

## **Alternative Voting (Internet and Phone) By-law #2016-01**

**BE IT ENACTED** by the Council of Town of Digby, 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 **Alternative Voting (Internet and Phone By-law #2016-01** and may be cited as the “Alternative Voting By-law”.

### **DEFINITIONS**

2. In this by-law:

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

(b) “**advance polling day**” 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) “**alternative polling days**” means any hours and dates fixed by a resolution of Council for alternative voting and may include dates and times during advanced polling days and on the ordinary polling day;

(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, and the Education Act including a school board election and special election ;

(j) “**Election Officer**” means an election officer under the Act;

**THE ALTERNATIVE VOTING (INTERNET AND PHONE) BY-LAW #2016-01**

- (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 **10** of this by-law, or entitled to vote on the ordinary polling day; and
  - (iii) who is not disqualified to vote pursuant to the Act;
- (l) **“final list of electors”** means the final list of electors completed pursuant to the Act;
- (m) **“friend voter”** means a friend who votes for an elector pursuant to Section **12** of this by-law;
- (n) **“internet ballot”** means an image of a ballot on an Internet enabled digital device screen including all the choices available to an elector and the spaces in which an elector marks a vote;
- (o) **“Municipality”** means the Town of Digby;
- (p) **“normal business hours”** means the time between 9:00 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 alternative polling days;
- (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 the refusal by an elector to accept a ballot or as defined in the Act;
- (v) **“spoiled ballot”** means an internet ballot or telephone ballot that has not been clearly marked for any candidate;
- (w) **“Returning Officer”** means a Returning Officer appointed pursuant to the Act;
- (x) **“seal”** means to secure the ballot box and prevent internet and telephone ballots from being cast;

**THE ALTERNATIVE VOTING (INTERNET AND PHONE) BY-LAW #2016-01**

- (y) “**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 and on the ordinary polling day;
- (z) “**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;
- (aa) “**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 and may be permitted on advanced polling days and on the ordinary polling day pursuant to this by-law and the Act.
4. The Municipality may elect to use alternative voting on the ordinary polling day and/or advanced polling days, and/or make available the equipment to use alternative voting at any poll.
5. 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.

**NOTIFICATION OF ELECTORS**

6. (1) The Returning Officer shall cause notice of advance and alternative polling days to be published in a newspaper circulating in the municipality.
- (2) The notice of advance poll and alternative days shall:
- (a) identify the advance polling days for paper voting and for alternative voting; and
  - (b) inform the elector that telephone voting and internet voting is permitted during alternative polling days and during advanced / ordinary polling days where permitted.

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- (3) The notice may include any other information the Returning Officer deems necessary.
7. (1) The Returning Officer shall cause notice of the ordinary polling day to be published as required by the Act.
- (2) The notice may include any information the Returning Officer deems necessary to comply with the Act or this by-law.

### **FORM OF TELEPHONE AND INTERNET BALLOTS**

8. (1) A telephone ballot and internet ballot shall:
- (a) identify by the title “Election for Councillor” or “Election for School Board Member”, **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.
- (2) No title, honour, decoration or degree shall be included with a candidate’s name on an internet ballot or telephone ballot.

### **OATH**

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

### **ELECTORS**

10. 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 the Act; **or**
  - (b) The person’s name does not appear on the final list of electors and the requirements of the Act have been met:
    - (i) the person appears before the Returning Officer during normal business hours during advance polling days; and
    - (ii) the person swears an oath in the prescribed form to this by-law to the Act.

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**PROXY VOTING**

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

**FRIEND VOTING**

12. (1) A friend voter shall only vote for an elector by alternative voting if the elector is on the list of electors, subject to Section 10 herein, and:

(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**

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

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**SEAL**

14. (1) At the close of the alternative 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 alternative polling days.

