



COUNCIL REPORT

Adoption of an Updated Election Bylaw

Electoral Division: All

File: N/A

Date:	October 8, 2024
Presenter:	Tyler Andreasen, Lead Legislative Officer
Department:	Legislative Services

REPORT SUMMARY

The purpose of this report is for the adoption of an updated *Election Bylaw* ahead of the 2025 municipal election. The current *Election Bylaw* was adopted ahead of the 2021 municipal election and was compliant with the version of the *Local Authorities Election Act* in effect at the time.

However, the *Municipal Affairs Statutes Amendment Act, 2024* (Bill 20) recently made significant amendments to the *Local Authorities Election Act*. Of relevance to the proposed *Election Bylaw* is the requirement for municipalities to implement a permanent electors register and to offer special ballots for all future municipal elections.

Bill 20 also allows municipalities to require candidates to submit criminal record checks when filing their nomination papers, as well as removes the ability of scrutineers to object to electors who they believe are not eligible to vote in a municipal election. The proposed *Election Bylaw* includes new provisions regarding the permanent electors register, special ballots, the conduct of scrutineers, and criminal record checks for candidates.

In addition to amendments required by Bill 20, Administration is also proposing amendments based on best practices from other municipalities, as well as the inclusion of wording from the *Local Authorities Election Act* for clarity and ease of reference. The proposed *Election Bylaw* would also provide the Returning Officer with their full discretion and authority under the *Local Authorities Election Act*.

These amendments would remove Council from the minutiae of municipal election preparations and would allow Administration to conduct elections impartially and without the perception of influence from Council, as sitting councillors may also be candidates in municipal elections.

Administration received a legal review of the proposed *Election Bylaw*, which confirmed that the proposed bylaw aligns with the *Local Authorities Election Act*. Administration has begun preparations for the 2025 municipal election and recommends adoption of the proposed *Election Bylaw* to provide the foundation for its election preparations, particularly with the discretionary powers of the Returning Officer and recent amendments to the *Local Authorities Election Act*.

ADMINISTRATION'S RECOMMENDATION

THAT Bylaw C-8573-2024 be given first reading.

THAT Bylaw C-8573-2024 be given second reading.

THAT Bylaw C-8573-2024 be considered for third reading.

THAT Bylaw C-8573-2024 be given third and final reading.



Adoption of an Updated Election Bylaw

BACKGROUND

Election bylaws are not a requirement under the *Local Authorities Election Act* nor the *Municipal Government Act*. They are, however, encouraged as there are specific matters within the *Local Authorities Election Act* that require authorization from Council, either by resolution or bylaw, such as conducting institutional votes, providing elector assistance at home, and offering blind elector templates.

The benefit of Council authorizing these matters through bylaw rather than through resolution (like has been done in previous municipal elections) is that providing authorization through bylaw would stay in effect for multiple election cycles, while providing authorization through resolution would only be applicable for a specific election cycle. Bylaws are also more accessible to the public than resolutions, which can be challenging to find in meeting minutes.

The current *Election Bylaw* was adopted by Council ahead of the 2021 municipal election, which authorized the Returning Officer to negotiate joint elections with Rocky View Schools, to provide blind elector templates during advance votes, and to begin counting ballots from the advance vote early, among other matters in the *Local Authorities Election Act*.

The current *Election Bylaw* has not been fully reviewed since its adoption in 2020. In its review of the bylaw ahead of the 2025 municipal election, Administration identified the need for several amendments to reflect changes to the *Local Authorities Election Act* introduced by Bill 20, as well as additional amendments to provide the Returning Officer with their full discretion and authority under the *Local Authorities Election Act*.

As of the drafting of this report, Bill 20 has been passed by the Legislative Assembly of Alberta and has received royal assent from the Lieutenant Governor of Alberta, but it has yet to come into full force and effect, which will occur when it receives proclamation through an order in council. Administration does not have a timeframe for the proclamation of Bill 20, but the proposed bylaw has been drafted ahead of time to be compliant with the changes to the *Local Authorities Election Act* introduced by Bill 20.

