

HALIFAX

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Item No. 14.1.7
Halifax Regional Council
May 23, 2017

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY:

John Traves, A/Chief Administrative Officer

DATE: May 15, 2017

SUBJECT: Special Elections: Method of Voting & By-Law A-405 – Amendments to the Alternative Voting By-Law

ORIGIN

Special elections are required by section 13 of the *Municipal Elections Act* ("Act"), to fill a vacancy on Council. The Election Office is bringing forward this report in anticipation of potential special election(s) prior to the next regular municipal election in October 2020.

LEGISLATIVE AUTHORITY

Municipal Elections Act, R.S.N.S. 1989, c. 300, including section 146A:

- (1) A Council may by by-law authorize voters to vote by mail, electronically or by another voting method.
- ...
- (6) Notwithstanding subsection (5), where a by-law provides for voting via the Internet through the unsupervised use of a personal computing device, the by-law must also permit voting by some other means on each advance polling day and on ordinary polling day.

By-law A-400, *Alternative Voting By-law*.

RECOMMENDATION

That Halifax Regional Council:

1. Adopt By-law A-405, respecting amendments of By-law A-400, the *Alternative Voting By-law*, as set out in Attachment 2; and
2. Subject to the adoption of the By-law A-405, direct the use of telephone and a personal computing device as the only two means of voting to be used for the next special election that may be required prior to the 2020 regular municipal and school board election.

BACKGROUND

Special elections are required by section 13 of the *Municipal Elections Act*, to fill a vacancy on Council or School Board.

This report is before Regional Council in order to ensure that, due to compressed time lines associated with conducting a special election (up to 11 weeks after the date is set by Council), as many administrative measures as possible are taken to prepare for any special election(s) leading up to the 2020 regular Municipal and School Board Election. Without this direction, Council will be required to address these issues when it sets the date for the special election, which it is required to do in accordance with section 13(1) within 4 weeks after the vacancy occurs.

Section 146A of the Act provides Council with the ability to enact a by-law authorizing voters to vote by mail, electronically or by another voting method, which Council has done with By-law A-400, the *Alternative Voting By-law*. Subsection 146A(6) requires that where the by-law provides for internet voting, the by-law must also permit voting by some other means on each advance polling day and ordinary polling day: By-law A-400 establishes telephone voting as the second means of voting.

DISCUSSION

Since 2008, electors in the Halifax Regional Municipality have been offered various methods and combinations of options to cast their ballot including internet, telephone and traditional paper ballots. In each election since 2009, over 60% of voters have utilized alternative technology encompassing both internet and telephone voting to cast their vote.

Special Election Voting Method

It is recommended that voting by a personal computing device that access the internet and voting by the use of a telephone (collectively “alternative voting”) be the two means of voting for a required special election prior to October 2020, and that in person paper ballot services be eliminated. This recommendation takes in to consideration voter turnout and feedback from previous special elections and strikes a balance between offering effective electoral services within the compressed timelines associated with a special election. Should Council authorize the use of only alternative voting methods, amendments to By-law A-400, the *Alternative Voting By-law*, will be required as Council has not previously completely eliminated in person paper voting, as set out in Attachment 2 and discussed below. Post-election, the election office will present a report to Council containing:

- Voter feedback
- Statistical information pertinent to municipal and school board elections
- Successes and challenges experienced through the electoral process associated with alternative voting
- Voting recommendation for any other special elections.

Council can then direct staff to continue this voting methodology for any additional special elections or provide an alternative for the election office to deliver. If Council was to provide different direction for a subsequent special election, the By-law would not need further amendments. The proposed amendments only provide Council with the flexibility to use alternative voting as the only means of voting for an election.