**LIST OF PERSONS WHO VOTED**

15. (1) At the close of alternative polling days, the system shall:
- (a) generate a list of all electors who voted by alternative voting; and
  - (b) a list of voters who did not vote, if required by the Returning Officer.
16. A printed and electronic copy of the lists under Section 15 shall be delivered to the Returning Officer within 24 hours of the close of alternative polling days. (This section 16 is not needed if only e-voting is being used.)

**COUNTING**

17. (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 telephone and internet ballots in the ballot box, the system shall count spoiled ballots but shall not count rejected ballots.
- (3) In counting the telephone and internet ballots, the system shall tally the number of spoiled ballots 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. (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

## **THE ALTERNATIVE VOTING (INTERNET AND PHONE) BY-LAW #2016-01**

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**

21. (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**

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. Notwithstanding this by-law, **paper balloting** is permitted at advance polls or on the ordinary polling day held pursuant to the Act.

### **SEVERABILITY**

25. 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**

26. (1) No person shall:

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

**THE ALTERNATIVE VOTING (INTERNET AND PHONE) BY-LAW #2016-01**

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

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

27. (1) 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 PENALTIES**

29. (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 (\$5,000) dollars and not more than ten thousand (\$10,000) dollars and in default of payment, to imprisonment for a up to a maximum 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



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apply to a pecuniary penalty imposed by this by-law.

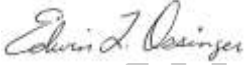
**Clerk's Annotation for Official Bylaw Book**

**Date of First Reading:** 6 June 2016

**Date of Notice in local newspaper to Public:** 14 June 2016

**Date of Second Reading:** 4 July 2016

**Adopted by the Council of the Town of Digby the 4<sup>th</sup> day July 2016.**

Clerk (Sign) 

Clerk (Print) Edwin T. Ossinger Date: 26 July 2016

Date – Mailed 3 certified copies of By-law to the DMA: 27 July 2016

\*Date of Notice in local newspaper - Passage of by-law: 26 July 2016

\*Effective Date of by-law unless otherwise specified in the text of the by-law.

**THIS IS TO CERTIFY** that the foregoing is a true copy of a by-law passed at a duly convened meeting of the Council of Town of Digby, held the 4<sup>th</sup> day of July 2016.

**GIVEN** under the hand of the Clerk and under the seal of the Municipality of Town of Digby, this 26<sup>th</sup> day of July, 2016.



Edwin T. Ossinger  
Clerk / Chief Administrative Officer

**THE ALTERNATIVE VOTING (INTERNET AND PHONE) BY-LAW #2016-01**

**Town of Digby  
By Law # 2016-01  
FORM 24**

**SECTION 83 of the Municipal Elections Act  
ELECTOR'S OATH OR AFFIRMATION  
OF QUALIFICATION AT POLL**

I swear (or solemnly affirm) that:

1. I am the person named (or intended to be named) \_\_\_\_\_  
In the list of electors now shown to me (being shown the list to the elector) and that on this date \_\_\_\_\_ of the poll in this election, I do actually reside in the Town of Digby and that the address of my Residence is \_\_\_\_\_.
2. I am of the full age of eighteen (18) years.
3. I am a Canadian citizen
4. As of the first advance polling day, I have been ordinarily resident in
  - The province of Nova Scotia for a period of six (6) months; and
  - In the Municipality
5. I am not the returning officer; a person serving sentence in a penal or reform institution, or a Person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.
6. I have not voted before in this election at nay polling place and will not do so or attempt to do so, and I have not received anything nor has anything been promised to me directly or indirectly in order to induce me to vote or refrain from voting in this election.