The proposed *Election Bylaw* would come into full force and effect on December 31, 2024 or on the date that Bill 20 is proclaimed, whichever date is sooner. The *Local Authorities Election Act* requires that many of the provisions in the proposed *Election Bylaw* be adopted before December 31, 2024, which is why the effective date of the proposed bylaw would be no later than December 31, 2024.

Past Decision History:

- On November 24, 2020, Council adopted the current *Election Bylaw* ahead of the 2021 municipal election to authorize several discretionary matters in the *Local Authorities Election Act*, including blind elector templates, voting hours, and the early counting of ballots from the advance vote.
- On May 11, 2021, Council appointed the Returning Officer and the Substitute Returning Officer by resolution for the 2021 municipal election. (Note: this would no longer be required under the proposed *Election Bylaw*.)
- On June 29, 2021, Council authorized the use of special ballots and elector assistance at home by resolution for the 2021 municipal election. (Note: this would no longer be required under the proposed *Election Bylaw*.)

Adoption of an Updated Election Bylaw

ANALYSIS OF BILL 20 AMENDMENTS

In the spring of 2024, the provincial government introduced Bill 20 to make a number of changes to the *Municipal Government Act* and the *Local Authorities Election Act*. As a result, amendments are required to the *Election Bylaw* to provide for the implementation of a permanent electors register and the offering of special ballots, which are now required under the *Local Authorities Election Act*.

Implementation of a Permanent Electors Register

Municipalities are now required to implement a permanent electors register of residents who are eligible, or may become eligible, to vote in municipal elections. Municipalities are also required to enter into an information sharing agreement with the Chief Electoral Officer of Alberta, which will allow municipalities and Elections Alberta to keep municipal permanent electors registers and the provincial register of electors up to date.

Prior to the changes to the *Local Authorities Election Act* introduced by Bill 20, implementing a permanent electors register and entering into an information sharing agreement with the Chief Electoral Officer of Alberta were optional for municipalities. The County considered implementing a permanent electors register at various times when they were optional under the *Local Authorities Election Act*.

Administration has had preliminary discussions with Elections Alberta, and the Chief Electoral Officer of Alberta is expected to begin entering into information sharing agreements with municipalities in fall 2024. The base of the permanent electors register will be information provided by Elections Alberta from the provincial register of electors, which will be supplemented by information gathered by the County.

The proposed *Election Bylaw* includes new sections outlining the process for preparing, revising, and using the permanent electors register. Under the *Local Authorities Election Act*, a permanent electors register may only be used by election workers for the purpose of conducting a municipal election and cannot be shared with candidates, scrutineers, or the public.

It is worth noting that the option for municipalities to prepare a list of electors (otherwise known as a voters list) has been removed from the *Local Authorities Election Act*. List of electors could be shared with candidates before their removal from the *Local Authorities Election Act*. This is no longer an option for municipalities.

Offering Special Ballots

Municipalities are now required to offer special ballots to electors who are unable to vote during an advance vote or on election day for any reason. Prior to the changes to the *Local Authorities Election Act* introduced by Bill 20, offering special ballots was optional for municipalities and special ballots could only be provided to electors for specific reasons.

Special ballots were offered by the County for the first time during the 2021 municipal election because of the COVID-19 pandemic. 129 special ballots were cast by electors around the County, representing around 1.1% of the total ballots cast in the 2021 municipal election.

The proposed *Election Bylaw* includes new sections outlining the process for requesting and providing special ballots to electors. Electors must be registered in the County's permanent electors register before being provided a special ballot, and all electors who are provided special ballots are entered into a separate special electors register.

Adoption of an Updated Election Bylaw

The process for completing, returning, and counting special ballots is outlined in the *Local Authorities Election Act* and is not included in the proposed *Election Bylaw*. Only the process for requesting and providing a special ballot is included in the proposed bylaw, which is similar to the process for requesting elector assistance at home.

Criminal Record Checks

Although they are not required like permanent electors registers and special ballots, the *Local Authorities Election Act* has been amended by Bill 20 to allow municipalities to require candidates to provide a criminal record check with their nomination papers. While it has not been an issue for the County, other municipalities in Alberta have had issues with candidates being nominated while having undisclosed criminal records.