Alternative Voting in Previous Special Elections

For the three most recent elections in the municipality internet and telephone voting ended on the Thursday prior to election day to prepare for in person paper balloting. Voter feedback to the election office has included that alternative voting be extended to the close of poll on Election Day to allow the public maximum voting flexibility. During the special election for District 6 Councillor in 2009, voters were able to vote via the internet or telephone until voting ended on election day. Seventy-five (75%) percent of the voters cast their ballots using alternative voting with 36% of voting occurring on Friday and Saturday (Election Day).

The most recent special election in 2016 (District 6 Councillor) approximately 2,020 (61.75%) votes were cast via alternative voting. The remaining votes were cast in person during advance polls (142 electors – 4.2%) and on Election Day (1,113 electors – 34.02%) using the traditional paper method.

During the advance voting period 55,788 (60.92%) voters cast ballots using alternative voting for the 2016 Municipal and School Board Elections. The remaining votes were cast in person during advance polls (3,604 electors – 3.93%) and on Election Day (32,182 – 35.15%) using the traditional paper method. Further details regarding ballot type participation by age group is contained below.

Ballot Method Participation in 2016 Municipal and School Board Election

Age	Web %	Phone %	Paper %	Total Eligible Electors
18-19	39%	2%	59%	268
20s	70%	2%	28%	37709
30s	70%	2%	29%	47142
40s	66%	3%	31%	50035
50s	62%	4%	34%	59520
60s	57%	6%	37%	46722
70s	44%	9%	47%	26073
80s	30%	14%	56%	11764
90s	26%	14%	59%	2938
99+	13%	13%	75%	175

Challenges and Constraints

It has become increasingly more challenging to find available, qualified staff to work in polling locations during an election period especially in the shortened timeframe associated with a special election. As part of offering paper balloting, it is necessary to offer over 100 staff (for a single district) in 7 different training programs, flexible training schedules and training options, which present a substantial challenge during a compressed special election period. This is particularly true if a special election period should fall over the summer months. The election office would seek to minimize the number of staff and locations available to mitigate the complexity and staffing risks and would likely mean a reduction in voting conveniences.

Financial Considerations

Should Council wish to consider other alternatives the Election Office has prepared budget estimates for a number of alternative approaches for delivering special elections as provided for in Attachment 4 of this report. All options provided comply with the legislative requirements for conducting Municipal and School Board Elections and funds are available in the Municipal Election Reserve, Q511.

Final election costs will be determined based on a number of factors including:

- value of the contract for alternative voting services;
- per diem rates for staff;
- number of eligible electors on the electoral list received from Elections Nova Scotia; and
- logistics and factors such as postage rates.

These amounts are within the budget of \$227,000 as provided for by Council through the Election Reserve Q511 as an unbudgeted reserve withdrawal. Should an at-large or multiple district special election (most likely due to a vacancy on Halifax Regional School Board) be required, the election office will provide a subsequent report to the Audit & Finance Standing Committee and Regional Council informing them of new budget requirements and to obtain approval of the unbudgeted withdrawal at that time.

Costs for conducting a special election have marginally increased over the most recent election in 2016. Previous to this election the Information Communications and Technology (ICT) department incurred costs providing election services; as cross departmental costs should be included in to total election

budgeting and reserve management, these costs are reflected in above noted reserve withdrawal request that will be brought forward to the Audit & Finance Standing Committee and Regional Council.

Amendments to By-law A-400

The proposed amendments set out in Attachment 2 will provide Council with an option to decide that voting by a telephone or a personal computing device would be the only means of voting for a particular election. As this only provides Council with an option, staff recommends that these amendments be adopted to provide greater flexibility in the future, regardless of whether Council so directs for any special elections between now and the 2020 municipal and school board election as is being recommended in this report.

If Council decides to follow staff's recommendation, there are two corresponding amendments which will be required. Firstly, the term "advance polling days" needs to be removed from section 9A as Council would now have the option to allow electors to cast ballots by a telephone or personal computing device throughout the election period rather than in "advance" of ordinary polling day. The amended section would still require the system election officer to verify the count for each candidate is zero before alternative voting starts.

