

**BLACKLINED VERSION OF ELECTIONS BYLAW 35M2018
SHOWING PROPOSED CHANGES**

NOTE: proposed changes shown in underlined text

BYLAW NUMBER 35M2018

**BEING A BYLAW OF THE CITY OF CALGARY
TO CONDUCT ELECTIONS**

WHEREAS subsection 46(2) of the Local Authorities Election Act, R.S.A. 2000, c.L-21 (the "*Act*") provides that an elected authority may, by a bylaw passed prior to June 30 in a year in which an election is to be held, provide that voting stations may be open before 10:00 a.m.

AND WHEREAS Council, being a local authority as defined in the *Act*, deems it desirable that voting stations for an election be open at 8 a.m.;

AND WHEREAS section 49 of the *Act* provides that a municipality may by bylaw:

- (a) direct the secretary to prepare a permanent electors register of residents in the municipality who are entitled to vote in elections;
- (b) prescribe procedures and other forms governing the enumeration of electors and any other methods of compiling and revising a permanent electors register; and
- (c) provide for the use of the permanent electors register to create a list of electors who are entitled to vote in an election'

AND WHEREAS Council deems it advisable that a permanent electors register be prepared;

AND WHEREAS section 84 of the *Act* provides that an elected authority may by bylaw provide for the taking of votes from electors by means of voting machines, vote recorders, or automated voting systems, and the bylaw must prescribe the form of ballot, directions for marking the ballot, directions for procedures for the taking of votes, the examination of ballots by machine or otherwise to declare them void, counting of votes, and recounting by machine or other means;

AND WHEREAS Council deems it desirable to authorize the use automated voting system for elections and to provide for the procedures for their use;

AND WHEREAS section 73 of the *Act* provide that an elected authority may by resolution provide for the holding of an advance vote;

AND WHEREAS subsection 180(3) of the *Municipal Government Act*, R.S.A. 2000, c. M-26, provides that where council is authorized under any enactment to do something by resolution, it may also be done by bylaw;

AND WHEREAS Council deems it desirable to provide for the holding of an advance vote;

AND WHEREAS subsection 80(1) of the *Act* provides that an elected authority may authorize the returning officer to designate the location of one or more institutional voting stations for an election;

AND WHEREAS subsection 77.1(2) of the *Act* provides that an elected authority may, by resolution passed prior to nomination day, provide for special ballots and provide the method by which a person may apply to receive a special ballot;

AND WHEREAS subsection 77.2(3.1) of the *Act* provides that an elected authority may by resolution set a time and date earlier than the closing of the voting stations on election day for when a special ballot must be received by a returning officer;

AND WHEREAS section 4 of the Calgary Election Regulation AR 293/2009 provides that section 78(5) of the *Act* does not apply in the case of an elector who is blind and directs that:

- (a) the deputy shall provide at advance vote stations on an as-required basis blind voter templates that will allow the elector to vote entirely unassisted; and
- (b) the returning officer shall ensure that advertisements for advance voting stations contain statements that blind voter templates will be available only at advance voting stations and will not be available on election day;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:

PART 1 – TITLE, DEFINITIONS AND APPLICATION

Short Title

1. This Bylaw may be cited as the “Elections Bylaw”.

Definitions

2. In this Bylaw:
 - (a) “*Act*” means the *Local Authorities Election Act*, R.S.A. 2000, c.L-21;
 - (b) “*automated voting system*” means the tabulators, memory storage devices, remote accumulation systems, printers, computers and software used to count votes and generate election results electronically;
 - (c) “*auxiliary ballot box*” means a separate compartment in a ballot box into which electors place their marked ballots that have not been read by the tabulator;

- (d) “*ballot*” means a paper listing the names of candidates standing for election, and questions or bylaws posed to electors, with places for electors to mark their choices;
- (e) “*ballot account*” means the form prescribed pursuant to the Local Authorities Forms Regulation, AR 106/2007;
- (f) “*Council*” means the municipal council for The City of Calgary;
- (g) “*counting centre*” means a secured area within the City’s Election and Census Office at #8 Novatel Skyline Bldg. 1103-55 Avenue NE Calgary AB, T2E 6W1, or such other location designated by the *Returning Officer*;
- (h) “*election*” means election as defined in the *Act*;
- (i) “*election day*” means election day as defined in the *Act*;
- (j) “*register tape*” means a printed record generated by a *tabulator* which shows the votes cast for each election and the total votes cast’
- (k) “*Returning Officer*” means the person appointed as a returning officer pursuant to section 13 of the *Act*
- (l) “*secrecy sleeve*” means an open ended envelope used to cover a marked *ballot* that conceals the elector’s choices but reveals the initials of the deputy who issued the ballot to the elector;
- (m) “*secretary*” means secretary as defined in the *Act*;
- (n) “*tabulator*” means a device with a memory storage component into which marked ballots are inserted which automatically counts the votes on the *ballot* for an *election*;
- (o) “*voting station*” means a voting station as defined in the *Act*.

