MUNICIPALITY OF THE DISTRICT OF ARGYLE

BY-LAW #32

RESPECTING VOTING FOR MUNICIPAL ELECTIONS

BE IT ENACTED by the Council of the Municipality of the District of Argyle, 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 32 and may be cited as the "Voting By-law".

Definitions
2.   In this by-law:

(a) "Act" means the *Municipal Elections Act,* 1989 R.S.N.S. c. 300, as amended:

(b) "advance poll" means:

     (i) the Tuesday immediately preceding ordinary polling day; and

     (ii) one other day fixed by the Council by resolution that is either Thursday, the ninth day before ordinary polling day or Saturday, the seventh day before ordinary polling day;

(c)   "advance polling days" means the period of time from 8:00 am on Saturday, the seventh day before ordinary polling day, until 8:00 pm on the following Monday, or such other period of time as fixed by the Council by resolution;

(d)   "alternative voting" means voting by telephone or via the internet through the unsupervised use of a personal computing device and includes a combination of telephone and internet voting;

(e)   "ballot box" means a computer database in the system where cast internet ballots and telephone ballots are put;

(f)   "candidate" means a person who has been nominated as a candidate pursuant to the Act;

(g)   "Council" means the Council of the municipality;

(h)   "Education Act" means the *Education Act* 1995-1996 S.N.S. c. 1, as amended;

(i)   "election" means an election held pursuant to the Act, including a school board election;

(j)   "Election Officer" means an "election official" under the Act;

(k)   "elector" means a person:

      (i) qualified to vote pursuant to the Act and the Education Act; and

      (ii) entitled to vote on advance polling days for an election pursuant to section 11 of this by-law, or entitled to vote on the ordinary polling day;

(l)   "final list of electors" means the final list of electors completed pursuant to section 40 of the Act;

(m)   "friend voter" means a friend who votes for an elector pursuant to section 13 of this by-law;

(n)   "internet ballot" means an image of a ballot on a computer screen including all the choices available to an elector and the spaces in which an elector marks a vote:

(o)   "municipality" means the Municipality of the District of Argyle

(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 an elector for alternative voting on advance polling days or on the ordinary polling day;

(s)   "proxy voter" means an elector who votes by a proxy pursuant to the Act;

(t)   "regular election year" means 2012 and every fourth year thereafter;

(u)   "rejected ballot" means an internet ballot or telephone ballot that has not been marked for any candidate;

(v)   "Returning Officer" means a Returning Officer appointed pursuant to the Act;

(w)   "seal" means to secure the ballot box and prevent internet and telephone ballots from being cast;

(x)   "system" means the technology, including software, that:

(i)   records and counts votes; and

(ii)   processes and stores the results of alternative voting during advance polling days and on the ordinary polling day;

(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.

(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 advance polling days and on the ordinary polling day.

4.   The municipality may elect to use alternative voting on the ordinary polling day and/or make available the equipment to use alternative voting at any poll.

5.   In the event the municipality elects to use alternative voting on the ordinary polling day, the municipality shall ensure that the equipment to use alternative voting is available at any poll. In the event the equipment is so available, there shall be no requirement for the Returning Officer to have paper ballots available to electors at any poll, and the provisions of the Act with respect to the provisions of a paper ballot at a poll do not apply.

6.   Not fewer than 60 days before the ordinary polling day, the Returning Officer is directed to establish procedures and forms for the conduct of voting in accordance with the by-law and to provide a copy of the procedures and forms to each candidate for election. The Returning Officer is authorized to make any directions or publish any notices deemed necessary to better able the municipality to permit voting by alternative means rather than a paper ballot on the ordinary polling day.

Notification of Electors

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

     (2) The notice of advance polling days shall:
          (a) identify the advance polling days for alternative voting; and

(b) inform the elector that telephone voting and internet voting is permitted during advance polling days.

(3) The notice may include any other information the Returning Officer deems necessary.

8. (1) The Returning Officer shall cause notice of the ordinary polling day to be published as required by the Act.

(2) In addition to the requirements of the Act, the published notice of the ordinary polling day shall inform the electors that telephone voting and/or internet voting is authorized during the ordinary polling day.

(3) The notice may include any other information the Returning Officer deems necessary to comply with the Act or this by-law.

Form of Telephone and Internet Ballots
9. (1) A telephone ballot and internet ballot shall:

(a) identify by the title "Election for Warden" or "Election for Councillor" or "Election for School Board Member"/ "Élection pour un membre du Conseil scolaire", as the case may be;

(b) 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

(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 (in French, "Votez pour un candidat seulement" et "Ne votez que pour (le montant de candidats qui doivent être élus) candidats)".