Secondly, the By-law already limits a recount to paper ballots because, when a vote is cast by a telephone or a personal computing device, there are no paper ballots for a court to count. Accordingly, if Council decides to limit the means of voting to a telephone or personal computing device, a judicial recount will not be possible and a provision to this effect would be added to the By-law.

Amendments are also being proposed to accommodate individuals being added to the list of electors during the entire alternative voting period, and to allow for a voting location to be established by the returning officer where individuals would be able to:

- have their information added or corrected on the voters list,
- be issued voting credentials, and
- use electronic devices that are provided to cast their ballot.

Election staff would be on hand to assist voters as needed. The Returning Officer would be required to provide at least 48 hours' notice to all the candidates of where and when these polling locations would occur and each candidate would be permitted to have a scrutineer at each polling location.

In response to questions raised during alternative voting in previous elections, an amendment is proposed to expressly make it an offence for a candidate or someone supporting a candidate to provide a device to an elector to vote. This is consistent with the conduct of paper ballot elections, where it is not permitted to post or display items that tend to support a candidate within 200 feet of a polling place.

Finally, staff is recommending, as a housekeeping matter, that the header of section 15 be amended to read "spoiled ballots" rather than "rejected ballots" as section 15 discusses spoiled ballots and not rejected ballots.

FINANCIAL IMPLICATIONS

Q511 - Municipal Election Reserve- Financial Summary

Balance in Reserve, March 31, 2017	\$645,753
Projected revenue to March 31, 2018	424,124
Commitments to March 31, 2018	<u>(10,148)</u>
Projected Net Available Balance, March 31, 2018	\$1,059,729
Withdrawal to be requested at later date	(227,000)
Revised projected balance March 31, 2018	\$832,729

This budget estimate is based on a cost of \$11.07/eligible voter.

Should a school board election be required prior to the 2020 Municipal and School Board elections, the election office will work with the Province of Nova Scotia to determine funding and expenses as per section 48 (4)(b) of the Education Act of Nova Scotia.

RISK CONSIDERATION

Recent electoral events have garnered attention on perceived issues using electronic means to conduct and store related information for election purposes. It is customary for the election office to work with ICT, an external security assessment provider, and the alternative voting provider to identify any possible vulnerabilities and undertake measures to mitigate and ensure that the integrity of the vote and the count is upheld. In addition, the Municipality employs an outside company, Ernst and Young, to complete a specified procedures audit to validate the integrity of the process, the user experience and confirm the voting results.

COMMUNITY ENGAGEMENT

The municipality completed a citizen engagement initiative in 2015 with respect to elections. There is also public feedback planned as part of the Campaign Finance Accountability engagement process. Where possible, input from the public will be referenced and incorporated in the planning process.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

ALTERNATIVES

A detailed costing of election voting options has been prepared and forms the summary as stated as Attachment 4 of this report.

Alternative options include:

- 1) Utilize **only** alternative voting for **advanced polls** and retain in-person polls for polling day (as in the 2012 Municipal and School Board Elections).
- 2) Utilize alternative voting and in-person polls for advanced polls and retain in-person polls for polling day (as in the 2016 Municipal and School Board Elections). This option is not recommended as it is cost prohibitive.
- 3) Offer **solely** in-person polls for advanced and ordinary polling day. If this option is selected, amendments to the By-law are not required.

These three options are not the recommended alternatives as they either decrease convenience/access to voters or increase the cost and/or risk to conducting a special election.

Lastly, Council could also adopt the amendments to the By-law and direct the use of internet voting and telephone voting as the only two means of voting to be used for advance polls and on ordinary polling day all special elections that may be required prior to the 2020 regular municipal and school board election.