Administration has included a requirement for candidates to submit a criminal record check, along with a deposit of \$100, with their nomination papers in the proposed *Election Bylaw*. The criminal record check would be at the expense of the candidate and would need to be completed at least six months prior to day the candidate's nomination papers are submitted. This requirement would help promote public trust in the candidates running for office in the County's municipal elections.

As there are several types of criminal record checks available, the proposed *Election Bylaw* requires candidates to provide criminal record checks that:

- are conducted by a police service operating in Alberta, such as the Royal Canadian Mounted Police or Calgary Police Service, and not conducted by a third-party criminal record check provider; and
- show, at a minimum, the candidate's past criminal convictions, if any.

Under the proposed *Election Bylaw*, a vulnerable sector check, for example, would be acceptable but would not be required to be provided, as that type of record check provides more than the criminal conviction information of the candidate.

ANALYSIS OF BEST PRACTICE AND OTHER AMENDMENTS

In addition to amending the *Election Bylaw* to ensure compliance with the *Local Authorities Election Act*, Administration is also proposing a number of best practice and other amendments to the bylaw. Nearly all of the proposed amendments to the *Election Bylaw* are based on existing provisions in the *Local Authorities Election Act* and are included in the proposed bylaw for clarity and ease of reference.

Appointment and Duties of the Returning Officer

The *Local Authorities Election Act* prescribes that Council may appoint both the Returning Officer and the Substitute Returning Officer. Prior to the 2021 municipal election, Council appointed the Returning Officer and Substitute Returning Officer by resolution. Council's appointments were based on a recommendation by Administration after conducting a recruitment process for a Returning Officer.

The proposed *Election Bylaw*, however, would delegate the Chief Administrative Officer with the appointment of both the Returning Officer and the Substitute Returning Officer. Since Administration is responsible for the recruitment of a Returning Officer and/or Substitute Returning Officer, this would streamline the appointment process.

Adoption of an Updated Election Bylaw

The proposed *Election Bylaw* would provide the Returning Officer with their full discretion and authority under the *Local Authorities Election Act*. Whether or not to exercise these discretionary powers would be determined by the Returning Officer based on best practices and the context of specific municipal elections. This would remove Council from the minutiae of municipal election preparations and would allow Administration to conduct elections impartially and without the perception of influence by Council.

Joint Elections with Other Elected Authorities

The *Local Authorities Election Act* allows municipalities and school boards to hold joint elections. Joint elections must be authorized by an agreement between the municipalities and/or school boards. While the current *Election Bylaw* authorizes the Chief Administrative Officer to enter into agreements to conduct joint elections with other elected authorities, the proposed *Election Bylaw* includes additional wording around the responsibilities and powers of the County when it enters into such agreements.

Rocky View Schools and the County entered into an agreement to jointly conduct the 2021 municipal and school board elections. The agreement only applied for wards 2, 4, and 5 of Rocky View Schools, which all fall within the County's geographic boundaries. The County administered portions of the school board election on behalf of Rocky View Schools for wards 2, 4, and 5, except for the filing of nomination papers which was administered by Rocky View Schools.

The agreement between Rocky View Schools and the County for jointly conducting the municipal and school board elections in 2021 included cost-sharing provisions. Rocky View Schools was responsible for paying 40% of the costs for voting station rentals, voting station materials, election worker training and wages, and conducting the advance vote. The total invoice to Rocky View Schools for the County to conduct the school board election on their behalf in 2021 was around \$23,250.

Advance Votes and Institutional Votes

The *Local Authorities Election Act* requires municipalities with populations over 5,000 to provide advance votes. Under the *Local Authorities Election Act*, the Returning Officer is responsible for determining when and where the advance vote will be conducted. Advance votes were conducted at the County Hall over the course of three days ahead of the 2021 municipal election. 1,220 ballots were cast during the advance vote, representing around 10.2% of total votes cast in the 2021 municipal election.

