

Returning Officer Report to
Regular Meeting of Council
2024 November 26

ISC: UNRESTRICTED
C2024-1175

Elections Bylaw Procedures – Preparations for 2025 General Election

PURPOSE

This report outlines changes to election procedures in Bylaw 35M2018 (“Elections Bylaw,” Attachment 1) required to align with *Municipal Affairs Statutes Amendment Act* (Bill 20) amendments to the *Local Authorities Election Act* (LAEA). The report also seeks Council direction on a new LAEA discretionary authority to require candidates to provide a criminal record check when filing their nomination papers. This report will inform the scope of a new Elections Bylaw, to be presented to Council at their 2024 December 17 Regular Meeting.

PREVIOUS COUNCIL DIRECTION

There is no previous Council direction related to this report.

RECOMMENDATION:

That Council direct the Returning Officer to prepare a proposed Elections Bylaw and return to the 2024 December 17 Regular Meeting of Council for three readings.

CHIEF ADMINISTRATIVE OFFICER/GENERAL MANAGER COMMENTS

The City Solicitor and General Counsel was consulted in preparing this report..

HIGHLIGHTS

- The LAEA permits Council to pass bylaws to provide authority and govern procedures for various aspects of a general election, by-election or vote of the electors on a question or bylaw. Most of these authorities are outlined in the current Elections Bylaw (Attachment 1).
- Attachment 2 outlines Council’s discretionary authorities related to election procedures in the LAEA, included for information purposes only.
- Changes to election procedures in the current Elections Bylaw are required to align with Bill 20 amendments to the LAEA.
- Council may wish to consider a newly created discretionary authority in the LAEA to require candidates to provide a criminal record check when submitting their nomination papers.
- Elections Bylaw authority to require 2025 General Election candidates to provide a criminal record check must be given three readings by 2024 December 31.
- Given the requirement in Section 13.1(1)) of the LAEA for the returning officer to be impartial in the exercise of their duties, no recommendation related to criminal record check requirements for candidates is included in this report.

DISCUSSION

At the 2024 December 17 Regular Meeting of Council, Elections Bylaw changes will be presented. Below is a summary of Elections Bylaw changes required because of Bill 20 amendments to the LAEA, by theme.

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Alternative Voting Equipment

Municipalities are prohibited from using alternative voting equipment (such as vote tabulators) to count votes. As votes must be counted by hand, all references to vote tabulators will be removed from the Elections Bylaw to align with the LAEA.

Ballots

A composite ballot (i.e., candidates for all elected offices are printed on a single ballot paper) is required when using vote tabulators. As vote tabulators are prohibited, the Elections Bylaw no longer requires authorization to use a composite ballot. All references to composite ballot will be removed from the Elections Bylaw to align with the LAEA.

Counting Centre

With the requirement to count ballots by hand, it will be necessary to have a central counting centre to conduct the count of advance vote, institutional and special (mail-in) ballots. Section 85.1(4) of the LAEA provides that advance vote, institutional and mail-in ballots may begin being counted no earlier than 7:30 p.m. on Election Day. Due to the length of time that will be required to conduct a hand count, this provision will be included in the Elections Bylaw.

Elector Assistance

The Elections Bylaw currently permits the use of a ballot marking device used by electors with limited mobility, reduced vision, or blindness to mark their ballots independently. In addition to vote tabulators, ballot marking devices are prohibited. To support electors with limited mobility, reduced vision, or blindness to mark their ballots independently, the Elections Bylaw will provide authority to use a blind elector template in keeping with Section 78 of the LAEA.

Permanent Electors Register

Bill 20 amendments to the LAEA require the use of a permanent electors register for municipal Council elections. Previously, the LAEA provided discretionary authority to create permanent electors register. References to the permanent electors register in the Elections Bylaw will be removed to align with the LAEA.

Voting Station Hours

Voting hours on Election Day are set in the LAEA as 10 a.m. to 8 p.m. The LAEA also provides discretionary authority for voting stations to be open earlier than 10 a.m. on Election Day. Currently, the Elections Bylaw permits voting stations to be open at 8 a.m. on Election Day. This provision was introduced at the request of the Returning Officer in the 2021 General Election to reduce the capacity of electors in voting stations and support social distancing during the COVID-19 Pandemic. The requirement to hand count ballots will result in election officials working additional hours following the close of voting stations. To mitigate worker fatigue and support vote counting accuracy, early voting hours will be removed from the Election Bylaw to align with the LAEA hand count provisions.

Criminal Record Check – Legislative Framework

Bill 20 amendments to Section 21.1 of the LAEA provide that “an elected authority, by a bylaw passed prior to December 31 of the year before a year in which a general election is to be held, may require a person seeking to be nominated as a candidate to provide a criminal record check.”

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The LAEA does not include:

- a definition of a criminal record check,
- where the criminal record check should be sourced,
- the period in which the criminal record check must be completed prior to submission, or
- accountability for the cost of the criminal record check. Currently, nomination filing fees are paid by prospective candidates.

Candidate nomination papers and criminal record checks, if required, may be examined by the public at the Elections Calgary during regular business hours [LAEA, Section 28(6)]. Only the mailing address of the candidate on the criminal record check can be withheld or redacted, and any personal information that in the opinion of the returning officer would compromise the personal safety of the candidate [LAEA, Section 28(6.2)].