ATTACHMENTS

- Attachment 1 Showing Proposed Changes to Alternative Voting By-Law
- Attachment 2 Amending By-law
- Attachment 3 Clean copy incorporating changes
- Attachment 4 Alternative Election Option Descriptions

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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Report Approved by: John Traves, Q.C., Municipal Solicitor, 902.490.4226

**Attachment 1
(Showing Proposed Changes)**

**HALIFAX REGIONAL MUNICIPALITY BYLAW
NUMBER A - 400 RESPECTING
ALTERNATIVE VOTING**

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”.

Interpretation

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 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 municipality;
- (ga) “Deputy Returning Officer” means a person appointed under the Act to preside over a polling station;
- (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 by-law;
- (l) repealed;
- (m) “friend voter” means a friend who votes for an elector pursuant to section 9 of this bylaw;
- (n) “internet ballot” means an image of a ballot on a ~~computer~~ screen of a personal computing device, including all the choices available to an elector and the spaces in which an elector marks a vote;
- (na) “list of electors” means:
 - (i) prior to the list of electors being completed and certified by the Returning Officer pursuant to section 50A 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 50A of the Act;
- (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 and in the case of any other election means the Saturday fixed for the election;
- (r) “PIN” means the Personal Identification Number issued to:
 - (i) an elector for alternative voting on alternative polling days; or
 - (ii) to a System Elections Officer;
- (ra) “personal computing device” means an electronic device that may access the internet, including a computer, laptop, tablet or gaming device;
- (raa) “plebiscite” means a plebiscite directed to be held by the Council pursuant to section 67 of the *Halifax Regional Municipality Charter* or section 56 of the Act;
- (rb) “procedures and forms” means the procedures and forms established by the Returning Officer pursuant to subsection 146A(4) of the Act;
- (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 the refusal by an electoral to accept a ballot in a race;
- (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;

(wa) "special election" means a special election held pursuant to the *Act*, including a special election for a vacancy on a school board;

(wb) "spoiled ballot" means an internet ballot or telephone ballot that is accepted by the elector that:

(i) is not marked for any candidate in a race; or

(ii) is marked by an elector indicating a refusal to cast a vote for any candidate in a race;

(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;

(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; and

(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 by-law, alternative voting shall be permitted on alternative polling days.

Notification of Electors

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

(2) The notice of alternative polling days shall:

(a) identify the alternative polling days for alternative voting; and

(b) inform the elector 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.

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:

(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) repealed;

(c) the person is added to the applicable list of electors pursuant to section 36 of the Act or section 7A of the by-law.

7A (1) Notwithstanding sections 33 and 38 of the Act, in addition to section 36 of the Act, a person may apply for an amendment to any list of electors by telephone after the first notice of the preliminary lists of electors is given pursuant to section 34 of the Act and before the end of alternative polling days and such amendment may be made by a revising officer or the Returning Officer in accordance with subsection 2.

(2) Notwithstanding subsection 36(2) of the Act, an application by telephone to be added to any list of electors shall be sufficiently detailed to allow the revising officer or Returning Officer to determine whether the information can be verified from other sources available to the revising officer or Returning Officer and, if the revising officer or Returning Officer determines that this is not possible, then the applicant shall be required to personally appear, at the location and time determined by the revising officer or Returning Officer, and make an application accompanied by a declaration under oath administered by the revising officer or the Returning Officer of the facts that support the application.

Polling Station for Alternative Voting

7B (1) If Council decides that voting by a telephone and by a personal computing device are the only means of voting for an election, the Returning Officer shall establish at least one polling station for alternative voting and each polling station established shall be equipped with at least one device that is capable of casting either an internet ballot or telephone ballot.

(2) The polling station for alternative voting shall be:

(a) available for electors who are voting with friend voters and for any other electors; and

(b) open on each advance polling day and on ordinary polling day; and

(c) on such other days and times as decided by the Returning Officer.

Polling Locations for Alternative Voting

7C (1) In addition to establishing at least one polling station, the Returning Officer may establish one or more polling locations for alternative voting during alternative polling days.

