

Returning Officer Memorandum

Purpose

The purpose of this memorandum is to provide background information to support Council in their engagement on recommended amendments to the *Local Authorities Election Act* (LAEA), including:

- A summary of key legislation governing municipal elections in Calgary;
- Roles and responsibilities of key stakeholders in Calgary’s municipal elections;
- Returning Officer’s responses to the Government of Alberta’s Engagement Summary on the LAEA; and,
- Elections Calgary’s preparations for the 2025 General Election, including upcoming plans to engage with Council and school boards.

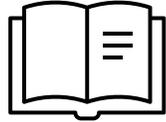
Summary of key legislation governing municipal elections

Legislation	Summary	Link, if available
Municipal Government Act (MGA)	<p>Governs the City’s general authority, growth and financing.</p> <p>Provides the legislative framework for Council governance, including Council composition, establishment of wards, duties, vacancies, term of office, disqualification from holding office, requirements for a vote of the electors on bylaws and questions and recall provisions.</p>	MGA
Education Act	<p>Governs the education of students in Alberta and the role and responsibilities of school boards.</p> <p>Provides the legislative framework for school board governance, eligibility to hold office, vacancies, disqualification from holding office, establishment of wards and recall provisions.</p>	Education Act
Local Authorities Election Act (LAEA)	<p>Governs the administration of general elections, by-elections and vote of the electors on questions and bylaws directed by Council.</p> <p>When directed by the Government of Alberta to occur with a general election, the LAEA also governs Senate nominee elections administered under the Alberta Senate</p>	LAEA

Legislation	Summary	Link, if available
	<p>Election Act and provincial referendum questions administered under the Referendum Act.</p> <p>Finally, the LAEA governs the disestablishment vote of the taxpayers of a business improvement area held under section 27 of Alberta Regulation 93/2016.</p>	
Election Bylaw	<p>Enacts Council’s discretionary authority in the LAEA related to various election procedures, including:</p> <ul style="list-style-type: none"> • Authority to open voting stations early in the city of Calgary on Election Day (8 a.m.). • Ballot and vote tabulator procedures. • Special (mail-in) ballot and accessible voting procedures. • Number of nominating electors’ signatures required for mayoral and councillor candidates (100). • Authority to create a permanent elector register used for planning purposes. • Location where nominations will be accepted. • Nomination deposits (\$500 for Mayor, \$100 for all other elected offices). • Authority for Returning Officer to appoint the Substitute Returning Officer. • Form of receipts for candidates and third party advertiser contributions. 	Bylaw 35M2018
Early Voting Hours Bylaw	<p>Provides authority to open voting stations early for Calgary Roman Catholic Separate School Division elections in Airdrie, Chestermere and Cochrane for which The City’s Returning Officer is accountable.</p>	Bylaw 29M2007
Ward Boundary Determination and Review Policy	<p>Establishes the criteria, processes and roles of Council, the Returning Officer and Ward Boundary Review Commission in the review of City ward boundaries.</p>	Council Policy CP2019-04
Electoral Ward Boundaries Bylaw	<p>Establishes the City’s ward boundaries and was last amended on October 5, 2020 following a minor review of ward boundaries to better balance population in each ward supporting the principle of effective representation.</p>	Bylaw 19M91

Legislation	Summary	Link, if available
<p>Code of Conduct for Elected Officials Bylaw</p>	<p>Establishes rules a Member of Council must follow in the discharge of their office, and the powers and procedure of the Integrity Commissioner in exercising oversight over Members of Council.</p> <p>Provides conduct rules Members of Council must follow between June 1 and Election Day in a General Election year.</p>	<p>Bylaw 26M2018</p>
<p>Temporary Signs on Highways</p>	<p>Regulates the size, location and structure of temporary signs on highways.</p> <p>Includes provisions related to election signs.</p>	<p>Bylaw 29M97</p>
<p>Use of Parks and Pathways Bylaw</p>	<p>Regulates the use of City of Calgary parks and pathways.</p> <p>Includes provisions related to the placement of temporary signs and banners.</p>	<p>Bylaw 11M2019</p>

Key stakeholder roles & responsibilities



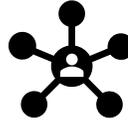
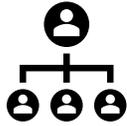
Council