While Elections Calgary communicates candidate eligibility requirements to prospective candidates, the LAEA does not provide the returning officer authority to reject a nomination from a candidate who appears from their submitted criminal record check to be disqualified from being nominated. If it appears a candidate should be disqualified from being nominated and has signed and submitted their Nomination Paper and Candidates Acceptance form ("Form 4") to Elections Calgary, a public complaint may be filed with Calgary Police Service (CPS) to investigate if the candidate has signed a false affidavit, or their Form 4 contains a false statement related to their qualification to hold office.

Criminal Records Check - Types

A Calgary Police Service (CPS) Police Information Check (PIC) provides the broadest scope of criminal record checks available and includes Canada-wide criminal record history (convictions and non-convictions), police history, local police information and Alberta Provincial court records. Attachment 3 outlines the information disclosed in a PIC.

A PIC may also include a vulnerable sector check if it meets eligibility requirements. A vulnerable sector check includes a query to confirm an individual has not received a record suspension for sexual offences. The Alberta Police Information Check Disclosure Procedures (May, 2021) sets out the requirements for a vulnerable sector check:

"It is the responsibility of the requesting organization to determine whether an applicant requires a Vulnerable Sector check. Vulnerable Sector checks should only be requested when the applicant is entering a position where they will be directly responsible for the well-being of a vulnerable person¹, and the position is one of authority or trust relative to vulnerable people. The police service will verify the position meets the requirements for the vulnerable sector check as per section 6. 3 of the Criminal Records Act, and determine if it is conducted," pg. 4.

¹ A vulnerable person is defined as "a person who, because of their age, disability, or other circumstances are in a position of dependence on others or otherwise at greater risk than the general population of being harmed by person in a position of authority to trust relative to them". Source: [Alberta Police Information Check Disclosure Procedures \(May, 2021\), pg. 4.](#)

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The current cost for a PIC for employment purposes is \$75.00. Processing times for PICs may vary passed on volume of requests. Processing times are found on the CPS website.

Private third-party companies can also provide criminal record checks, which reveal whether any criminal records were identified, with no additional information provided (e.g., upcoming court appearances, or convictions).

The current cost for a private third-party company criminal record check ranges from \$45 to \$65 and are typically completed within 1-2 business days.

The Royal Canadian Mounted Police refers individuals to local police services for criminal record checks, including vulnerable sector checks.

Criminal Record Check - Jurisdictional Scan

Saskatchewan is the only province with legislation permitting criminal record checks for candidates. Regina and Saskatoon have not enacted this legislation municipally. There are no criminal record check requirements for Members of the Legislative Assembly of Alberta or Members of Parliament (Canada). Attachment 4 includes a jurisdictional scan of the status of criminal record check requirements in a sample of Alberta municipalities.

Elections Bylaw Considerations

Should Council wish to include provisions in the Elections Bylaw requiring that a person seeking to be nominated as a candidate provide a criminal record check, Council direction is required to inform how the Elections Bylaw provisions are drafted, including:

- The source of criminal record check that would be accepted (Calgary Police PIC, and/or a private, third-party company).
- Time period within which the criminal record check has been sourced.
- Specify accountability for the costs of the criminal record check.

Council's direction on candidate criminal record check requirements will be incorporated in a new Elections Bylaw to be presented at the 2024 December 17 Regular Meeting of Council.

EXTERNAL ENGAGEMENT AND COMMUNICATION

- | | |
|------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| <input type="checkbox"/> Public engagement was undertaken | <input checked="" type="checkbox"/> Dialogue with interested parties was undertaken |
| <input type="checkbox"/> Public/interested parties were informed | <input type="checkbox"/> Public communication or engagement was not required |

The Calgary Police Service was consulted regarding PIC procedures. Alberta Municipalities were consulted regarding their candidate nomination practices. Municipal Affairs was consulted on the definition of a criminal record check.

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IMPLICATIONS

Social, Environmental or Economic

Not applicable.

Service and Financial Implications

Other:

Financial impacts of election procedure changes arising from Bill 20 amendments to the LAEA have been estimated at \$1.3 million dollars and will be accommodated within existing Municipal Elections one-time funding and anticipated positive budget variances within the Law, Legislative Services and Security Department.

RISKS

Given the timing of Bill 20 coming into force on 2024 October 31, there is a risk that the Elections Bylaw revisions related to criminal record checks will not be completed and presented to Council at the 2024 December 17 meeting to be in effect for the 2025 General Election. To mitigate this risk, the Returning Officer is reprioritizing existing work within Elections Calgary.

ATTACHMENTS

1. Elections Bylaw (Bylaw 35M2018)
2. Chart: Council Discretionary Authorities in the LAEA
3. Police Information Check (PIC) Disclosure
4. Jurisdictional Scan: Nomination Requirements
5. Presentation

Department Circulation

General Manager/Director	Department	Approve/Consult/Inform
Katarzyna Martin, Returning Officer	Law, Legislative Services and Security	Approve
Jill Floen, City Solicitor and General Counsel	Law, Legislative Services and Security	Consult

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