(2) A polling location may be at such places and during such times as may be determined by the Returning Officer and such location shall be equipped with at least one device that is capable of casting either an internet ballot or telephone ballot.

(3) A polling location established by the Returning Officer is not a polling station within the meaning of the Act.

Notification and Attendance at Polling Location

7D (1) The Returning Officer shall provide each candidate with at least forty-eight (48) hours notice of a polling location.

(2) A candidate officially nominated or their official agent may appoint one or more agents to represent the candidate at each polling location.

(3) An agent may absent himself or herself from and return to a polling location from time to time while the polling location is open.

(4) Only one agent for each candidate shall be entitled to remain in the polling location at any one time while the polling location is open.

(5) Upon exhibiting the appointment to the deputy returning officer or Returning Officer and without taking an oath, the official agent, other than a candidate acting as official agent, may represent a candidate in any polling location in the same manner as, and in addition to, an agent.

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 or the Deputy 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 set out in the procedures and forms 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 set out in the procedures and forms 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.

System Elections Officer

9A. (1) 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.

(2) Notwithstanding the day and time set for alternative voting, alternative voting shall not commence until the counts for each of the candidates is zero.

9B. A System Elections Officer shall comply with the procedures and forms established by the Returning Officer pursuant to the subsection 146A (4) of the Act.

Voting

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

(2) The system shall put spoiled ballots in the ballot box.

Seal

11. (1) Where alternative voting closes before the close of the polls on ordinary polling day, 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 alternative polling days.

List of persons who voted

12. Where alternative voting closes before the close of the 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 name of all the electors who voted during alternative polling days.

13. A printed and electronic copy of the lists under section 12 shall be delivered to the Returning Officer within 24 hours of the close of alternative voting.

13A. Where alternative voting closes at the close of the polls on ordinary polling day, the system shall generate a list of all electors who voted by alternative voting.

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 alternative polling days.

(2) 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 Spoiled Ballots

15. At the close of ordinary polling day, the system shall tally the number of spoiled ballots that were cast during alternative 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 elections for which there is no voting by paper ballot, there shall be no recount by a judge.

(1a) For elections for which there is voting by paper ballot and alternative voting, in respect of alternative voting, ~~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. (1) 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.

(2) Council may, by resolution, provide that voting by a telephone and by a personal computing device shall be the only means of voting for an election.

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 relating to the candidate for whom an elector has voted.

26A. No

(a) candidate,

(b) recognized agent, or

(c) person acting on behalf or in support of a candidate,

shall provide a person with a personal computing device or telephone for the purposes of casting an internet ballot or a telephone ballot.

Offences and Penalty

27. (1) A person who:

(a) violates any provision of this by-law; or

(aa) makes a false statement in a declaration; 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 17th day of June, 2008.

Mayor

Municipal Clerk

**Attachment 2
(Amending By-law)**

**HALIFAX REGIONAL MUNICIPALITY BYLAW
NUMBER A – 405 RESPECTING
ALTERNATIVE VOTING**

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, that By-law A-400, the Alternative Voting By-law is further amended as follows:

1. Clause n of section 2 is amended by:
 - (a) striking out the word “computer” after the words “on a” and before the word “screen”; and
 - (b) adding the words and comma “of a personal computing device,” after the word “screen” and before the word “including”.
2. Clause ra of section 2 is re-lettered as clause raa of section 2.
3. Clause ra is added after clause r of section 2 and before the newly renumbered clause raa as follows:
 - (ra) “personal computing device” means an electronic device that may access the internet, including a computer, laptop, tablet or gaming device;
4. Clause c of section 7 is amended by adding the words “or section 7A of the by-law” after the word “Act” and before the period.
5. Sections 7A,7B,7C and 7D are added after section 7 and before section 8 as follows:

7A (1) Notwithstanding sections 33 and 38 of the Act, in addition to section 36 of the Act, a person may apply for an amendment to any list of electors by telephone after the first notice of the preliminary lists of electors is given pursuant to section 34 of the Act and before the end of alternative polling days and such amendment may be made by a revising officer or the Returning Officer in accordance with subsection 2.

