

PERMANENT ELECTORS REGISTER

RECOMMENDATION

That the March 14, 2023, Office of the City Clerk report OCC01475, be received for information.

Report Purpose

For information only.

Requested Council Action	Information only		
ConnectEdmonton's Guiding Principle	ConnectEdmonton Strategic Goals		
CONNECTED This unifies our work as we work to achieve our strategic goals.	Healthy City		
City Plan Values	CREATE		
City Plan Big City Move(s)	Inclusive and compassionate	Relationship to Council's Strategic Priorities	Conditions for service success
Corporate Business Plan	Managing the corporation		
Council Policy, Program or Project Relationships			
Related Council Discussions			

Executive Summary

- Prior to the 2021 Municipal Election, in response to a Councillor Inquiry, the Returning Officer (City Clerk) made a commitment to provide a report to City Council on a permanent electors register and voters list. This report fulfills this commitment.

Permanent Electors Register

- A permanent electors register is a maintained register of eligible electors within a local jurisdiction.
- A list of electors is a populated list of eligible electors derived from either a permanent electors register or an enumeration process completed for a specific election.
- The *Local Authorities Election Act (LAEA)* provides municipalities in Alberta with the discretionary authority to establish and make use of both a permanent electors register (register) and a list of electors (list).
- It is a City Council decision to use either a register or list and would require amendments to Bylaw 19457 Election Bylaw.

REPORT

This report discusses the use of a permanent electors register, list of electors and offers an initial assessment of the potential operational application and cost for the 2025 Edmonton Election.

Section 53 of the *Local Authorities Election Act (LAEA)* makes provision to establish the eligibility of electors:

1. A declaration made by the elector at the voting station, or
2. Complete an enumeration to establish a permanent electors register or list of electors.

Current Elector Eligibility Process

Municipal elections in Edmonton are conducted in accordance with Section 53 (b) of the LAEA. This requires each elector who wishes to cast a ballot at a voting station to affirm their eligibility through the completion of a legislatively prescribed declaration form. Electors are then required to verify their identity and residential address by producing approved identification. The Elector Register form signed by the elector and validated by a Deputy Returning Officer at the voting station becomes part of the official record of the voting process.

Voter List Context

The last time a list of electors was used to operate a municipal election in Edmonton was in 1992. The practice was discontinued by City Council in 1995 due to the associated costs (\$816,000 at the time).

Subsequently, Edmonton Elections does not use a permanent electors register or a list of electors. Planning for the 2021 Edmonton Election was supported by estimated eligible voter data provided by Elections Alberta and all voters are required to complete a voter eligibility declaration.

Because of the discretionary authority under LAEA, a permanent electors register and a list of electors are not required to deliver a legislatively compliant election. To date, no major municipalities in Alberta currently use a permanent electors register to facilitate their municipal elections.

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Legislative Authority

The LAEA enables municipalities to create a permanent electors register (Section 49) and a list of electors (Section 50). The specific sections of the LAEA referenced in this report are provided as Attachment 1.

A permanent electors register is a register of residents in the municipality who are eligible to vote in local elections. Section 49 (1) of the LAEA refers to the authority delegated to municipalities regarding the use of a permanent register. Council may direct via bylaw the preparation of a permanent electors register and the processes associated with its management, and establish whether the register will be used to create a list of electors.

If a municipality enacts a permanent electors register, it may choose to populate the register by:

- completing an enumeration, or
- accessing the list maintained by the Chief Electoral Officer, as per section 49 (2), and completing an enumeration to verify that data.

Section 49(5) of the LAEA details the specific information that may be contained in a permanent electors register, such as an elector's residential address, name, phone number, date of birth and whether they are a public school resident or a separate school resident.

Section 50(1) of the LAEA permits a municipality to, under Council's authority through bylaw, prepare a list of electors, develop the processes required to conduct an enumeration and determine how the permanent electors register will be used, should one be established.

A permanent electors register is not required to populate a list of electors. Rather a list of electors is a list of eligible electors who are entitled to vote in an election, derived either from the permanent electors register or a one-time enumeration prior to an election.

Upon request, nominated candidates must be provided a copy of the list of electors the day after nominations may be withdrawn, or nomination day, as per Section 50(2) of the LAEA. The LAEA obliges nominated candidates to only use the list of electors for campaign purposes.

Operational Considerations for the Enumeration Process

Enumeration is the process, conducted prior to an election, of verifying or adding details of eligible electors to the permanent register to confirm their eligibility to vote. An enumeration of eligible electors is required to be undertaken as per section 51 of the LAEA, even where an agreement with the Chief Electoral Officer to access their elector data is in place.

