



**Town of Amherst**

**Alternative**

**Voting**

**Bylaw**

Bylaw No: A-7


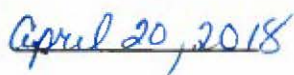
Effective: April 20, 2018

I, Kimberlee Jones, Municipal Clerk of the Town of Amherst, do hereby certify that the following is a true copy of the **Alternative Voting Bylaw** adopted by Council at a meeting held on March 26, 2018.

Given under the hand and seal of the Town of Amherst this 20 day of April, 2018.

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First Reading of Council – February 26, 2018  
Notice of Intention to Adopt – March 9 & March 18, 2018  
Second Reading of Council – March 26, 2018  
Sent to Municipal Affairs – March 28, 2018  
Effective Date – April 20, 2018

<b>Annotation for Official Bylaw Book</b>	
Date of First Reading	February 26, 2018
Date of advertisement of Notice of Intent to Consider	March 9 & 18 <sup>th</sup> , 2018
Date of Second Reading	March 26, 2018
Date of mailing to Municipal Affairs	March 28, 2018
Effective Date of Bylaw	April 20, 2018
I certify that this Alternative Voting Bylaw was adopted by Council and published as indicated above.	
 <hr/> Kimberlee Jones Municipal Clerk	 Date

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 Notice of Intention to Adopt – March 9 & March 18, 2018  
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Town of Amherst  
Bylaw Respecting Alternative Voting

**BE IT ENACTED** by the Council of the Town of Amherst, under the authority of Section 146A of the Municipal Elections Act, R.S., c. 300, s.1. as amended, as follows:

**Short Title**

- 1) This bylaw shall be known as Bylaw number A – 7 and may be cited as the “Alternative Voting Bylaw.”

**Interpretation**

- 2) In this bylaw:
  - a) “Act” means the Municipal Elections Act, R.S., c. 300, s.1., as amended;
  - b) “advanced poll” means the Tuesday immediately preceding ordinary polling day, and either:
    - i) 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; or
    - ii) If Council has delegated its authority to fix a day to the Returning Officer, one other day fixed by the Returning Officer 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 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 Amherst;
  - 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, a special election and a 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 for an election pursuant to section 7 of this bylaw;
- l) "friend voter" means a friend who votes for an elector pursuant to section 9 of this bylaw;
- m) "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;
- n) "list of electors" means:
- i) Prior to the list of electors being completed and certified by the Returning Officer pursuant to section 50(a) of the *Act*, the list of electors that has been amended and corrected by the Returning Officer pursuant to subsections 2 and 3 of section 38 of the *Act*; or
  - ii) The list of electors that has been completed and certified by the Returning Officer pursuant to section 50(a) of the *Act*;
- o) "municipality" means the Town of Amherst;
- 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 and in the case of any other election means the Saturday fixed for the election;
- r) "PIN" means the Personal Information Number issued to:
- i) An elector for alternative voting on alternative polling days; or
  - ii) To a System Elections Officer;
- s) "plebiscite" means a plebiscite directed to be held by the Council pursuant to Section 56 of the *Act*;
- t) "procedures and forms" means the procedure and forms established by the Returning Officer pursuant to subsection 145 (a)(4) of the *Act*;
- u) "proxy voter" means an elector who votes by a proxy pursuant to the *Act*;
- v) "regular election year" means 2016 and every fourth year thereafter;
- w) "rejected ballot" means the refusal by an elector to accept a ballot in a race;
- x) "Returning Officer" means a Returning Officer appointed pursuant to the *Act*;
- y) "seal" means to secure the ballot box and prevent internet and telephone ballots from being cast;
- z) "special election" means a special election held pursuant to the *Act*, including a special election for a vacancy on a school board;

- aa) "spoiled ballot" means an internet ballot or telephone ballot that is accepted by the elector that:
  - i) Is not marked for a candidate in a race; or
  - ii) Is marked by an elector indicating a refusal to cast a vote for any candidate in a race;
- bb) "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;
- cc) "Systems 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;
- dd) "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 the bylaw, alternative voting shall be permitted on alternative polling days.

### **Notification of Electors**

- 4)
  - a) The Returning Officer shall cause notice of alternative polling days to be published in a newspaper circulating in the municipality.
  - b) The notice of alternative polling days shall:
    - i) Identify the alternative polling days for alternative voting; and
    - ii) Inform the elector that telephone voting and internet voting is permitted during alternative polling days.
  - c) The notice may include any other information the Returning Officer deems necessary.