(2) Notwithstanding subsection 36(2) of the Act, an application by telephone to be added to any list of electors shall be sufficiently detailed to allow the revising officer or Returning Officer to determine whether the information can be verified from other sources available to the revising officer or Returning Officer and, if the revising officer or Returning Officer determines that this is not possible, then the applicant shall be required to personally appear, at the location and time determined by the revising officer or Returning Officer, and make an application accompanied by a declaration under oath administered by the revising officer or the Returning Officer of the facts that support the application.

Polling Station for Alternative Voting

7B (1) If Council decides that voting by a telephone and by a personal computing device are the only means of voting for an election, the Returning Officer shall establish at least one polling station for alternative voting and each polling station established shall be equipped with at least one device that is capable of casting either an internet ballot or telephone ballot.

(2) The polling station for alternative voting shall be:

 - (a) available for electors who are voting with friend voters and for any other electors;

and

- (b) open on each advance polling day and on ordinary polling day; and
- (c) on such other days and times as decided by the Returning Officer.

Polling Locations for Alternative Voting

7C (1) In addition to establishing at least one polling station, the Returning Officer may establish one or more polling locations for alternative voting during alternative polling days.

(2) A polling location may be at such places and during such times as may be determined by the Returning Officer and such location shall be equipped with at least one device that is capable of casting either an internet ballot or telephone ballot.

(3) A polling location established by the Returning Officer is not a polling station within the meaning of the Act.

Notification and Attendance at Polling Location

7D (1) The Returning Officer shall provide each candidate with at least forty-eight (48) hours notice of a polling location.

(2) A candidate officially nominated or their official agent may appoint one or more agents to represent the candidate at each polling location.

(3) An agent may absent himself or herself from and return to a polling location from time to time while the polling location is open.

(4) Only one agent for each candidate shall be entitled to remain in the polling location at any one time while the polling location is open.

(5) Upon exhibiting the appointment to the deputy returning officer or Returning Officer and without taking an oath, the official agent, other than a candidate acting as official agent, may represent a candidate in any polling location in the same manner as, and in addition to, an agent.

6. Subsection 1 of section 9A is amended by striking out the words “during advance polling days” after the word “voting” and before the words “to verify”.
7. The header of section 15 is amended by:
 - (a) striking out the word “Rejected” after the word “of” and before the word “Ballots”; and
 - (b) adding the word “Spoiled” after the word “of” and before the word “Ballots”.
8. Section 19 is amended by
 - (a) striking out the words and comma “For a recount,” at the beginning of subsection 1;
 - (b) adding the words and comma “For elections for which there is voting by paper ballot and alternative voting, in respect of alternative voting,” at the beginning of subsection 1;
 - (c) renumbering subsection 1 as subsection 1a of section 19; and
 - (d) adding subsection 1 as follows
 - (1) For elections for which there is no voting by paper ballot, there shall be no recount by a judge.
9. Section 22 is amended by:

- (a) renumbering section 22 as subsection 1 of section 22; and
- (b) adding subsection 2 of sections 22 after the newly renumbered subsection 1 as follows:
 - (2) Council may, by resolution, provide that voting by a telephone and by a personal computing device shall be the only means of voting for an election.

10. Section 26A is added after section 26 and before section 27 as follows:

26A. No

- (a) candidate,
- (b) recognized agent, or
- (c) person acting on behalf or in support of a candidate,

shall provide a person with a personal computing device or telephone for the purposes of casting an internet ballot or a telephone ballot.

11. Subsection 1 of section 27 is amended by adding clauses aa after clause a and before clause b as follows:

- (aa) makes a false statement in a declaration; or

Done and passed in Council this day of , 2017.

