



ELECTIONS BYLAW POLICY DECISIONS

RECOMMENDATION

That the next steps as outlined in Attachment 5 of the October 22, 2024, Office of the City Clerk report OCC02694, be approved.

Report Purpose

Council decision required.

REPORT

Executive Summary

This report is an opportunity to confirm processes/procedures will remain unchanged in the revisions to the Elections Bylaw, while others require updating. There is one policy decision related to criminal record checks that Council may wish to provide direction. The report walks through the recommended changes and what is recommended to remain the same.

Supplementary information is provided in Attachments 1-4 and Attachment 5 provides a summary of the next steps Edmonton Elections will follow in updating the Elections Bylaw and presenting it for decision prior to December 31, 2024.

Legislative Framework for the Elections Bylaw

The *Local Authorities Election Act* (LAEA) regulates election procedures, including candidate nominations, voting processes and post-voting activities such as the counting of votes, as well as election finances and contributions disclosures for candidates and third party advertisers.

While the the majority of the procedures are established in the LAEA, the legislation provides elected authorities with policy discretion on a number of areas , including:

- Voting opportunities, specifically for special (mail in) ballot, home and institutional voting
- Form of nominations, including candidate deposits, nomination signatures and criminal record checks
- Voting hours and election date
- Time to commence counting at the count centre

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- Accessibility tools provided at voting stations, including blind elector templates and translated voting information
- The order that candidates are listed on the ballot
- Discontinuing the election and calling a new election for a later date upon the death of a candidate
- Appointment of the returning officer and substitute returning officer
- Additional responsibilities of the returning officer, including those related to voting subdivisions, voting station locations and places of nomination
- Campaign expense limits

Elections Bylaw Review Timelines

Bylaw 19457 - Elections Bylaw must be reviewed and updated to prepare for the 2025 Edmonton General Election (Edmonton Election). This review needs to be completed to meet the deadlines outlined in the LAEA (Attachment 1), as well as the timelines for key activities for the 2025 Edmonton Election (Attachment 2).

The first deadline for Council to pass an updated bylaw is December 31, 2024. This deadline applies to provisions relating to the form of nominations and candidate expense limits, however, to support effective planning and preparations for the election, Edmonton Elections intends to complete the full bylaw review and bring forward a new Elections Bylaw to Council prior to the first deadline of December 31, 2024.

Elected Authority (Council) Decision Points

Special Ballots (Mail In Ballots)

The LAEA provides Council with the authority to provide special (mail in) ballot voting for electors who are unable to vote during advance vote or at the voting station on Election Day, and to determine the application methods and timelines that apply to this voting opportunity.

Section 77 of the LAEA allows elected authorities to provide one or more special ballot application methods from mail, telephone, fax, email, online, and in person. Bylaw 19457 currently allows electors to apply for a special ballot by any of these methods.

Recommendation 1:

That fax be removed as an accepted method of making a special ballot application.

Rationale:

There were no applications for special ballots received by mail or fax in either the 2017 or 2021 elections. Nevertheless, Edmonton Elections had to develop processes and monitor for applications submitted by these methods under the current bylaw.

As Edmontonians are not applying for special ballots by fax, removing this option for applying for special ballots will reduce the number of sources for applications that must be monitored, improving operational efficiency without necessarily impacting accessibility for voters.

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Council could also consider removing mail applications given that Edmontonians are not using this method either. However, to maintain accessibility, the recommendation at this time is to only remove fax as an option.

Application and Return Deadlines

There are two key deadlines related to special ballots:

- application deadline, and
- deadline to return completed special ballot packages.

When special ballots are enabled, section 77.2(1) of the LAEA requires the elected authority to specify the period of time during which an elector may apply to the returning officer for a special ballot. Section 77 of the LAEA also authorizes elected authorities to determine the deadline by which completed special ballot packages must be received by the returning officer.

Bylaw 19457 currently enables special ballot applications to be submitted between August 1 and 4:30 p.m. on Election Day, and sets the deadline for completed special ballot packages to be received at 7:00 p.m. on Election Day.

Recommendation 2:

- An earlier application deadline for applications requesting delivery by mail of 4:30 p.m. on the Monday before Election Day;
- A later application deadline for applications requesting in-person pick up of 7:00 p.m. on Election Day; and
- Maintain the current return deadline of 7:00 p.m. on Election Day.

Rationale:

When applying for a special ballot, electors can choose to pick up their package in person or have it mailed to them. Canada Post's delivery standards for lettermail vary from two days for local addresses to four days for addresses elsewhere in Canada, excluding the day of mailing.

When an elector applies for a special ballot to be delivered by mail during the week immediately before Election Day, the likelihood of the package being delivered in time for them to complete and return it before Election Day is very low. In the 2021 Edmonton Election, over 80 electors applied for a special ballot to be delivered by mail during this period, and working with each of these electors to identify an appropriate alternative can take significant time.

Considering that no more than ten electors applied for in-person pick up of special ballot packages on Election Day in each of the 2017 and 2021 elections, extending the application deadline for in-person pick up is not expected to negatively impact operations on Election Day.