Government of Alberta

School Boards

Election Commissioner

<p>Elected Authority for general elections, byelections, vote on a question or bylaw directed by Council</p>	<p>Enacts election-related enabling legislation and regulations</p>	<p>Tri-party agreement with The City of Calgary Returning Officer to administer trustee elections</p> <p>Together, school boards contribute 30% of eligible election-related expenses annually</p>	<p>Investigates complaints related to candidate campaign finance compliance (Part 5.1, LAEA)</p>
<p>Enacts election-related bylaws, resolutions, and Council policies</p>	<p>Issues third party advertising guidelines</p>	<p>Determines trustee ward boundaries</p>	<p>Investigates complaints related to third party advertising compliance (Part 8, LAEA)</p>
<p>Directs questions and bylaws for a vote of the electors</p>	<p>Issues training materials, delivers training programs for returning officers</p> <p>Issues candidate guide</p>	<p>Determines number of nominating electors' signatures required for trustee candidates</p>	<p>Authority to issue administrative penalties, require compliance agreements</p>
<p>Determines Council composition and ward boundaries</p>	<p>Registrar for general election third party advertisers (where third party advertisers register in 10 or more local jurisdictions)</p>		
<p>Approves Municipal Election Service budget</p>			



**Secretary
(ex-officio City
Manager)**

**Returning Officer /
City Clerk**

**Substitute
Returning Officer /
Deputy City Clerk**

**Elections Calgary
Team**

Statutory duties set out in LAEA related to administrative stewardship	Various statutory duties, set out in sec. 14 of LAEA Independent and impartial when performing statutory duties	Day to day leadership of Elections Calgary team	Voter, candidate and third party advertiser engagement
		Oversees plans for safe, accessible, and legislatively compliant voting opportunities	Receive candidate nominations and third party advertiser registrations
As City Manager, fosters public trust in an impartial public service	Delegated duties of Secretary	Internal and external partnerships	Arrange voting opportunities
Employee education on Employee Code of Conduct considerations during election	Provides executive leadership to Elections Calgary team	Ward boundary reviews, bylaws, Council policies, and procedures	Recruit, hire and train election workers (~4,000), temporary office and event staff
Provides information and assistance to Returning Officer	Liaison to City Administration and key stakeholders	Election integrity, readiness, and risk mitigation plans	Coordinate testing, distribution and security of vote tabulators and related technology
Appoints City Clerk and Returning Officer, in consultation with Council	Appoints Substitute Returning Officer / Deputy City Clerk	Media relations and issues management	Procure, coordinate and distribute election materials, forms and ballots
	Official spokesperson for Elections Calgary	Delegated duties of Returning Officer, as designated	Receive candidate and third-party advertiser disclosure statements
			Secure election materials and records

Returning Officer and Public Feedback Received by Elections Calgary in Response to Government of Alberta's Engagement Summary on the *Local Authorities Election Act*

Enhanced Councillor Accountability

1. Are the eligibility criteria for an individual to be nominated as a municipal candidate adequate? If not, please provide your suggestions for improvement.

Returning Officer's Recommendation: Provide authority for the returning officer to refuse a nomination paper in section 28(4) of the LAEA if a candidate is restricted from filing under section 22(1.2) of the LAEA.

If a candidate fails to file disclosure statements by March 11 in the year following the general election, their name will be included in the secretary's report to council or a school board. In keeping with section 22(1.2) of the LAEA, by being included in this report, the candidate is restricted from filing a nomination for:

- eight years if they never file a disclosure; or
- three years from the date that they file a disclosure.

The returning officer does not have authority to refuse nomination papers from a candidate who failed to file their disclosure statement and who has not received relief from the court. Under the current legislative framework, the local jurisdiction or an elector will be required to seek recourse through law enforcement to enforce the restrictions placed on candidates who did not file a disclosure statement within the statutory timeframe (and have not received relief from the court).

Public Feedback: In spring of 2021, approximately 500 emails from the public were received by Elections Calgary regarding a candidate's eligibility to be nominated based on criminal charges and/or convictions.

2. Are the criteria and process for disqualifying a councillor appropriate? If not, please provide your suggestions for improvement.

Returning Officer's Recommendation: The Returning Officer has no response to this question.

Protecting Voters

1. Should candidates, their scrutineers, or their official agent continue to have the opportunity to object to an individual who has shown up to vote?

Returning Officer's Recommendation: If candidate, scrutineer or official agent objections are to remain, further legislative guidance about scrutineer, candidate, or official agent access to electors' personal information is needed. This could include an elector's identification, completed Form 13, or conversation between the elector and the

deputy returning officer. As well, additional legislative guidance on the reasons a scrutineer, candidate, or official agent may make an objection would be needed to provide greater clarity for protecting voters and maintaining integrity of the voting process.

2. Should candidates be able to request access to the list of electors?

Returning Officer's Recommendation: The Returning Officer has no response to this question.

Public Feedback: Elections Calgary received over 500 complaints in the spring of 2021 from the public regarding candidate access to a list of electors containing personal information of electors including names and addresses. These complaints are an indication of the public's sentiment with respect to providing access to electors' personal information contained on a list of electors.

Strengthening Democracy

1. Should elections conducted with electronic voting equipment be eligible for judicial recount, where the judge can order the votes be recounted by hand or run through the electronic tabulator again?

