name Being added to Voters List*
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(*write "yes" or "no")

Sworn (or affirmed) at _____
in the Halifax Regional Municipality,
this _____ day of _____, _____, before me

Returning Officer

(A translation of this form is available in french).

The Voters List may be used in future municipal, provincial or federal elections.
(Date of Birth will be removed from final list of electors).

FORMULAIRE 31B
ARTICLE 7
SERMENT OU DÉCLARATION SOLENNELLE DE L'ÉLECTEUR(TRICE)
NON INSCRIT(E) SUR LA LISTE DES ÉLECTEURS,
À UTILISER LORSQUE L'ÉLECTEUR(TRICE) NE PEUT VOTER QUE LORS DES
ÉLECTIONS DU CONSEIL SCOLAIRE ACADIEN PROVINCIAL

Je jure (ou déclare solennellement) que

1. À la date d'aujourd'hui je réside dans la section de vote numéro _____ de la municipalité régionale d'Halifax.
2. J'ai ordinairement résidé dans la province de la Nouvelle-Écosse pendant la période de trois mois précédant immédiatement le jour ordinaire du scrutin de ces élections.
3. Je n'ai voté, lors de ces élections.
4. Je suis citoyen(ne) canadien(ne), j'ai dix-huit ans ou plus ou les aurai le jour de scrutin.
5. Je ne suis pas le(la) directeur(trice) du scrutin, une personne purgeant une peine dans un établissement pénitentiaire ou un centre d'éducation surveillée ou une personne condamnée pour corruption ou subornation au cours des six années précédant le jour du scrutin selon la loi sur les élections municipales.

Adresse de l'électeur(trice)	Date de naissance de l'électeur(trice)	Signature de l'électeur(trice)	Consent à ce que son nom soit ajouté à la liste des électeurs
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(Indiquer Oui or Non)

Juré (ou déclaré solennellement) à:

_____ dans le comté de _____
le _____
devant moi

Scrutateur

(Le présent formulaire est également disponible en anglais.)

La liste des électeurs pourra servir lors d'élections municipales, provinciales ou fédérales ultérieures.

La date de naissance ne figurera pas sur la liste finale des électeurs.