

By-Law No. 5
Community Elections Procedures By-Law

This bylaw is made under the authority of the Municipalities Act, Stats. P.E.I. (1983), Section 47.1.

Whereas Council has determined that elections in the Community shall be conducted by means of an election poll;

BE IT ENACTED by the Council for the Community of Tignish as follows:

1. **Title**

This bylaw shall be known as and may be cited as the Tignish Community Elections By-Law.

2. **Definitions**

In this bylaw;

- (a) "Administrator" means the Administrator for the Community of Tignish.
- (b) "Ballot" means the portion of a ballot paper that has been marked by an elector, detached from the counterfoil, and deposited in the ballot box.
- (c) "By-election" means an election other than a general election.
- (d) "Candidate"
 - a. Before the close of nominations on nomination day, means a person who has been officially nominated as a candidate under Section 12 and;
 - b. After the close of nominations on nomination day, means a person who has been officially nominated as a candidate under the Section 13 (ii)
- (e) "Community" means the Community of Tignish.
- (f) "Council" means the Council for the Community of Tignish.
- (g) "Election Day" means the first Monday in November or an alternative date as required pursuant to Section 13, Provision for Insufficient Candidates, or Section 22, By-election Procedures.
- (h) "Elector" means a person qualified to vote at an election in the Community;
- (i) "List of electors" means the list of electors printed pursuant to Section 10
- (j) "Minister" means the Minister of Community and Cultural Affairs
- (k) "Recount" means a recount made under Section 21.

3. **Scope & Application**

This bylaw applies to the holding of elections in the Community, which elections shall be conducted by means of an election poll.

4. **Qualifications for Chairperson and Councilors**

The qualifications for nomination and for holding office as a Chairperson or Councilor of the Community are that the nominee is;

- a. not less than eighteen years of age;
- b. a Canadian Citizen; and
- c. A resident of the Community for a period of one year preceding the date of the nomination.

5. **Qualification for Electors**

The qualifications for an elector are that the elector is:

- a. not less than eighteen years of age;
- b. a Canadian citizen; and
- c. A resident of the Community for a period of six months preceding the date of the election.

Only qualified electors may vote in Community elections.

6. **Duties of the Administrator**

The Administrator shall perform the duties as are prescribed in this bylaw and, in addition, shall;

- a. Designate or appoint two scrutineers and one or more poll clerks and such other staff as may be necessary for the conduct of the election poll, provided always that none of the persons so appointed or designated shall have a personal interest in the outcome of the election; and
- b. Exercise general direction and supervision over the administrative conduct of elections held under this bylaw.

7. **Elections Ward (s)**

The Community shall be designated in its entirety as one ward.

8. **Location of Poll**

Unless otherwise changed by Council, the location of the election poll for the Community elections shall be Tignish Municipal Center Boardroom.

9. **Call for Nominations**

The Administrator shall, not less than seven days prior to the deadline for nominating a candidate, give notice of the time and place for nominating candidates in a newspaper having general circulation within the Community on two separate occasions

and such notice shall outline the qualifications of the electors, the procedures associated with the nominating of candidates, and information associated with the electors list.

10. **List of Electors**

- a) The administrator shall, not less than twenty-one days prior to an election, prepare and post at least (3) public places in the Community the list of electors.
- b) Any person who is not on the list of electors may have his name added at any time by declaring that he is a qualified elector of the Community, and such declaration may be made in the form set forth in appendix 1 of this By-Law.

11 **Advertising of Poll**

The administrator shall, on at least two separate occasions prior thereto, advertise in a newspaper having general circulation within the Community the location of the election poll and the hours during which the election poll shall be open.

12 **Nominations**

- (a) Every candidate for the office of Chairperson of the Community shall be nominated in writing by two electors of the Community and every candidate for the office of Councillor shall be nominated in writing by two electors of the Community, and such nominations shall be in the form set forth in this Bylaw.
- (b) The nomination papers shall be in the form prescribed by regulation.
- (c) The fee payable to the Community at the time of nomination is \$10 which is refundable to any candidate who received one-half or more of the votes cast for the candidate elected.
- (d) Nomination papers in the prescribed form shall be filed with the Administrator of the Community by the Monday preceding by two weeks the first Monday of November.
- (e) If a candidate for the office of Chairperson or Councillor dies after the expiration of the time for nominating candidates and before the closing of the poll, or if elected, dies before taking the oath of office, the Council and Administrator shall proceed under this Act as if a vacancy had occurred in the office of Chairperson or Councillor.