These recommendations expand accessibility for electors to pick up their special ballot packages in person on Election Day and provide clarity to electors about delivery timelines for mailed special ballot packages. They also align with the approach taken to manage this challenge in other jurisdictions, including both Alberta provincial and federal elections.

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Form of Nominations

To be eligible to be nominated as a candidate for councillor or mayor, a person must be over the age of 18, a Canadian citizen, a resident of the City of Edmonton, and not be otherwise ineligible. Section 22 of the LAEA provides a number of reasons for which a person is not eligible to be nominated as a candidate. In addition to provisions relating their employment or other association with the local jurisdiction, an individual is ineligible to be nominated as a candidate if on nomination day they have, within the previous 10 years, been convicted of an offence under the LAEA, *Election Act*, *Election Finances and Contributions Disclosure Act* or the *Canada Elections Act*.

Candidates must make an oath that, among other things, confirms that they meet the qualifications of candidates when submitting their nomination package.

Section 23.1 of the LAEA is a new clause that states that candidates will be disqualified if, between the date that their nomination is submitted and election day, they are convicted of an offence punishable by imprisonment for five or more years or for an offence under section 123 (municipal corruption), 124 (influencing a municipal official) or 125 (selling or purchasing an appointment to or resignation from office) of the *Criminal Code of Canada*.

Criminal Record Checks

Section 21.1 of the LAEA authorizes elected authorities to require prospective candidates to also provide a criminal record check with their nomination package. This is a new authority introduced by Bill 20. When required, the results of the criminal record check do not otherwise affect a candidate's nomination, but they must be disclosed with the nomination package when it is made available for public examination.

Council Decision (No direction is included in Attachment 5 Next Steps)

Option 1: Maintain current approach and not require a criminal record check requirement.

Option 2: Implement a requirement for a criminal record check to be provided by a person seeking to be nominated as a candidate and that this requirement be outlined in detail in the bylaw, including the source and type of criminal record check, time period in which the check has been completed, and at whose expense.

Considerations:

Edmonton Elections is presenting Council with two options.

The first option is to maintain the status quo and not implement a criminal record check requirement. If Council chooses this option, no direction is required to be added to Attachment 5.

The second option is to implement a requirement for a criminal record check for candidates. In this case, Edmonton Elections recommends that detailed requirements be specified in the bylaw to provide clarity and consistency for prospective candidates, the public and the returning officer. These detailed requirements as noted above should outline:

- source and type of criminal record check that would be accepted,
- time period within which the check has been sourced, and
- Clarify who covers the expense.

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There are different types and sources of criminal record checks. Criminal record checks conducted by the Edmonton Police Service (EPS) and Royal Canadian Mounted Police (RCMP) for employment purposes contain information about convictions for which the applicant has not received a record suspension or pardon under the federal *Criminal Code*, as well as upcoming court appearances and relevant provincial statute convictions. These checks have fees of \$76 to \$78 and can take up to 10 days to process.

Council could also consider accepting criminal record checks obtained from a private third-party provider. However, the EPS advises that these checks only indicate the existence of a criminal record. They do not contain information relating to any upcoming court appearances or relevant provincial statute convictions. These checks have fees that range from \$45 to \$65 and often offer same day turnaround. More detailed information about criminal record checks is included in Attachment 3.

Saskatchewan is the only other province where municipalities have the option to require candidates to submit criminal record checks. While some smaller jurisdictions have implemented this requirement since the option was introduced in 2009, it is not currently required of municipal candidates in either Saskatoon or Regina. They are also not currently required of candidates in elections for members of the Alberta Legislative Assembly, Alberta Senate Nominee elections or members of Parliament.

If Council would like to add the requirement to include a criminal record check with the submission of nomination forms and deposit the following instruction be added to Attachment 5 Next Steps:

- Criminal Record Check conducted by _____ be included for the nomination period commencing January 1, 2025 and that the cost of the criminal record check be covered by the candidate.

Candidate Deposit

Section 29 of the LAEA authorizes elected authorities to require candidates to pay a deposit of up to \$1000 when submitting their nomination package. Bylaw 19457 currently requires candidates for mayor to pay a deposit of \$500 and candidates for councillor to pay a deposit of \$100.

Recommendation 3:

That the deposit amounts remain as \$500 for mayoral candidates and \$100 for councillor candidates.

Rationale:

An analysis of the nomination deposit requirements was last presented to Council in the July 5, 2018 Office of the City Manager report CR_4643 - Nomination Process - Candidates for Municipal Elections. This report noted that nomination deposits are not typically identified as a barrier for prospective candidates, but that increasing the amounts may increase the risk of affordability becoming a barrier. Edmonton Elections did not receive any formal feedback from the 2021 election to indicate that the deposit amounts presented a barrier for candidates.

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A listing of current candidate deposit amounts for other Alberta and large Canadian municipalities is provided in Attachment 4. There are variations in provincially mandated requirements and most provinces do not provide flexibility for municipalities to set the required deposits.