Mayor

Municipal Clerk

**Attachment 3
(Incorporating Proposed Changes)**

**HALIFAX REGIONAL MUNICIPALITY BYLAW
NUMBER A - 400 RESPECTING
ALTERNATIVE VOTING**

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".

Interpretation

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 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 municipality;
- (ga) "Deputy Returning Officer" means a person appointed under the Act to preside over a polling station;
- (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 by-law;

- (l) repealed;
- (m) “friend voter” means a friend who votes for an elector pursuant to section 9 of this bylaw;
- (n) “internet ballot” means an image of a ballot on a screen of a personal computing device, including all the choices available to an elector and the spaces in which an elector marks a vote;
- (na) “list of electors” means:
 - (i) prior to the list of electors being completed and certified by the Returning Officer pursuant to section 50A 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 50A of the Act;
- (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 and in the case of any other election means the Saturday fixed for the election;
- (r) “PIN” means the Personal Identification Number issued to:
 - (i) an elector for alternative voting on alternative polling days; or
 - (ii) to a System Elections Officer;
- (ra) “personal computing device” means an electronic device that may access the internet, including a computer, laptop, tablet or gaming device;
- (raa) “plebiscite” means a plebiscite directed to be held by the Council pursuant to section 67 of the *Halifax Regional Municipality Charter* or section 56 of the Act;
- (rb) “procedures and forms” means the procedures and forms established by the Returning Officer pursuant to subsection 146A(4) of the Act;
- (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 the refusal by an elector to accept a ballot in a race;
- (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;
- (wa) “special election” means a special election held pursuant to the Act, including a special election for a vacancy on a school board;

(wb) "spoiled ballot" means an internet ballot or telephone ballot that is accepted by the elector that:

(i) is not marked for any candidate in a race; or

(ii) is marked by an elector indicating a refusal to cast a vote for any candidate in a race;

(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;

(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; and

(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. (1) Subject to this by-law, alternative voting shall be permitted on alternative polling days.

(2) Council may, by resolution, provide that voting by a telephone and by a personal computing device shall be the only means of voting for an election.

Notification of Electors

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

(2) The notice of alternative polling days shall:

(a) identify the alternative polling days for alternative voting; and

(b) inform the elector 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.

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:

(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) repealed;

(c) the person is added to the applicable list of electors pursuant to section 36 of the *Act* or section 7A of the by-law.

7A (1) Notwithstanding sections 33 and 38 of the Act, in addition to section 36 of the Act, a person may apply for an amendment to any list of electors by telephone after the first notice of the preliminary lists of electors is given pursuant to section 34 of the Act and before the end of alternative polling days and such amendment may be made by a revising officer or the Returning Officer in accordance with subsection 2.

(2) Notwithstanding subsection 36(2) of the Act, an application by telephone to be added to any list of electors shall be sufficiently detailed to allow the revising officer or Returning Officer to determine whether the information can be verified from other sources available to the revising officer or Returning Officer and, if the revising officer or Returning Officer determines that this is not possible, then the applicant shall be required to personally appear, at the location and time determined by the revising officer or Returning Officer, and make an application accompanied by a declaration under oath administered by the revising officer or the Returning Officer of the facts that support the application.

Polling Station for Alternative Voting

7B (1) If Council decides that voting by a telephone and by a personal computing device are the only means of voting for an election, the Returning Officer shall establish at least one polling station for alternative voting and each polling station established shall be equipped with at least one device that is capable of casting either an internet ballot or telephone ballot.

(2) The polling station for alternative voting shall be:

(a) available for electors who are voting with friend voters and for any other electors; and

(b) open on each advance polling day and on ordinary polling day; and

(c) on such other days and times as decided by the Returning Officer.

Polling Locations for Alternative Voting

7C (1) In addition to establishing at least one polling station, the Returning Officer may establish one or more polling locations for alternative voting during alternative polling days.

(2) A polling location may be at such places and during such times as may be determined by the Returning Officer and such location shall be equipped with at least one device that is capable of casting either an internet ballot or telephone ballot.