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

- 5)
  - a) A telephone and internet ballot shall:
    - i) Identify by the title "Election for Mayor" or "Election for Council" or "Election for School Board Member" as the case may be;
    - ii) 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

- iii) Warn the electors 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.
- b) 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:
  - a) In the form specified by the procedures and forms; or
  - b) If the form is not specified by the procedures and forms, 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 applicable list of electors; or
  - b) The person is added to the applicable list of electors pursuant to section 36 of the *Act*.

### **Proxy Voting**

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

### **Friend Voting**

- 9)
  - a) A friend voter shall only vote for an elector by alternative voting if:
    - i) An elector is unable to vote because:
      - (1) The elector is blind;
      - (2) The elector cannot read; or
      - (3) The elector has a physical disability that prevents him or her from voting by alternative voting.
    - ii) The elector and the friend appear, in person, before the Returning Officer or the Deputy Returning Officer and take the prescribed oaths.
  - b) 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.
  - c) The elector shall take an oath in the prescribed form set out in the procedures and forms providing that he or she is incapable of voting without assistance.
  - d) The friend of the elector shall take an oath in the prescribed form set out in the procedures and forms that:
    - i) The friend has not previously acted as a friend for any other elector; and
    - ii) The friend will mark the ballot as requested by the elector; and
    - iii) The friend will keep secret the choice of the elector.
  - e) The Returning Officer shall enter in the poll book:
    - i) The reason why the elector is unable to vote;
    - ii) The name of the friend; and
    - iii) The fact that the oaths were taken.

## **System Elections Officer**

10)

- a) A System Elections Officer shall have access to the system prior to the commencement of alternative voting during advance polling days to verify the count for each candidate is zero.
- b) Notwithstanding the day and time set for alternative voting, alternative voting shall not commence until the counts for each of the candidates is zero.
- c) A Systems Elections Officer shall comply with the procedures and forms established by the Returning Officer pursuant to the subsection 146A(4) of the *Act*.

## **Voting**

11)

- a) The system shall put internet ballots and telephone ballots cast by an elector in the ballot box.
- b) The system shall put spoiled ballots in the ballot box.

## **Seal**

12)

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

13) Where alternative voting closes before the close of polls on ordinary polling day, the system shall:

- a) Generate a list of all electors who voted by alternative voting; and
- b) On the applicable list of electors, cause a line to be drawn through the names of all the electors who voted during alternative polling days.

14) A printed and electronic copy of the lists under section 13 shall be delivered to the Returning Officer within 24 hours of the close of alternative voting.

15) Where alternative voting closes at the close of polls on ordinary polling day, the system shall generate a list of all electors who voted by alternative voting.

## **Counting**

16)

- a) 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.

- b) 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 Rejected Ballots**

- 17) 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**

- 18) 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.
- 19) If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.
- 20)
  - a) If the regenerated count and the initial count do not match, the Returning Officer shall:
    - i) Direct one final count be regenerated by the system of the votes cast by alternative voting; and
    - ii) Attend while the final count is being regenerated.
  - b) The regenerated final count pursuant to subsection (a) shall be the final count of the votes cast by alternative voting.

### **Recount by Court**

- 21)
  - a) For a recount, the judge shall only consider the final count by the system, as determined by section 19 or 20, of the total number of votes that were cast by alternative voting for each candidate.
  - b) The final count by the system, as determined by section 19 or 20, 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**

- 22) An Election Officer and System Election Officer shall maintain and aid in maintaining the secrecy of the voting.
- 23) 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**

24) If voting via the internet through the unsupervised use of a personal computing device is permitted during an election, voting shall be permitted by some other means on each advance polling day and on ordinary polling day.

## **Severability**

25) 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**

26) 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.

27) 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.

28) 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**

29)

- a) A person who:
  - i) Violates any provision of this bylaw; or
  - ii) Permits anything to be done in violation of any provision of this bylaw is guilty of an offence.
- b) A person who contravenes subsection a) 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.
- c) In determining a penalty under subsection b), a judge shall take into account:
  - i) The number of votes attempted to be interfered with;
  - ii) The number of votes interfered with; and
  - iii) Any potential interference with the outcome of an election.
- d) Pursuant to section 146A of the Act.

- i) 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
- ii) The Remission of Penalties Act, 1989, S.N.S. c.397, as amended, does not apply to a pecuniary penalty imposed by this bylaw.

**Clerk's Annotation for Official By-Law Book**

Date of First Reading: 20180226

Date of Notice of Intent to Consider: 20180309

Date of Second Reading: 20180326

\*Date of Advertisement/Notice of Publication\* 20180420

Date of mailing to Minister a certified copy: 20180420

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

  
.....  
Kimberlee Jones,  
Municipal Clerk

April 20, 2018  
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Date

\*Effective Date of the By-Law unless otherwise specified in the text of the By-Law.