**Sworn (or affirmed) at** \_\_\_\_\_  
**In the** \_\_\_\_\_  
**This** \_\_\_\_\_ **day of** \_\_\_\_\_, \_\_\_\_\_, **before me**

\_\_\_\_\_  
**Revising Officer**

\_\_\_\_\_  
**Name of Elector**

**THE ALTERNATIVE VOTING (INTERNET AND PHONE) BY-LAW #2016-01**

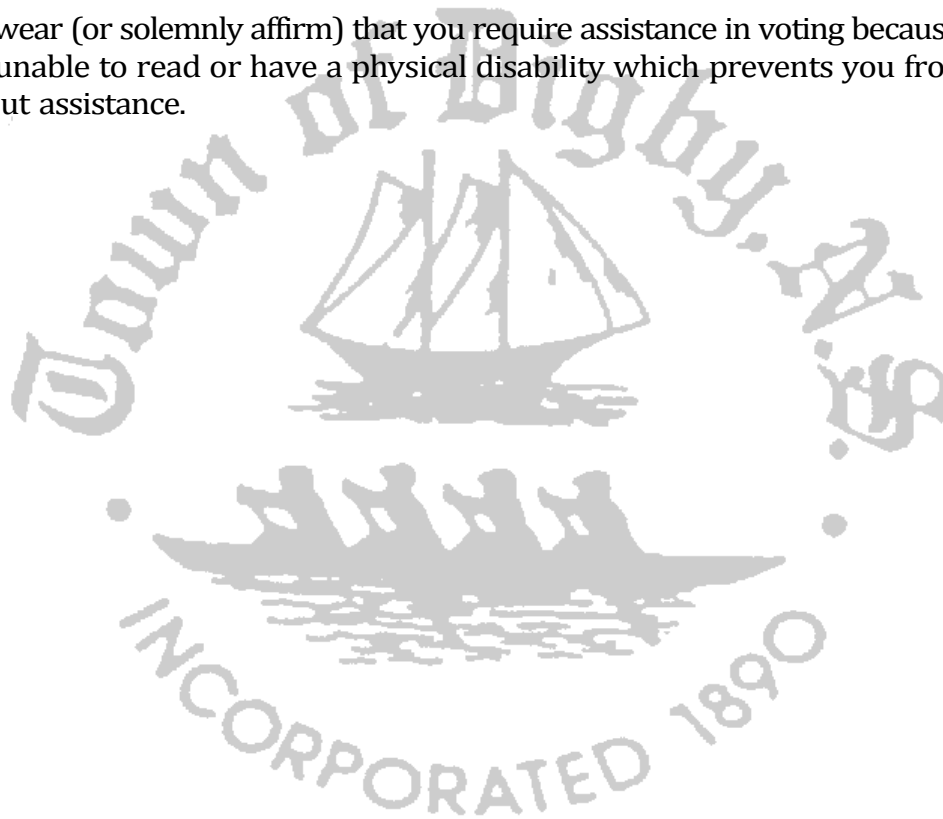
**Town of Digby  
By Law #2016-01**

**FORM 25**

**SECTION 86 of the Municipal Election Act**

**OATH OR AFFIRMATION OF  
ELECTOR REQUIRING ASSISTANCE**

You swear (or solemnly affirm) that you require assistance in voting because you are blind, unable to read or have a physical disability which prevents you from voting without assistance.



**Town of Digby**

**By Law #2016-01**

**FORM 26**

**SECTION 86 of the Municipal Election Act**

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

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

You swear (or solemnly affirm) that you have not previously acted as a friend for any other elector in the election who is not a child, grandchild, brother, sister, parent, grandparent, husband or wife, that you will carry out the wishes of the elector on whose behalf you act and that you will keep secret the name of the candidate or candidates for whom you mark the ballot paper.

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

**Town of Digby**

**By Law #2016-01**

**FORM 26A**

**SECTION 86 of the Municipal Elections Act**

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

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

You swear (or solemnly affirm) that the elector on whose behalf you act is a child, grandchild, brother, sister, parent, grandparent, husband or wife, that you will carry out the wishes of the elector and that you will keep secret the name of the candidate or candidates for whom you mark the ballot paper.

