



Alternative Voting By-law A-028-20

Effective Date:
November 29, 2023

Part 1 Purpose

The purpose of this by-law is to identify alternative voting methods for municipal elections.

Part 2 Definitions

- 2.1 “**Act**” means the *Municipal Elections Act*, 1989 R.S.N.S. c. 300, as amended;
- 2.2 “**Advance poll**” means:
- 2.2.1 the Tuesday immediately preceding ordinary polling day; and
 - 2.2.2 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;
- 2.3 “**Alternative polling days**” means any hours and dates fixed by a resolution of Council for alternative voting;
- 2.4 “**Alternative voting**” means voting by telephone or via the internet and includes a combination of telephone and internet voting;
- 2.5 “**Auditor**” means an independent Auditor, appointed by the Returning Officer, who will scrutinize the election activity and offer an official opinion on all the major functions of the alternative voting system. The Auditor will be able to access information they require and to do stress testing of the system to ensure the integrity of the voting process is maintained;
- 2.6 “**Ballot box**” means a computer database in the system where cast internet ballots and telephone ballots are put;
- 2.7 “**Candidate**” means a person who has been nominated as a candidate pursuant to the Act;
- 2.8 “**Council**” means the Council of the Municipality;
- 2.9 “**Education Act**” means the *Education Act* 1995-1996 S.N.S. c. 1, as amended;
- 2.10 “**Election**” means an election held pursuant to the Act, including a school board election, a special election, and a plebiscite;
- 2.11 “**Election Officer**” means an “election official” under the Act;
- 2.12 “**Elector**” means a person:



**Alternative Voting By-law
A-028-20**

Effective Date:
November 29, 2023

- 2.12.1 qualified to vote pursuant to the Act and the Education Act; and
- 2.12.2 entitled to vote on alternative polling days for an election pursuant to Part 7 of this By-law;
- 2.13 **"Final list of electors"** means the final list of electors completed pursuant to Section 40 of the Act;
- 2.14 **"Friend voter"** means a friend who votes for an elector pursuant to Part 9 of this By-law;
- 2.15 **"Internet ballot"** means an image of a ballot on an internet connected device's screen including all the choices available to an elector and the spaces in which an elector marks a vote;
- 2.16 **"Kiosk"** means an internet connected electronic device, such as a computer or tablet, which can be utilized to offer alternative voting at a convenient location;
- 2.17 **"Municipality"** means the Municipality of the District of Yarmouth;
- 2.18 **"Normal business hours"** means the time between 8:30 am and 4:30 pm Monday through to and including Friday (not including holidays);
- 2.19 **"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;
- 2.20 **"periodical"** means a magazine or newspaper published at regular intervals, and for the purposes of this by-law include on-line publications;
- 2.21 **"PIN"** means the Personal Identification Number issued to an elector for alternative voting on alternative polling days;
- 2.22 **"Proxy voter"** means an elector who votes by a proxy pursuant to the Act;
- 2.23 **"Regular election year"** means 2020 and every fourth year thereafter;
- 2.24 **"Rejected ballot"** means an internet ballot or telephone ballot that has not been marked for any candidate;
- 2.25 **"Returning Officer"** means a Returning Officer appointed pursuant to the Act;
- 2.26 **"Seal"** means to secure the virtual ballot box and prevent internet and telephone ballots from being cast;



**Alternative Voting By-law
A-028-20**

Effective Date:
November 29, 2023

- 2.27 **"Special election"** means a special election held pursuant to the Act, including a special election for a vacancy on a school board;
- 2.28 **"System"** means the technology, including software, that:
 - 2.28.1 records and counts votes; and
 - 2.28.2 processes and stores the results of alternative voting during alternative polling days;
- 2.29 **"System Elections Officer"** means:
 - 2.29.1 a person who maintains, monitors, or audits the system, and
 - 2.29.2 a person who has access to the system beyond the access necessary to vote by alternative voting.
- 2.30 **"Telephone ballot"** means:
 - 2.30.1 an audio set of instructions which describes the voting choices available to an elector; and
 - 2.30.2 the marking of a selection by an elector by depressing the number on a touch tone keypad.

Part 3 Alternative Voting Permitted

- 3.1 Subject to this By-law, alternative voting shall be permitted on alternative polling days.
- 3.2 Unless Council decides otherwise, there shall be no voting by way of paper ballots.
 - 3.2.1 Any decision by Council to offer paper ballots shall be made by resolution and no later than one year prior to the general Municipal Election.

Part 4 Notification of Electors

- 4.1 The Returning Officer shall cause notice of alternative polling days to be published in a periodical circulating in the Municipality.



**Alternative Voting By-law
A-028-20**

Effective Date:
November 29, 2023

- 4.2 The notice of alternative polling days shall:
 - 4.2.1 identify the alternative polling days for alternative voting;
 - 4.2.2 inform electors that telephone voting and internet voting is permitted during alternative polling days.
- 4.3 The notice may include any other information the Returning Officer deems necessary to comply with the Act or this By-law.