Nomination Signatures

Section 27 of the LAEA requires at least 5 electors to sign candidate nomination papers, and authorizes elected authorities to specify a higher number of signatures, up to a maximum of 100. Bylaw 19457 currently requires candidates for mayor to obtain signatures from at least 100 electors and candidates for councillor to obtain signatures from at least 25 electors.

Recommendation 4:

That the nomination signature requirements remain unchanged at 100 signatures for mayoral candidates and 25 signatures for councillor candidates.

Rationale:

Report CR_4643 also included analysis of the nomination signature requirements. This report noted that the nomination signature requirements are not typically identified as barriers for prospective candidates, but identified the potential barriers that increasing the number of signatures may create for individuals who experience mobility challenges or are new to a community. Edmonton Elections does not have any feedback that indicates that these signature requirements presented a barrier for candidates in the 2021 Edmonton Election.

The current nomination signature requirements for other Alberta and large Canadian municipalities are included in Attachment 4. Within Alberta, there is a large variation in the number of nomination signatures candidates are required to collect. There are similar variations in provincially mandated requirements for nomination signatures as there are for deposits.

Accessibility - Blind Elector Template

Section 78 of the LAEA requires municipalities to provide a blind elector template upon the request of an elector, and also allows municipalities to pass a bylaw to require this accessibility tool even if no request is made.

Bylaw 19457 currently requires the returning officer to provide an electronic ballot marking device for blind electors during all advance votes. The Automark Voter Assist Terminal has been used for this purpose in recent elections.

Recommendation 5:

Replace the current requirement with a more enabling requirement to provide a voter template for electors with low or no vision at all in-person voting opportunities.

Rationale:

When Bill 20 was released, there was uncertainty about whether or not the Automark could continue to be used with the prohibition on automated voting equipment. Although Municipal Affairs has indicated that, as a blind elector template, this device was likely not subject to the prohibition, there is an opportunity to enable a broader option to ensure accessibility.

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The most common alternative to an electronic ballot marking device, such as the Automark, is a tactile voter template. Tactile voter templates are used for ballots in provincial and federal elections. They are easy to use and allow electors with low or no vision to mark their ballot independently. They are also very cost-effective, so can be provided to electors at all voting locations to improve accessibility for electors with low or no vision.

However, the recommendation is to refrain from specifying a specific type of elector template to enable flexibility for the returning officer to identify and implement additional solutions.

No Recommended Changes to the Current Sections of the Bylaw

Edmonton Elections recommends continuing with the current approach for the following additional authorities provided to elected authorities under the LAEA:

- The time to commence counting at the count centre, which the Bylaw 19457 currently sets at 7:30 p.m. This is the earliest time allowed. (Count centre counts special ballots, institution ballots and advanced votes)
- The delegation of the following authorities to the returning officer:
 - Translated voting instructions
 - Place of nominations
 - Voting subdivisions
 - Voting stations
 - Institutional voting locations
- Order of candidates on ballot
 - Candidates are listed on the the ballot alphabetically by last name
- Procedure upon the death of a candidate
 - Section 8 of Bylaw 19457 currently provides for the election for that race to be discontinued and a new one called for a later date should a candidate die following the opening of a voting station or advance vote. No changes are recommended.
- Home voting is not currently used. Significant additional resources would be required to develop and deliver this service.
- City Manager is delegated with the authority to appoint the returning officer and substitute returning officer.

Election Day

Section 11 of the LAEA provides elected authorities with the authority to pass a bylaw to establish Election Day as the Saturday immediately preceding the third Monday in October. Some municipalities are considering this decision for the 2025 general election to avoid conflicts with Diwali and the federal election that is also currently scheduled for Monday, October 20, 2025. The deadline under the LAEA for this decision to be made is June 30, 2025.

The amount of change and uncertainty as to the rules for the 2025 municipal election is adding a significant amount of complexity for both Edmonton Elections and candidates. Section 11(3) makes clear that should an elected authority move the Election Date from October 20 to the Saturday before and a provincial ballot of senate nominations or a referendum question is added to the ballot, the policy choice granted to the elected authority is revoked and the election day is

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required by legislation to move back to October 20, 2025. In order to minimize risk where possible Edmonton Elections is not recommending any change to the Monday October 20, 2025 election date.

Potential Future Considerations

Campaign Expense Limits

The Minister of Municipal Affairs has indicated that the government will be introducing regulations to establish campaign expense limits this fall. Section 147.91 of the LAEA provides elected authorities with the authority to pass a bylaw setting a lower limit than what is set in regulation. The deadline for such a bylaw to be passed for the 2025 Edmonton Election is December 31, 2024. Considerations of Council discretion related to campaign expense limits can be made once those regulations are released, if it is released in time to review options with Council and consider a bylaw before the deadline.

ATTACHMENTS

1. Elections Bylaw Review Timelines
2. 2025 Edmonton Election Timeline
3. Criminal Record Check Background Information
4. Jurisdictional Scan of Current Nomination Requirements
5. Next Steps