Returning Officer's Recommendation: Elections conducted with electronic voting equipment are recommended to be eligible for a judicial recount. The Returning Officer recommends allowing candidates, scrutineers, or official agents to apply for a judicial recount when electronic voting equipment (a tabulator) is used and require the judicial recount to be conducted in the same manner as the election. When elections are conducted with tabulators, an elector is given an opportunity to correct or confirm their voting intent on the ballot in the voting station if the tabulator rejects their ballot. A hand recount may have a different result due to a judge's interpretation of an elector's valid markings on a ballot rather than the elector's intent at the time of voting in the voting station.

If a hand count is contemplated, the Returning Officer recommends consideration be given to the practicality and timelines associated with a recount in a large jurisdiction such as the city of Calgary. Further, the Returning Officer recommends consideration be given to the current recount provisions set out in sec. 98 of the LAEA to ensure alignment in timelines and recount decisions.

2. Should third parties advertising for or against an issue that is the subject of a vote (e.g., municipal referendum question) be required to register?

Returning Officer's Recommendation: Should third parties advertising for or against an issue that is the subject of a vote (e.g., municipal referendum question) be regulated, the Returning Officer recommends that the LAEA provides a clear definition and guidelines are developed.

3. Should third parties advertising any issues that have been raised by candidates in a municipal election be required to register?

Returning Officer's Recommendation: Should third parties advertising any issues that have been raised by candidates in a municipal election be regulated, the Returning Officer recommends that the LAEA provides a clear definition and guidelines are developed.

Additional Recommendations

The Returning Officer's additional recommendations related to the LAEA will be posted on electionscalgary.ca and shared with Members of Council and school boards when available.

Preparations for the 2025 General Election

The October 18, 2021 General Election was a unique general election due to several circumstances:

- It occurred during the COVID-19 pandemic, requiring voting opportunities, services to candidates and third party advertisers and information for voters to be delivered differently.
- The broad number of matters to be considered by voters, including a General Election, Senate nominee election, a Council-directed fluoridation question and two provincially directed referendum questions.
- New ward boundaries.
- Substantial amendments regarding campaign financing, regulation of third party advertising, introduction of a nomination period and enforcement authority granted to the Election Commissioner.
- The city's first General Election using vote tabulators.

A detailed report outlining the unique challenges, achievements, service improvements and lessons learned from the 2021 General Election will be posted on electionscalgary.ca and shared with Members of Council, school boards and other stakeholders when available.

As presented to Council at the 2019 April 02 Priorities and Finance Committee (see [PFC2019-0394](#)), Elections Calgary follows a four-year election program cycle, which ensures a state of capacity and readiness to deliver on a by-election, vote of the electors on a question or bylaw, in addition to the next general election. These preparations are summarized in the table below.

Four-year Election Program

Year 1 - 2022	<ul style="list-style-type: none"> • Based on debriefs, refine four-year and by-election readiness plans and budget. • Receive candidate and third party advertiser disclosure statements. • Issue report to Council on non-compliance in relation to candidate disclosure statements. • Recommend changes to election legislation. • Election technology and physical security review. • Equity in Service Delivery Fund research: Improving Voting Program Design for Calgary's Diverse Population. • Undertake population review to inform ward boundary review process. • Legislated disposition of 2021 General Election materials (at the conclusion of any court matters).
Year 2 - 2023	<ul style="list-style-type: none"> • Seek Council direction on the ward boundary review process and related Council composition considerations. • Council engagement on 2025 General Election plans to help inform required amendments to the Election Bylaw (Bylaw 35M2018). • Draft changes to bylaws and Council policies. • Redesign processes for 2025 (e.g., hiring, voting, materials, and logistics). • Identify technology requirements. • Undertake partner and stakeholder engagement to identify election planning and service delivery considerations. • Conduct ward boundary and Council composition review, if required.
Year 3 - 2024	<ul style="list-style-type: none"> • Present ward boundary and Council composition recommendations, if required. • Update ward boundary bylaw, if required. • Recommend proposed changes to the election bylaws. • Implement process and technology changes. • Onboard limited term staff, corporate partners and trainers. • Formalize external partner engagement strategies. • Book voting stations.
Year 4 - 2025	<ul style="list-style-type: none"> • Accept candidate nominations and third party advertiser registrations. • Continue training and integration of staff and corporate partners. • Conduct voting station facility inspections. • Onboard and train limited term staff. • Order, receive and kit election materials. • Hire and train election workers. • Conduct the 2025 General Election.

As noted, in 2023 Council will be engaged on the 2025 General Election plans to help inform required amendments to the Election Bylaw (Bylaw 35M2018). In 2023, the Returning Officer will also seek Council's direction on the ward boundary review process and related Council composition considerations.

Yours truly,

Kate Martin
Returning Officer