Part 5 Form of Telephone and Internet Ballots

- 5.1 A telephone ballot and internet ballot shall:
 - 5.1.1 identify by the title "Election for Councillor" or "Election for School Board Member", as the case may be;
 - 5.1.2 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
 - 5.1.3 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.
- 5.2 No title, honour, decoration or degree shall be included with a candidate's name on an internet ballot or telephone ballot.

Part 6 Oath

- 6.1 Any oath that is authorized or required in Part 7 and Part 10 shall be made in the form specified in this By-law;
- 6.2 if the form is not specified in this By-law, in the form required by the Act.

Part 7 Electors

- 7.1 No person shall vote by alternative voting unless:
 - 7.1.1 the person's name appears on the revised list of electors on the date for the revised list of electors to be completed pursuant to Section 50A of the



**Alternative Voting By-law
A-028-20**

Effective Date:
November 29, 2023

Act;

7.1.2 The person's name does not appear on the final list of electors and:

7.1.2.1 the person appears before the Returning Officer during normal business hours during alternative polling days; and

7.1.2.2 the person swears an oath in the prescribed form to the Act.

Part 8 Proxy Voting

There shall be no voting by proxy by alternative voting.

Part 9 Kiosk Voting

The Returning Officer shall establish a Kiosk at the Municipality's Office during normal business hours that fall within the Alternative Voting Days.

The Returning Officer shall also establish a Kiosk at locations the Returning Officer deems appropriate during the Alternative Voting Days. The dates, times and locations of this Kiosk will be established and published thirty (30) days prior to the commencement of the Alternative Voting Days.

Part 10 Friend Voting

10.1 A friend voter shall only vote for an elector by alternative voting if:

10.1.1 an elector is unable to vote because the elector is blind, the elector cannot read, or the elector has a physical disability that prevents them from voting by alternative voting; and

10.1.2 the elector and the friend appear in person before the Returning Officer and take the prescribed oaths.

10.2 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.

10.3 The elector shall take an oath in the prescribed form to this By-law providing that they are incapable of voting without assistance.

10.4 The friend of the elector shall take an oath in the prescribed form to this By-law that:



**Alternative Voting By-law
A-028-20**

Effective Date:
November 29, 2023

- 10.4.1 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 elector;
- 10.4.2 the friend will mark the ballot as requested by the elector; and
- 10.4.3 the friend will keep secret the choice of the elector.
- 10.5 Where the elector requests assistance, the Deputy Returning Officer or Returning Officer may act as a friend of the elector but shall not be required to take the oath referred to in Part 10.1 or 10.4.
- 10.6 The Deputy Returning Officer, Returning Officer or poll clerk shall enter in the log book:
 - 10.6.1 the reason why the elector is unable to vote;
 - 10.6.2 the name of the friend; and
 - 10.6.3 the fact that the oaths were taken.

Part 11 Voting

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

Part 12 Seal

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

Part 13 List of Persons Who Voted

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.

Part 14 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



**Alternative Voting By-law
A-028-20**

Effective Date:
November 29, 2023

candidate during alternative polling days.

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

Part 15 Tallying of Rejected Ballots

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.

Part 16 Recount by System

- 16.1 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.
- 16.2 If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.
- 16.3 If the regenerated count and the initial count do not match, the Returning Officer shall:
 - 16.3.1 direct one final count be regenerated by the system of the votes cast by alternative voting, and
 - 16.3.2 attend while the final count is being regenerated.
- 16.4 The regenerated final count pursuant to Part (16.3) shall be the final count of the votes cast by alternative voting.

Part 17 Recount by Court

For a recount, the judge shall only consider the final count by the system, as determined by Part 16.4, of the total number of votes that were cast by alternative voting for each candidate.

Part 18 Secrecy

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

Part 19 Severability



**Alternative Voting By-law
A-028-20**

Effective Date:
November 29, 2023

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 20 Prohibitions

- 20.1 No person shall:
 - 20.1.1 use another's person's PIN to vote or access the system unless the person is a friend voter;
 - 20.1.2 take, seize, or deprive an elector of his or her PIN; or
 - 20.1.3 sell, gift, transfer, assign or purchase a PIN.
- 20.2 No person shall:
 - 20.2.1 interfere or attempt to interfere with an elector who is casting an internet ballot or telephone ballot;
 - 20.2.2 interfere or attempt to interfere with alternative voting; or
 - 20.2.3 attempt to ascertain the name of the candidate for whom an elector is about to vote or has voted.
- 20.3 No person shall, at any time, communicate or attempt to communicate any information relating to the candidate for whom an elector has voted.

Part 21 Offences and Penalty

- 21.1 A person who:
 - 21.1.1 violates any provision of this By-law; or
 - 21.1.2 permits anything to be done in violation of any provision of this By-law;is guilty of an offence.
- 21.2 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.



**Alternative Voting By-law
A-028-20**

Effective Date:
November 29, 2023

21.3 In determining a penalty under subsection (2), a judge shall take into account:

21.3.1 the number of votes attempted to be interfered with;

21.3.2 the number of votes interfered with; and

21.3.3 any potential interference with the outcome of an election.