The *Local Authorities Election Act* also allows municipalities the option of conducting institutional votes for electors who are confined to a treatment centre or reside in a supportive living facility. With the new requirement for municipalities to offer special ballots, conducting institutional votes may not be required as the same electors would be able to request special ballots. Moreover, Administration attempts to coordinate the booking of voting stations with supportive living facilities, specifically Prince of Peace.

The proposed *Election Bylaw* allows the Returning Officer the discretion to conduct institutional votes if it makes sense based on the context of a municipal election. Institutional votes were not conducted during the 2021 municipal election due to the COVID-19 pandemic, as Administration instead coordinated the provision of special ballots to residents of the supportive living facility Prince of Peace.

Elector Assistance at Home and Blind Elector Templates

The *Local Authorities Election Act* allows municipalities the option of providing elector assistance at home to electors who are unable to vote at a voting station because of a physical disability, as well as providing blind elector templates to electors who are visually impaired.

Adoption of an Updated Election Bylaw

Providing elector assistance at home and blind elector templates requires authorization from Council in accordance with the *Local Authorities Election Act*. In previous municipal elections, this authorization has come in the form of a resolution passed by Council in the runup to an election. Both elector assistance at home and blind elector templates were provided by the County during the 2021 municipal election. Two electors were assisted at home during the 2021 municipal election.

The proposed *Election Bylaw* authorizes the Returning Officer to provide elector assistance at home and blind elector templates for future municipal elections at their discretion. It is Administration's intent to provide both elector assistance at home and blind elector templates during the 2025 municipal election, and the proposed bylaw would allow the Returning Officer to do so without requiring Council authorization by resolution.

Conduct of Scrutineers

The *Local Authorities Election Act* provides for scrutineers to observe the conduct of municipal elections. Scrutineers serve an important purpose in the electoral process by helping to uphold the integrity and fairness of municipal elections. Scrutineers provide systematic oversight, ensure that election rules are followed, and detect errors and irregularities within voting stations and the counting centre.

Prior to the changes to the *Local Authorities Election Act* introduced by Bill 20, scrutineers were able to note objections to electors if a scrutineer believed that they were not eligible to vote in the municipal election. This ability, however, has been removed from the *Local Authorities Election Act* by Bill 20. Without the ability to note objections to electors, one of the main purposes of scrutineers has been removed from the *Local Authorities Election Act*.

While scrutineers serve other purposes such as witnessing the counting of ballots after the close of voting stations, the *Local Authorities Election Act* does not provide guidance on the conduct of scrutineers. Because of this, the conduct of scrutineers is often determined on a case-by-case basis by voting station supervisors, which may differ from voting station to voting station.

Recognizing this, the proposed *Election Bylaw* includes additional language surrounding the conduct of scrutineers during municipal elections for consistency across voting stations and the counting centre. The additional language is based on legal advice received by Administration, and other municipalities in Alberta are considering similar language in their bylaws.

The proposed *Election Bylaw* provides the following guidance on the conduct of scrutineers to ensure consistency across voting stations and the counting centre:

- scrutineers may observe the voting process after the opening of voting stations and they may observe the counting process after the close of voting stations;
- scrutineers may observe the counting of advance votes, institutional votes, and special ballots at the counting centre;
- scrutineers may view election materials within voting stations and the counting centre, such as individual elector registers and the special ballot register, but not the permanent electors register;
- scrutineers may not make copies of, transcribe, or interfere with election materials, such as individual elector registers, the permanent electors register, or the special ballot register;

Adoption of an Updated Election Bylaw

- scrutineers may not take photographs or make recordings within a voting station or the counting centre, including taking photographs of individual elector registers, the permanent electors register, or the special ballot register;
- scrutineers may not make or take phone calls in a voting station or the counting centre while they are within a voting station or the counting centre, including for the exchange of information between a scrutineer and a candidate or official agent; and
- no person may impede a scrutineer from performing their duties.

The proposed *Election Bylaw* allows the Returning Officer or a voting station supervisor to issue warnings to scrutineers if their conduct does not comply with the proposed *Election Bylaw*, the *Local Authorities Election Act*, or the direction of the Returning Officer or presiding deputy. If a scrutineer does not comply with the warning, the scrutineer may be removed from the voting station by the Returning Officer or the voting station supervisor.