13. **Provisions for Insufficient Candidates/Second Nomination Day**

- a) Where there are insufficient nominations to fill all the Council positions, those candidates nominated shall be declared elected by acclamation by the Community Administrator without poll being taken, at the hour of twelve o'clock noon on the first Monday of November, in the office of the Community Administrator.
- b) If not a sufficient number of nominations are filed to fill all of the council seats, the Community Administrator shall fix a second nomination day within fourteen days of the date on which the election would have been held, and if

sufficient nominations are filed on the second nomination day, a deferred election shall be held within fourteen days.

c) Those nominated to fill the remaining vacancies on the second nomination day shall be declared elected by acclamation by the Community Administrator at four o'clock in the afternoon on that day and where vacancies continue to exist, the Minister shall appoint persons to fill the remaining vacancies.

14. **Candidates Night**

The Administrator may organize a "Meet the Candidates Night" to be held at the Municipal Centre Boardroom following the nomination deadline and prior to Election Day.

15. **Oath of Office**

Every poll clerk before acting as such shall take the oath in the form prescribed by regulation before the Community Administrator.

16. **Persons permitted in poll**

The Community Administrator, poll clerk, the candidates and their agents, not exceeding two for each candidate, and no others shall be permitted during the election to remain in the room where the votes are given.

17. **Agents Oath**

Every person representing himself to be the agent of any candidate shall, before acting as such, produce his appointment in writing under the hand of the candidate, and shall deliver it to the Community Administrator, and shall take an oath in the form prescribed by regulation.

18. **Procedures for Election Day**

- a) The poll shall open at 9:00am on Election Day and shall be kept open until 7:00pm of the same day. The voting shall be by secret ballot showing the names of all candidates.
- b) The Administrator shall ensure before the poll is opened that the following information is made available at the location of the poll;
 - (i) a list of electors;
 - (ii) a sufficient number of ballot papers to supply the electors named in the list of electors, pencils to mark the ballots and envelopes to be used with the ballot papers.
 - (iii) a ballot box to receive the ballot papers; and

(iv) printed directions for the guidance of electors shall be posted in the compartments of the polling station (s).

- c) Each elector being introduced one at a time into the room where the poll is held, shall declare his name, which shall be entered in the poll book to be kept by a designated person for that purpose, and if the name is found on the list of electors, he shall receive a ballot paper on the back of which the Administrator has previously put his initials so placed that when the ballot is folded, they can be seen without opening it.
- d) A designated person shall enter in the Poll Book opposite the name of each elector voting, the word "voted", as soon as his ballot paper has been deposited in the ballot box and he shall also enter in the same book, "sworn" (or affirmed), opposite the name of each elector, whom the oath (or affirmation) has been administered, and the words, "refused to swear" or "refuse to affirm" opposite the name of each elector who has refused to take oath or to affirm.
- e) The elector on receiving the ballot paper shall proceed forthwith into a compartment of the polling station and there mark his ballot in such a manner so as to clearly delineate for whom he wishes to cast his vote. Upon casting his vote, the elector shall fold his ballot paper so that the initials on the back can be seen and handed to the designated person, who shall without opening it, in the presence of the elector, put it in the ballot box.
- f) An elector may vote for not more than 7 candidates.
- g) No elector shall be allowed to take his ballot paper out of the polling station or show the same after he has marked it.
- h) The Administrator, on the application of any elector who is unable to read or is incapacitated from voting, may assist the elector in marking his ballot paper in the manner directed by the elector. Application under this Section may be made in the form set forth under this bylaw.
- i) If a person representing himself to be a particular elector named on the list of electors applies for a ballot paper after another person has voted as that elector, the applicant, after taking oath in the form set forth under this by law and otherwise establishing his identity to the satisfaction of the Administrator, is entitled to receive a ballot and to vote.
- j) The name of the elector voting under sub-section 18(i) shall be entered on the list of electors and a note made of his having voted on a second ballot paper under the same name.
- k) An elector who has inadvertently dealt with the ballot paper given him so that it cannot be conveniently used may, on delivering it to the Administrator or a designated person, receive another ballot paper in the place of the one delivered and the one delivered to be immediately destroyed in the elector's presence.
- l) A person is guilty of an offence under this bylaw who, directly or indirectly:
 - i) at or about the polling station, interferes or attempts to interfere with an elector when marking a ballot paper, or otherwise attempts to ascertain