21.4 Pursuant to Section 146A of the Act:

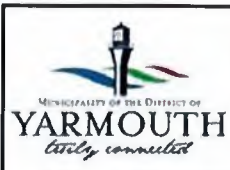
21.4.1 the limitation period for the prosecution of an offence under this By-law is two years from the later of the date of the commission of the offence and the date on which it was discovered that an offence had been committed; and

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

Part 22 By-law Review

No later than 12 months prior to the municipal election, Council shall formally review this by-law to ensure that the contents of the by-law are in accordance with provincial legislation and best practices.

MUNICIPALITY OF THE DISTRICT OF YARMOUTH



**Alternative Voting By-law
A-028-20**

Effective Date:
November 29, 2023


Chief Administrative Officer's Annotation for Official By-Law Book

Date of First Reading	October 25, 2023
Date of Advertisement of Notice of Intent to Consider	November 2, 2023
Date of Second Reading	November 29, 2023
Date of Advertisement of Passage of By-law	December 14, 2023
Date of Mailing to Minister a Certified Copy of By-law	December 15, 2023

I certify that this Alternative Voting By-law A-028-20 was adopted by Council and published as indicated above.



Chief Administrative Officer



Date

Date last reviewed by Council: November 29, 2023

Date last amended: November 29, 2023

Amendment(s)	Record(s) of Proceedings
Added Section 3.2.1	Date of First Reading: October 25, 2023 Date of Public Hearing (if required): N/A Date of Second Reading: November 29, 2023 Date of Ministerial Approval (if required): N/A Date of Advertisement:

Appendix A

**Nova Scotia Municipal Elections Act
Form 26**

**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.

Appendix B

**Nova Scotia Municipal Elections Act
Form 26A**

**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, sisters, 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 friend for one unrelated elector and any number of electors who are a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend.

Appendix C

**Nova Scotia Municipal Elections Act
Form 31**

**AN OATH OF AFFIRMATION OF AN ELECTOR
NOT ON LIST OF ELECTORS**

I swear (or solemnly affirm) that:

- a) On this date I actually reside in District _____ of the Municipality of Yarmouth.
- b) I have been ordinarily resident in the Municipality of Yarmouth for a period of six months immediately preceding ordinary polling day in this election.
- c) I have not voted before in this election.
- d) I am a Canadian citizen and of the full age of 18 years, or will be on ordinary polling day.
- e) 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
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Sworn (or affirmed) at Yarmouth,
Nova Scotia, 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)

Appendix D

**Nova Scotia Municipal Elections Act
Form 31A**

**AN 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:

- a) On this date I actually reside in District ____ of the Municipality of Yarmouth.
- b) I have been ordinarily resident in the school region/district in which my polling division is located for a period of six months immediately preceding ordinary polling day in this election.
- c) I have not voted before in this election.
- d) I am a Canadian citizen and of the full age of 18 years, or will be on ordinary polling day.
- e) 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
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Sworn (or affirmed) at Yarmouth,
Nova Scotia, 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)

Appendix E

**Nova Scotia Municipal Elections Act
Form 31B**

**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:

- a) On this date I actually reside in District ____ of the Municipality of Yarmouth.
- b) I have been ordinarily resident in the school region/district in which my polling division is located for a period of six months immediately preceding ordinary polling day in this election.
- c) I have not voted before in this election.
- d) I am a Canadian citizen and of the full age of 18 years, or will be on ordinary polling day.
- a) 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
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Sworn (or affirmed) at Yarmouth,
Nova Scotia, 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)

Appendix F

Nova Scotia Municipal Elections Act Formulaire 31B

SERMENT OU DÉCLARATION SOLENNELLE DE L'ÉLECTEUR(TRICE)
NON INSCRIT(E) SUR LA LISTE DES ÉLECTEURS, A UTILISER LORSQUE
L'ÉLECTEUR(TRICE) NE PEUT VOTER QUE POUR LE
CONSEIL SCOLAIRE ACADIEN PROVINCIAL

Je jure (ou déclare solennellement) que:

- A ce jour je réside dans la section de vote numéro ____ de la Municipalité de Yarmouth.
- J'ai habituellement résidé dans la province de la Nouvelle-Écosse pendant la période de six mois précédent immédiatement le jour ordinaire du scrutin de cette élection.
- Je n'ai pas voté lors de cette élection.
- Je suis citoyen(ne) canadien(ne), j'ai dix-huit ans ou plus ou les aurai le jour de scrutin.
- 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 au cours des six années précédent le jour du scrutin selon la Loi sur les élections municipales.

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

Juré (ou déclaré solennellement) a:

_____ dans le comté de Yarmouth, Province de Nouvelle-Écosse le _____ jour du mois de _____ de l'année _____ en ma présence

Directeur ou directrice de scrutin

La liste des électeurs pourra servir lors d'élections municipales, provinciales, ou fédérales ultérieures (la date de naissance ne figurera pas sur la list finale des électeurs)