(2) No title, honour, decoration or degree shall be included with a candidate's name on an internet ballot or telephone ballot.

Oath
10. Any oath that is authorized or required shall be made in the form required by the Act.

Electors
11. No person shall vote by alternative voting unless:

(a) the person's name appears on the final list of electors on the date chosen by Council for the final list of electors to be completed pursuant to section 40 of the Act;

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

    (i) the person appears before the Returning Officer during normal business hours during advance polling days; and

    (ii) the person swears an oath in the prescribed form to the Act; or

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

Proxy Voting
12. A proxy voter shall not vote for an elector by alternative voting on any advanced polling day.

Friend Voting
13.   (l) A friend voter shall only vote for an elector by alternative voting if:

    (a) an elector is unable to vote because:

        (i)   the elector is blind;
        (ii)   the elector cannot read; or
        (iii)   the elector has a physical disability that prevents him or her from voting by alternative voting.

    (b) the elector and the friend appear, in person, before the Returning Officer and take the prescribed oaths.

(2) A candidate shall not act as a friend voter unless the elector is a child, grandchild, brother, sister, parent, grandparent, or spouse of the candidate.

(3) The elector shall take an oath in the prescribed form to the Act providing that he or she is incapable of voting without assistance.

(4) The friend of the elector shall take an oath in the prescribed form to the Act that:

    (a) the friend has not previously acted as a friend for any other elector in the election other than an elector who is a child, grandchild, brother, sister, parent, grandparent, or spouse of the friend of the elector;

    (b) the friend will mark the ballot as requested by the elector; and

    (c) the friend will keep secret the choice of the elector.

(5) The Returning Officer shall enter in the poll book:

> (a) the reason why the elector is unable to vote;
> (b) the name of the friend; and
> (c) the fact that the oaths were taken.

Voting

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

Seal

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

(2) The system shall seal the ballot box even where fewer than ten persons from any polling district voted for a candidate during advance polling days.

List of persons who voted

16. At the close of the advance polling days, the system shall:

(a) generate a list of all electors who voted by alternative voting; and

(b) on the Final List of Electors cause a line to be drawn through the name of all the electors who voted during advance polling days.

17. 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.

Counting

18. (1) At the close of ordinary polling day, the system shall generate a count of the telephone ballots and internet ballots in the ballot box that were cast for each candidate during advance polling days and on the ordinary polling day.

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

Tallying of Rejected Ballots

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

Recount by System

20. 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.

21.   If the initial count and the regenerated count match, the regenerated count shall be the final count of the votes cast by alternative voting.

22.   (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
23.   (1) For a recount, the judge shall only consider the final count by the system, as determined by section 21 or 22, 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 21 or 22, 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
24.   An election officer and system election officer shall maintain and aid in maintaining the secrecy of the voting.

25.   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
26.   Notwithstanding this by-law, non-alternative voting is permitted at advance polls or on the ordinary polling day held pursuant to the Act.

Severability
27.   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
28.   No person shall:

(a) use another's person's PIN to vote or access the system unless the person is a friend voter;

(b) take, seize, or deprive an elector of his or her PIN; or

(c) sell, gift, transfer, assign or purchase a PIN.

29.   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.

30.   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

31.   (1) A person who:

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

(b) permits anything to be done in violation of any provision of this by-law;

is guilty of an offence.

(2)   A person who contravenes subsection (1) of this section is guilty of an offence and is liable, on summary conviction, to a penalty of not less than five thousand dollars and not more than ten thousand dollars and in default of payment, to imprisonment for a term of two years less a day, or both.

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

(a) the number of votes attempted to be interfered with;

(b) the number of votes interfered with; and

(c) any potential interference with the outcome of an election.

(4) Pursuant to section 146A of the Act:

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

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

Chief Administrative Officer's Annotation for Official By-Law Book	
Date of First Reading	April 24, 2012
Date of Advertisement of Notice of Intent to Consider	May 15, 2012
Date of Second Reading	June 12, 2012
Date of Advertisement of Passage of By-Law	August 6, 2013
Date of Mailing to Minister a Certified Copy of By-Law	July 23, 2012
Effective Date of By-Law	August 6, 2013
I certify that this Voting for Municipal Elections By-Law #32 was adopted by Council and published as indicated above.	

_____   _____

 Warden   Date

_____   _____

 Chief Administrative Officer   Date