Application

- 3. (1) This Bylaw applies to all *elections* in the City of Calgary that are governed by the *Act*.
- (2) If there is any conflict between a provision of this Bylaw and a provision of the *Act*, the latter prevails.

PART 2 – PERMANENT ELECTORS REGISTER

- 4. (1) The *secretary* is hereby directed to prepare a permanent electors register of residents in the City who are entitled to vote in *elections*.

- (2) The *Returning Officer* may use the permanent electors register to create a list of electors who are entitled to vote in an *election*.

PART 3 – VOTING STATION HOURS

5. *Voting stations* shall be kept open continuously on *election day* from 8 a.m. until 8 p.m.

PART 4 – ADVANCE VOTE

6. (1) The *Returning Officer* is hereby authorized to hold an advance vote on any vote to be held in an *election*.
- (2) The *Returning Officer* must determine the days and hours when the advance vote is to be held.

PART 4.1 – INSTITUTIONAL VOTING STATIONS

- 6.1 Pursuant to section 80 of the *Act*, the *Returning Officer* is hereby authorized to designate the location of one or more institutional voting stations for an *election*.

PART 4.2 – SPECIAL BALLOTS

- 6.2 (1) The use of special ballots for an *election* is hereby authorized.
- (2) For a general election, as that term is defined in the *Act*:
- (a) the *Returning Officer* is directed to accept applications for special ballots commencing on August 1 of the year of a general election and ending at noon on *election day*; and
- (b) special ballots must be received by the *Returning Officer* no later than 4:00 p.m. on *election day*.
- (3) For a by-election, as that term is defined in the *Act*, or for a vote on a bylaw or question the *Returning Officer*:
- (a) is directed to accept applications for special ballots
- (b) is authorized to set the time period during which applications for a special ballot will be accepted; and
- (c) is authorized to set the date and time by which special ballots must be received.
- (4) Applications for special ballots may be made:
- (a) in writing;

- (b) by telephone;
- (c) by telecopier or facsimile machine;
- (d) in person;
- (e) by e-mail; and
- (f) through a publically accessible website maintained by The City of Calgary.

PART 4.3 – BLIND AND VISUALLY IMPAIRED VOTERS

6.3 (1) In this section, “*electronic ballot marking device*” means an electronic device that has an audio instruction and vote confirmation component and Braille-embossed voting buttons that is used by blind or visually impaired voters to mark a ballot.

(2) The *Returning Officer* is directed:

- (a) to provide *electronic ballot marking devices* for blind and visually impaired voters during the advance vote; and
- (b) to ensure that advertisements for advance voting stations contain statements that *electronic ballot marking devices* will be available only at advance voting stations and will not be available on election day.

PART 5 – AUTOMATED VOTING SYSTEM PROCEDURES

Automated Voting System

- 7. (1) *Council* hereby authorizes the use of *automated voting systems* for *elections*, as deemed appropriate by the *Returning Officer*.
- (2) The voting procedures outlined in this Bylaw must be followed for *elections* employing an *automated voting system*, except for the special *ballot* process unless otherwise stated.

Form of Ballot

- 8. The *Returning Officer* is hereby authorized to determine the form of ballot to be used in an *election* where an *automated voting system* is employed.

Testing of Tabulators

- 9. If an *automated voting system* is used for an *election*, including special *ballots*, the *Returning Officer* must test all *tabulators* in advance of the *election* to ensure that they are functioning correctly, and once tested, memory units cleared and the *tabulators* physically secured until they are used for the *election*.

Issuance of Ballots

10. Prior to issuing a *ballot*, a deputy must ensure that:
 - (a) the elector is voting at the correct *voting station*;
 - (b) the elector produces identification as required by the *Act*;
 - (c) the elector makes the statements prescribed by the *Act*;
 - (d) the voting register is completed; and
 - (e) if the City is conducting an *election* for the school boards, the elector is asked if the elector is a resident of the Calgary Board of Education or the Calgary Separate School District No. 1; and
 - (f) the *ballot* issued to the elector is initialed by the deputy.

Marking of ballot

11. (1) Upon receiving a *ballot*, the elector must enter the voting compartment alone to mark the *ballot*, or with an assistant as permitted by the *Act*.
11. (2) Despite subsection (1), the elector may bring a minor child into the voting compartment.
12. After the elector has marked his or her *ballot* indicating one choice for each election with an “X”, or other legible mark that clearly indicates the elector’s choice, the elector will place the marked *ballot* in the *secrecy sleeve* provided with the ballot and proceed to the *ballot* box.

Deposit of ballot into tabulator

13. The deputy at the *ballot* box must ensure:
 - (a) that the *ballot* was initialed by a deputy; and
 - (b) the *ballot* is inserted directly into the *tabulator* from the *secrecy sleeve*, without revealing the elector’s choices on the *ballot*.

Ballot marked incorrectly

14. (1) If the elector makes an inadvertent error in marking a *ballot*, the elector will return the original *ballot* to a deputy, and may request a replacement *ballot*.
14. (2) When an elector returns a *ballot* with an inadvertent error on it, a deputy will mark the returned *ballot* as “SPOILED” and if the elector requests a replacement *ballot*, a deputy will provide a replacement *ballot* to the elector.