The LAEA does not clarify if enumeration could be to simply complement the list shared by the Chief Electoral Officer or if a full enumeration of the local jurisdiction would be required. Further, the Act does not directly regulate how the enumeration should be conducted. However, Section 52 states that enumerators should be permitted free access to buildings and mobile parks containing two or more residences, which permits door to door engagement. Given this scale, a full enumeration project could be costly, requiring funding comparable to a municipal census project for data collection software and hardware, and the hiring of enumerators to collect eligible voter data throughout the city.

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Following the enumeration process, Edmonton Elections would need to create mechanisms to update a list of electors to enable eligible electors to register or update their information during Advance Vote and on Election Day. Similarly, a process would need to be in place to allow an elector to be removed from the register and list at their discretion. Currently there is no legislative direction for how these processes ought to be managed.

Application of the Permanent Electors Register and List of Electors

There are potential perceived benefits to the use of a permanent electors register and a list of electors.

Voting process adaptations

Legislatively compliant processes that allow for electors to affirm their eligibility to vote prior to the election, such as a permanent electors register, may reduce the time required to cast a ballot at a voting station.

If a list of electors is maintained in real time, a data management solution would be required. The use of a real time strike off tool may support the integrity of the voting process, which is similarly protected by the Voting Register form, completed by the elector at the voting station. However, this solution is currently not contemplated in planning processes or in capital and operating budgets.

A list of electors may also enable a Vote-Anywhere opportunity, which allows electors to cast a ballot at any voting station. A Vote-Anywhere opportunity would also require the necessary data management solution, and require significant logistical undertaking, with a considerable allocation of resources which are currently not projected in the approved 2025 Election budget.

Data application

A maintained permanent electors register provides a more accurate count of the number of eligible electors. This may support the operational planning of an election when used to determine:

- the number of required voting subdivisions and voting stations
- the number of ballots to be printed and distributed to voting stations
- the allocation of staff and supplies to voting stations

Estimated eligible elector data was received from Elections Alberta to support these planning functions for the 2021 Edmonton Election.

A permanent electors register could be an asset to the facilitation of other legislative projects, including petition verification processes and Ward boundary reviews. According to the *Municipal Government Act*, only eligible electors may be a petitioner and a register would be useful in determining whether a petition meets sufficiency requirements; the last petition sufficiency review occurred in 2010. Additionally, one of the criteria in City Policy C469B - Ward Boundary Design, requires the number of electors in each Ward to be considered. More specifically, the number of eligible voters per Ward should be relatively equal. Enumeration data could be used

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to verify this criteria and ensure that the growth of Wards remains within the variance allowed by Policy C469B.

Identified Risks

The use of a permanent electors register and a list of electors carries risks related to the administration of an election project, and the protection of electors' personal information.

In 2022, the Returning Officer and City Council provided feedback to Municipal Affairs during the LAEA consultation period that highlighted legislative gaps which can deter the use of a permanent electors registry and list of electors, specifically those relating to the protection of voter privacy. In the 2021 Senate and Referendum Vote-A Report of the Chief Electoral Officer, the Chief Electoral Officer identifies similar concerns and legislative barriers.

Changes to legislation, significant expenditure, and the development of new operational processes would be required for the identified risks to be sufficiently mitigated. This includes:

- Addressing privacy concerns related to the requirement for municipalities to share the list of electors with nominated candidates, including establishing enforcement mechanisms within the LAEA should a list of electors be used, accessed or disclosed inappropriately.
- Clarifying the processes required to establish and maintain a list of electors, including the addition of new electors identified during the enumeration period and regulations that guide updates to the registry to reflect new or amended registrations that occur during the voting period.
- Removing the mandatory enumeration requirement in order to alleviate the associated costs that municipalities incur.

Privacy concerns

There has been public feedback from electors regarding privacy, specifically pertaining to nominated candidates having access to personal information through the distribution of a list of electors. While the LAEA specifies that nominated candidates can only use this data for the purposes of campaigning, there is no legislated mechanism to ensure compliance.

Under current provisions in the LAEA, electors on a permanent electors register lack the ability to limit the extent to which their personal information, as it appears on the list of electors, is shared with a candidate, nor can they request that some aspects of their personal information be withheld. As such, there is a risk that some electors may choose to remove themselves from the register entirely.

Legislative gaps

There are significant gaps in the current legislation governing permanent elector registers and list of electors for municipal elections in Alberta. Legislative direction regarding the operational implementation of the permanent electors register and list of electors, including legislated mechanisms to revise and maintain elector data is lacking.