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

**THE ALTERNATIVE VOTING (INTERNET AND PHONE) BY-LAW #2016-01**

**Town of Digby  
By Law #2016-01**

**FORM 28**

**SECTION 92 of the Municipal Elections Act**

**OATH OR AFFIRMATION  
AS TO ERROR ON LIST**

You swear (or solemnly affirm) that you believe that you are the person intended to be referred to under the name (name as on official list of electors) whose address is given as (address as on the official list of electors).



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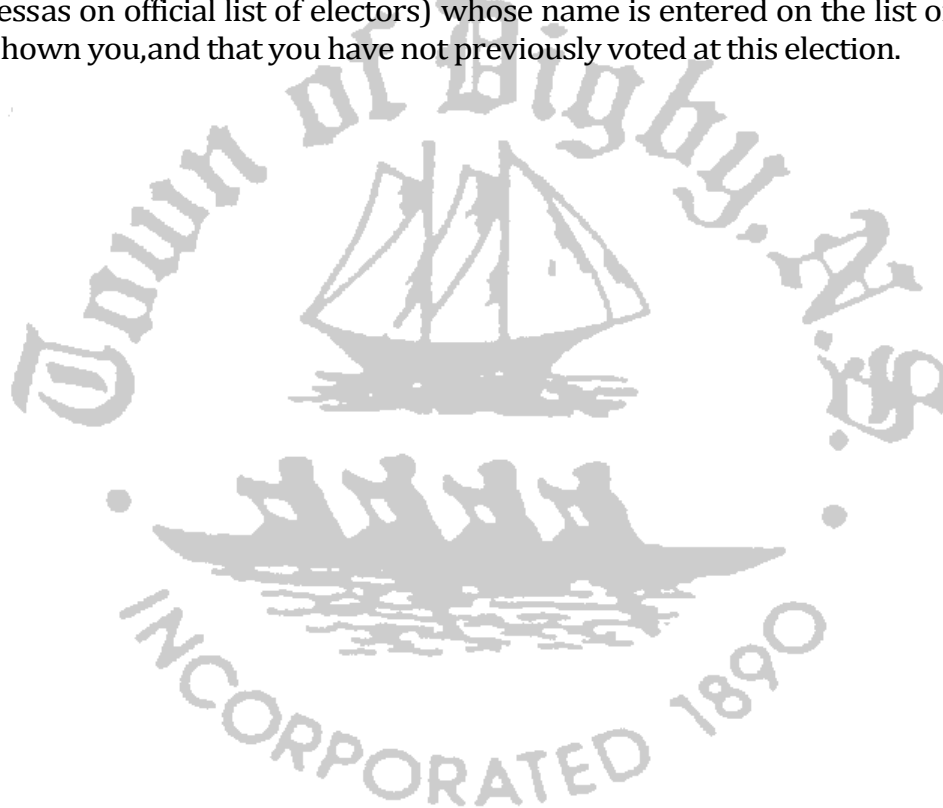
**Town of Digby  
By Law #2016-01**

**FORM 29**

**SECTION 93 of the Municipal Election Act**

**OATH OR AFFIRMATION OF  
A PERSONATED ELECTOR**

You swear (or solemnly affirm) that you are (name as on official list of electors) of (address as on official list of electors) whose name is entered on the list of electors now shown you, and that you have not previously voted at this election.



**THE ALTERNATIVE VOTING (INTERNET AND PHONE) BY-LAW #2016-01**

**Town of Digby  
By Law #2016-01**

**FORM 31**

**SECTION 98 of the Municipal Election Act**

**OATH OR AFFIRMATION OF ELECTOR  
NOT ON LIST OF ELECTORS ON POLLING DAY**

I swear (or solemnly affirm) that:

1. On this date, I actually reside in The Town of Digby.
2. As of the first advance polling day in this election, I have been ordinarily resident in:
  - the Province of Nova Scotia for a period of six (6) months; and
  - the Municipality (or in an area annexed to the Municipality).
3. I have not previously voted in this election at any other polling place, and I will not or will not attempt to vote at any other polling place.
4. As of the first advance polling day, I was a Canadian citizen and of the full age of eighteen years.
5. I am not the returning officer, a person serving a sentence in a penal or reform institution, or a person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary polling day.
6. I wish to be added to the list of electors for the purpose of voting in this election.