Tabulator errors

15. (1) If a *ballot* is rejected by a *tabulator*, a deputy will advise the elector to obtain a replacement *ballot*, and if the elector:
 - (a) requests a replacement *ballot*, the original *ballot* will be marked "SPOILED";
 - (b) declines to obtain a replacement *ballot*, the original *ballot* will be marked "REJECTED".
- (2) A deputy will retain the SPOILED and REJECTED *ballots* separate from each other, and from all other *ballots*.
- (3) If the *tabulator* fails or malfunctions, electors will insert their marked *ballots* into the *auxiliary ballot box*.
- (4) The *auxiliary ballot box* will remain closed until the voting station closes, at which time two deputies in the presence of one another and any candidates, scrutineers or official agents present, will open the *auxiliary ballot box* and insert the *ballots* from the *auxiliary ballot box* into the *tabulator*, but if the *tabulator* rejects a *ballot*, and it is possible to ascertain the votes on the ballot, a deputy will:
 - (a) prepare a replacement *ballot* duplicating the elector's choices, and mark it "DUPLICATE";
 - (b) mark the word "SPOILED" on the original *ballot*;
 - (c) mark a serial number on both the duplicate *ballot* and the original *ballot*; and
 - (d) insert the replacement *ballot* into the *tabulator*.

Failure of Tabulator or Automated Voting System

16. If a *tabulator* or the *automated voting system* fails, the *Returning Officer* may direct that:
 - (a) *ballots* from any or all *voting stations* be counted manually at the *voting station*; or
 - (b) *ballot boxes* be delivered to the *counting centre* and *ballots* so delivered be counted using *tabulators* at the *counting centre* in the same manner as prescribed for counting *ballots* from the *auxiliary ballot box*; and
 - (c) give such other directions as may be required for the proper conduct of the *election*.

Post-vote Procedures

17. After a *voting station* closes, except as modified for special *ballot*, institutional and advance vote *voting stations*, the presiding deputy must ensure that the following functions are performed:
- (a) *ballots* from the *auxiliary ballot box* are inserted into the *tabulator* in the manner set out in subsection 14(4) for counting;
 - (b) after the votes from the *auxiliary ballot box* are counted, the *tabulator* is secured such that no other *ballots* can be inserted into it;
 - (c) two *register tapes*, or as many as may be directed by the *Returning Officer*, are produced from the *tabulator*;
 - (d) *register tapes* are certified by two deputies;
 - (e) one *register tape* is posted on the door or other conspicuous place at the entry to the *voting station*;
 - (f) election results are transmitted to the *Returning Officer* in the manner prescribed by the *Returning Officer*;
 - (g) unused *ballots* are counted;
 - (h) *ballots* that are marked SPOILED or REJECTED are placed in separately sealed packages;
 - (i) all election materials from the *voting station*, except for the *ballot account*, and voting registers with objections noted on them, into a ballot transport box for delivery to the *counting centre*; and
 - (j) the prescribed *ballot account* is completed, and a copy of the certified *register tape* is attached to it.

Recount

18. If in accordance with the *Act*, the *Returning Officer* directs a recount the following procedure will be followed:
- (a) *tabulators* will be placed in the *counting centre*;
 - (b) in the presence of two deputies, the *Returning Officer*, scrutineers, candidates and official agents, the *tabulators* will be cleared, and the opening *register tape* showing a zero count produced;
 - (c) *ballots* cast for the *election* being recounted will be removed from the *ballot box* and inserted into the *tabulators* for counting;
 - (d) after the *tabulators* have recounted all votes, two *register tapes*, or as many as directed by the *Returning Officer*, will be certified by two deputies;

- (e) The *Returning Officer* will consider the number of votes to which an objection was noted, and declare the result in accordance with the provisions of the Act.

Paper ballot system

19. Despite the voting procedures for *automated voting systems* set out in this Part, the *Returning Officer* may choose to conduct an *election* using a paper *ballot* system instead of an *automated voting system*, in which case the procedures for such *elections* prescribed by the *Act* must be followed.

PART 6 - GENERAL

Repeal

20. Bylaw 8M86, Being a Bylaw of The City of Calgary to Direct the City's Returning Officer to Prepare a List of Electors for Municipal General Elections, is hereby repealed.

20.1 Bylaw 22M98, Being a Bylaw of The City of Calgary for the Establishment of Institutional Voting Stations for Municipal Elections, is hereby repealed.

Coming into force

21. This Bylaw comes into force on the day it is passed.

READ A FIRST TIME ON JUNE 25, 2018.

READ A SECOND TIME ON JUNE 25, 2018.

READ A THIRD TIME ON JUNE 25, 2018.

(signed) _____
MAYOR
SIGNED ON JUNE 25, 2018.

(signed) _____
ACTING CITY CLERK
SIGNED ON JUNE 25, 2018.