Similarly, there is a lack of legislative direction regarding other critical aspects of the application of a permanent electors register and list of electors. Under current legislation, an elector on the list of electors is not required to show identification when voting and no guidance is provided as

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to how a voter would identify themselves as the person listed. The LAEA does enable changes to be made to a permanent electors register once the enumeration process has concluded, such as additions, edits or deletions, but does not clarify the process of how to make such changes. There is also no given timeframe for how long to keep a voter on the permanent electors register.

As such, municipalities are required to develop related operational processes in the absence of a clear legislated authority, which may lead to vulnerabilities in their implementation and could dilute the integrity of a permanent register of electors and list of electors.

Budget/Financial Implications

The expenditure associated with the development, maintenance and implementation of a permanent electors register and list of electors would be significant, particularly those costs associated with the required enumeration process. These include:

- A specific data management solution, necessary to securely house elector information in the form of a permanent electors register
- Additional software, such as a real time strike off tool, to support the integration of a list of electors into election processes and systems, including the operational use of a list of electors at Advance and Election Day voting stations
- The purchase and maintenance of an additional ~350 tablets at an estimated cost of \$320,000 required for data collection during enumeration and use of a list of electors at voting stations.
- Staffing to support an ongoing project, including data collection workers during the enumeration process

It is estimated that the costs associated with an enumeration, the creation and maintenance of a permanent electors registry, and the implementation of a list of electors with real time strike off capabilities at voting locations would be similar to that of operating a municipal census project. The census project was most recently estimated by administration to be approximately \$5 million.

Within the current legislative context for the development and use of a register and list, which requires an enumeration project, direction from Council would be required immediately if they were to be implemented for the 2025 Edmonton Election. This would allow sufficient time to seek clarity regarding the legislative requirements for the management of a register and list and develop compliant operational processes, conduct an enumeration, and acquire the necessary technology infrastructure and software.

COMMUNITY INSIGHT

A robust communication strategy is needed if Edmonton Elections were to implement a permanent electors register and list of electors. Public awareness and education would be required to advise eligible voters on the process for registering on the permanent electors register, the benefits of such a register in operating the election, and the privacy safeguards in place.

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It would be reasonable to expect a degree of public interest and inquiry regarding the use of a list of electors. As such, comprehensive and proactiv, messaging addressing privacy concerns related to the sharing of voter information with candidates would be essential.

GBA+

Edmonton Elections successfully operated the 2021 Edmonton Elections through the application of five guiding principles:

- Accessible
- Inclusive
- Equitable
- Ethical
- Safe

Developing a permanent electors register and list of electors may not immediately align with these values in the public's perception. The identified concerns related to the sharing of voter information with nominated candidates, as well the absence of clear legislated direction regarding the management and application of a permanent electors register, may be interpreted as contrary to ethical and safe election practices. Given that no other major jurisdiction in the province currently makes use of a register or list, and the practice has not been used in Edmonton since 1992, the public may not see an immediate rationale for their reinstatement.

There are a number of perceived barriers that would need to be mitigated in order to ensure equitable opportunities to participate in elections that are administered through a permanent electors register and list of electors. For those who have varying levels of trust in authorities, particularly those in equity seeking populations, their willingness to engage in processes may be lacking, given that enumeration requires the disclosure of key personal information.

Data collection processes must be accessible to all electors, including those with disabilities, those without a permanent residential address, and English language learners. Barrier mitigation strategies that were employed during the 2019 municipal census and 2021 Edmonton Election, particularly those developed in collaboration with community partners and service providers, should be reviewed, revised if necessary, and applied accordingly.

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RISK ASSESSMENT

Risk Category	Risk Description	Likelihood	Impact	Risk Score (with current mitigations)	Current Mitigations	Potential Future Mitigations
Public Perception	The LAEA currently requires election administrators to provide nominated candidates with the list of electors, if requested. Given recent precedent, this is likely to cause significant concern for many electors, who have no legislated recourse to prevent their personal information from being shared. Similarly, there are no legislated enforcement mechanisms that would deter misuse of the information contained in the list of electors. This privacy concern may result in a perception that the election is not being conducted in a safe and ethical manner, thereby disenfranchising some electors.	4 - likely	3-major	12- high	<p>Currently a list of eligible voters is not used to facilitate elections in Edmonton.</p> <p>The LAEA outlines sanctions and penalties that may be levied against candidates who misuse the information contained in a list of electors.</p>	<p>The LAEA currently requires that the list of eligible electors, if used for a municipal election, be shared with nominated candidates at their request.</p> <p>Administration will work with the Government of Alberta regarding potential amendments to legislation to further protect voters' personal information and ensure candidate compliance.</p>

ATTACHMENTS

1. Attachment 1 - Permanent Electors Register and List of Electors | Governing Legislation