<b>Name of Elector (Please Print)</b>	<b>Civic Address of Elector</b>	<b>Date of Birth</b>
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_____	_____	_____
_____	_____	_____

Sworn (or affirmed) at \_\_\_\_\_  
in the County of \_\_\_\_\_  
this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me

\_\_\_\_\_

\_\_\_\_\_

Deputy Returning Officer

Applicant

**The Voters List may be used in future municipal, provincial or federal elections.**

(Date of Birth will be removed from final list of electors.)



**THE ALTERNATIVE VOTING (INTERNET AND PHONE) BY-LAW #2016-01**

**Town of Digby  
By Law # 2016-01  
FORM 31A**

**SECTION 98 of the Municipal Elections Act  
OATH OR AFFIRMATION OF ELECTOR  
NOT ON LIST OF ELECTORS ON POLLING DAY  
(WHERE ELECTOR CAN VOTE ONLY FOR REGIONAL SCHOOL BOARD)**

I swear (or solemnly affirm) that:

1. On this date I actually reside in the Town of Digby.
2. As of the first advance polling day in this election, I have been ordinarily resident in:
  - The Province of Nova Scotia for a period of six (6) months; and
  - The school region in which my polling division is located.
3. I have not previously voted in this election at any other polling place, and I will not or will not attempt to do so.
4. As of the first advance polling day, I was a Canadian citizen and of the full age of eighteen years.
5. I am not the returning officer; a person serving sentence in a penal or reform institution, or a Person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary Polling day.
6. I wish to be added to the list of electors for the purpose of voting in this election.

**Name of Elector  
(Please Print)**

**Civic Address of Elector  
Electors**

**Elector's  
Date of Birth**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Sworn (or affirmed) at \_\_\_\_\_

In the County of \_\_\_\_\_

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me

\_\_\_\_\_  
Deputy Returning Officer

\_\_\_\_\_  
Applicant

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

**THE ALTERNATIVE VOTING (INTERNET AND PHONE) BY-LAW #2016-01**

**Town of Digby  
By Law # 2016-01  
FORM 31B**

**SECTION 98 of the Municipal Elections Act  
OATH OR AFFIRMATION OF ELECTOR  
NOT ON LIST OF ELECTORS FOR USE WHEN ELECTOR CAN VOTE ONLY FOR  
CONSEIL SCOLAIRE ACADIEN PROVINCIAL**

I swear (or solemnly affirm) that:

1. On this date I actually reside in the Town of Digby.
2. As of the first advance polling day in this election, I have been ordinarily resident in:
  - The Province of Nova Scotia for a period of six (6) months; and
  - The school region in which my polling division is located.
3. I have not previously voted before in this election at any other polling place, and I will not or will not attempt to vote at any other polling place.
4. As of the first advance polling day, I was a Canadian citizen and of the full age of eighteen years.
5. I am not the returning officer; a person serving sentence in a penal or reform institution, or a Person convicted of bribery under the *Municipal Elections Act* in the six years preceding ordinary Polling day.
6. I wish to be added to the list of electors for the purpose of voting in this election.

<b>Name of Elector (Please Print)</b>	<b>Civic Address of Elector Elector</b>	<b>Elector's Date of Birth</b>
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_____	_____	_____
_____	_____	_____

Sworn (or affirmed) at \_\_\_\_\_  
In the County of \_\_\_\_\_  
This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me

\_\_\_\_\_  
**Deputy Returning Officer**

\_\_\_\_\_  
**Applicant**

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