(3) A polling location established by the Returning Officer is not a polling station within the meaning of the Act.

Notification and Attendance at Polling Location

7D (1) The Returning Officer shall provide each candidate with at least forty-eight (48) hours notice of a polling location.

(2) A candidate officially nominated or their official agent may appoint one or more agents to represent the candidate at each polling location.

(3) An agent may absent himself or herself from and return to a polling location from time to time while the polling location is open.

(4) Only one agent for each candidate shall be entitled to remain in the polling location at any one time while the polling location is open.

(5) Upon exhibiting the appointment to the deputy returning officer or Returning Officer and without taking an oath, the official agent, other than a candidate acting as official agent, may represent a candidate in any polling location in the same manner as, and in addition to, an agent.

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 or the Deputy 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 set out in the procedures and forms 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 set out in the procedures and forms 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.

System Elections Officer

9A. (1) A System Elections Officer shall have access to the system prior to the commencement of alternative voting to verify the count for each candidate is zero.

(2) Notwithstanding the day and time set for alternative voting, alternative voting shall not commence until the counts for each of the candidates is zero.

9B. A System Elections Officer shall comply with the procedures and forms established by the Returning Officer pursuant to the subsection 146A (4) of the Act.

Voting

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

(2) The system shall put spoiled ballots in the ballot box.

Seal

11. (1) Where alternative voting closes before the close of the polls on ordinary polling day, 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 alternative polling days.

List of persons who voted

12. Where alternative voting closes before the close of the 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 name of all the electors who voted during alternative polling days.

13. A printed and electronic copy of the lists under section 12 shall be delivered to the Returning Officer within 24 hours of the close of alternative voting.

13A. Where alternative voting closes at the close of the polls on ordinary polling day, the system shall generate a list of all electors who voted by alternative voting.

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 alternative polling days.

(2) 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 Spoiled Ballots

15. At the close of ordinary polling day, the system shall tally the number of spoiled ballots that were cast during alternative 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 elections for which there is no voting by paper ballot, there shall be no recount by a judge.

(1a) For elections for which there is voting by paper ballot and alternative voting, in respect of alternative voting, 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. (1) 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.

(2) Council may, by resolution, provide that voting by a telephone and by a personal computing device shall be the only means of voting for an election.

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 relating to the candidate for whom an elector has voted.

26A. No

(a) candidate,

(b) recognized agent, or

(c) person acting on behalf or in support of a candidate,

shall provide a person with a personal computing device or telephone for the purposes of casting an internet ballot or a telephone ballot.

Offences and Penalty

27. (1) A person who:

(a) violates any provision of this by-law; or

(aa) makes a false statement in a declaration; 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 17th day of June, 2008.

Mayor

Municipal Clerk

Alternative Election Option Descriptions

Alternative #	Description	Comments
1	<ul style="list-style-type: none"> • Advance poll Electronic Voting for period designated by the Returning Officer (2012 Model) • In person Paper Ballot Advance Polls not offered • In person Paper Ballot only on Election Day 	<ul style="list-style-type: none"> • Assumption: 60% of voters will use electronic voting • Polling location staff required: 85 • Projected Budget: \$279,000 • Price per Voter: \$13.61
2	<ul style="list-style-type: none"> • Advance poll Electronic Voting for period designated by the Returning Officer (2016 Model) • In person Paper Ballot Advance Polls • In person Paper Ballot only on Election Day 	<ul style="list-style-type: none"> • Assumption: 60% of voters will use electronic voting • Polling location staff required: 90 • Projected Budget: \$300,000 • Price per Voter: \$14.63
3	<ul style="list-style-type: none"> • Paper Ballot only for Advance and Election Day Polls • No Electronic Voting Offered 	<ul style="list-style-type: none"> • Polling location staff required: 105 • Projected Budget: \$232,000 • Price per Voter: \$11.32