- the name of the candidate for whom an elector is about to vote or has voted;
- ii) communicates information about the manner in which a ballot paper has been marked in his presence in a polling station;
 - iii) induces or endeavors to induce a voter to show his ballot paper so as to make known the name of the candidate for whom he has cast his vote;
 - iv) communicates information obtained in a polling station as to the candidate for whom an elector at the polling station is about to vote or has voted; or
 - v) at or about the polling station has in his possession any written or other material being used or intended to be used for the promotion or advancement of an individual candidate. Any person who commits an offence under this subsection shall be liable to prosecution pursuant to the provisions of the Summary Proceedings Act and shall be liable, upon conviction, to a fine not exceeding \$500.00.

19. Counting of Ballots

- a) The Administrator shall take a note of and decide all objections to any ballot papers found in the ballot box and such decision shall be final subject to the provisions for a recount.
- b) The Administrator shall appoint two electors to act as scrutineers in the election. The scrutineers shall, in the opinion of the Administrator, not have a personal interest in the outcome of the election.
- c) Immediately after the close of the poll, the Administrator shall open the box and proceed to count the number of votes given for each candidate and in doing so he shall reject:
 - i) all ballot papers that were not supplied by the Administrator or his designate and do not have the Administrator's initials on the back.
 - ii) all ballot papers by which votes have been given to 8 candidates or more.
 - iii) all ballot papers upon which the elector could be identified; and
 - iv) all ballot papers upon which there is any writing or mark which would create ambiguity with respect to the voting decision of the elector.
- d) The administrator shall keep a list of the number of votes given to each candidate, as well as, a list of all rejected ballot papers when counting the ballots.
- e) Following the counting of the ballot papers, the Administrator shall:
 - i) prepare a written statement signed by him in the presence of the two scrutineers who shall witness his signature certifying the

- names of the candidates receiving votes and the number of votes received by each candidate.
- ii) Place in separate envelopes all ballot papers indicating the votes given for candidates and those rejected pursuant to Section 19(c), and all those unused ballot papers; and
 - iii) Place a copy of the written statement along with the envelopes into a sealed ballot box to be retained in the custody of the Administrator.
- f) Where, upon the counting of the votes, 2 or more candidates for an office have an equal number of votes and both or all of those candidates cannot be elected, the Administrator shall immediately;
- i) write the names of those candidates on separate, identical blank sheets of paper;
 - ii) fold the sheet of paper in an identical manner so that the names are concealed;
 - iii) deposit them in a receptacle and withdraw the number of the sheets necessary to elect the candidates required to be elected; and
 - iv) declare the candidate whose name appears on the sheet withdrawn, to be elected.

20. **Result of Election**

The ballot papers having been counted and a list of the number of votes given to each candidate, and of the number of rejected ballot papers, all the ballot papers indicating the votes given for each candidate shall be put into one envelope or parcel, and those rejected and those spoiled and those unused shall be put into different envelopes or parcels, and those envelopes or parcels being endorsed so as to indicate the contents, shall, together with the list of the number of votes given to each candidate, be put back into the box.

21. **Recount/Fee/Decision**

- A) Any candidate may within seven days of the election, in writing, demand a recount of votes cast;
- B) A candidate shall at the time of making the demand pay to the Community Administrator the sum of \$25 which is not refundable;
- C) Upon receiving a demand for a recount, the Community Administrator shall request the chief provincial court to designate a provincial court judge to appoint a time and place to recount the votes and the judge shall at the time and place appointed, in the presence of the candidate or his agent and the Administrator, proceed to recount the votes;
- D) The decision of the Judge on the recount is final.

22. **By-Election Procedure**

Where a vacancy on Council occurs, Council may, by motion, determine that the vacancy shall be filled by one of the following procedures:

- a) a by-election being held in accordance with the provisions of this bylaw pertaining to a general election; or
- b) by use of a special election meeting, which may be during the next annual meeting, and the provisions of Section 47 of the Municipalities Act shall apply to such election meeting.

23. **Effective Date**

This bylaw shall come into force effective October 19, 2006

READ A FIRST AND SECOND TIME AND PASSED BY THE COMMUNITY
COUNCIL OF THE COMMUNITY OF TIGNISH, THE 19th DAY OF October, A.D.
2006