Other Amendments

The proposed *Election Bylaw* also includes the following other amendments based on the provisions of the *Local Authorities Election Act*, which are not included in the current *Election Bylaw*:

- inclusion of wording around the independence and impartiality of the Returning Officer, which based on wording in the *Local Authorities Election Act*. Administration recommends including this wording to reinforce the independence and impartiality of the Returning Officer as a core principle in the municipal democratic process;
- inclusion of additional discretionary powers for the Returning Officer, including establishing multiple locations for candidates to submit nomination papers and designating an alternate location as the counting centre (which is the County Hall). Administration does not expect the Returning Officer to use these discretionary powers, but they have been included in the proposed *Election Bylaw* to provide the Returning Officer with their full discretionary powers under the *Local Authorities Election Act*;
- publishing nomination papers on the County's website rather than requiring individuals to view them in person at the County Hall. The *Local Authorities Election Act* states that individuals must be allowed to view nomination papers at the County Hall, but Administration recommends making them publicly available on the website to promote transparency and accountability;
- publishing unofficial election results on the County's website as ballot counts are received from voting stations prior to publishing the official election results four days after the election. The *Local Authorities Election Act* allows municipalities to publish unofficial election results as ballot counts are completed prior to publishing the official election results. For background, the County posted unofficial election results live during the 2021 municipal election; and
- in the event that Council wishes to hold its own plebiscite, provisions have been added to the proposed *Election Bylaw* to outline how the wording of the question on the ballot would be determined. Council would have the option of determining the wording itself or delegating that responsibility to the Chief Administrative Officer or Returning Officer.

Adoption of an Updated Election Bylaw

As noted earlier in the report, many of the changes in the proposed *Election Bylaw* are intended to provide the Returning Officer with their full discretion and authority under the *Local Authorities Election Act*. Whether or not to exercise these discretionary powers would be determined by the Returning Officer based on best practices and the context of specific municipal elections.

This would remove the need for Council to authorize these matters by resolution and would allow Administration to conduct elections impartially and without the perception of influence from Council, as sitting councillors may also be candidates in municipal elections.

COMMUNICATIONS / ENGAGEMENT

No immediate communications would be conducted by Administration should the proposed *Election Bylaw* be adopted by Council. However, municipal elections are complex undertakings that involve significant public communications and notifications.

Administration will be preparing a comprehensive communications plan for the 2025 municipal election that will include any relevant changes to the election process resulting from the adoption of the proposed *Election Bylaw*, as well as from the changes to the *Local Authorities Election Act* introduced by Bill 20.

IMPLICATIONS

Financial

Administration does not foresee significant financial implications with the adoption of the proposed *Election Bylaw*; however, there will be significant additional resources required for conducting the 2025 municipal election due to changes to the *Local Authorities Election Act* introduced by Bill 20, such as the requirement to implement a permanent electors register and to offer special ballots.

Administration is currently conducting a search for software solutions to assist with the implementation of a permanent electors register. Initial estimates for implementing a permanent electors register place the cost at around \$25,000 to \$50,000 for the 2025 municipal election and each election thereafter if the County were to use existing software solutions available to municipalities.

The cost of offering special ballots during the 2025 municipal election will depend on the number of special ballots requested by electors. Given that only one percent of all ballots cast in the 2021 municipal election were special ballots, Administration does not foresee significant costs to offering special ballots during the 2025 municipal election.

STRATEGIC ALIGNMENT

Conducting municipal elections is a requirement under the *Local Authorities Election Act*.

Adoption of an Updated Election Bylaw

ALTERNATE DIRECTION

Administration does not have alternate direction for Council’s consideration.

ATTACHMENTS

Attachment A: Proposed *Election Bylaw C-8573-2024*
Attachment B: Current *Election Bylaw C-8109-2020*

APPROVALS

Manager:	N/A
Executive Director/Director:	Gina van den Burg
Chief Administrative Officer:	Byron Riemann

