

## Bylaw 40-2024 Election Bylaw

### Report Purpose

To seek first and second readings of Bylaw 40-2024 Election Bylaw.

### Recommendation

1. THAT Bylaw 40-2024, a bylaw that establishes rules for the conduct of elections, be given first reading.
2. THAT Bylaw 40-2024 be given second reading.

### Our Strategic Goals

Governance Requirement

### Report

The *Local Authorities Election Act (LAEA)* sets out the rules for conducting municipal elections in Alberta. The *LAEA* gives Council the authority to pass bylaws or resolutions on specific items outlined in the Act.

Strathcona County has an existing bylaw, Bylaw 60-2020 Strathcona County Election Bylaw. Earlier this year, the provincial government passed the *Municipal Affairs Statutes Amendment Act, 2024* (formerly Bill 20) which makes significant changes to the *LAEA*. A new prohibition on alternative voting equipment (electronic tabulators) is the most significant change that requires Strathcona County to pass a new bylaw.

Administration has also used this opportunity to simplify the bylaw and remove unnecessary provisions that were already captured in the *LAEA*.

Several of the provisions in proposed Bylaw 40-2024 are required to be passed prior to December 31, 2024, to come into effect for the 2025 election. This means that the bylaw must be passed no later than December 30.

Included in the proposed bylaw are provisions to:

- Appoint as returning officer the Director, Legislative, Legal and Procurement
- Appoint as substitute returning officer the Manager, Legislative Services and Contract Management
- Authorize the returning officer to:
  - Create voting subdivisions
  - Designate voting station locations
  - Alter voting subdivision boundaries as needed
  - Post voting instructions in languages other than English in voting stations
  - Set up voting stations at seniors' facilities
  - Establish the locations for receipt of nominations
  - Begin counting the special ballots, advance vote ballots, and institutional ballots at 7:30 p.m. on Election Day
  - Enter into agreements with the school boards to conduct their elections on their behalf
  - Delegate any of their powers, duties, or functions
- Require that nominations be accompanied with a \$100 deposit

- Provide that if a candidate dies prior to the opening of the voting stations on election day, the election will be discontinued and a by-election will be held
- Set voting hours on election day between 9 a.m. and 8 p.m.
- Allow for special ballots and set out the:
  - Methods for submitting an application
  - Time period for applying for a special ballot
    - Must apply between July 1 and 4 p.m. on election day
  - Deadline for receipt of completed special ballot
    - Must be received by 7 p.m. on election day

Administration did not include a requirement that a criminal record check be submitted with all candidate nominations in the proposed bylaw. Although such a requirement could be seen as enhancing transparency, it could disenfranchise some candidates, given the cost and time required to provide the documentation. It would also add an additional administrative burden to ensure that the record checks are provided and to make them available for public review in the presence of the returning officer, redacted as allowed by the legislation. It is also important to note that the record check is at a point in time and may not remain accurate throughout the campaign period. Should Council wish to include this requirement, a decision would be needed on the type of criminal record check. The three types of criminal record checks are: name-based criminal record check, vulnerable sector criminal record check, and certified criminal record check.

If Council chooses to amend the proposed bylaw to include a criminal record check requirement, Administration would recommend that the criminal record check be obtained from the local jurisdiction, and no more than thirty (30) days before the nomination is received by the returning officer.

Currently, Council has the option to pass a bylaw setting out a blind elector template. If a bylaw is not passed for this purpose and a request is made by June 30, 2025, then Council would be required to pass a bylaw. In 2021, Strathcona County's blind elector template was an audio recording of the candidate names, a handheld selection device, and a ballot marking device to record the voter's selection. This system is now prohibited under the *Municipal Affairs Statutes Amendment Act, 2024* changes. The Election Team will conduct engagement on this topic and may return to Council with a bylaw in 2025 if required.

Also not included in the bylaw is a provision to move election day to the Saturday immediately preceding the third Monday in October. The Election Team will also be conducting public engagement on this topic and may return to Council with a separate bylaw before the end of 2024.

Other items that Council has the authority to pass by bylaw or resolution, but have not been included in the proposed bylaw are:

- Changing the number of required signatures for a nomination
- Printing ballots in lots
- Attending a person's home to facilitate voting for someone who is unable to attend a voting station because of physical disability
- Determining campaign expense limits

At this time, we are only requesting first and second reading of the bylaw. The *Municipal Affairs Statutes Amendment Act, 2024* has not yet been proclaimed. Proclamation is expected within the coming weeks, and we will return for third reading thereafter.

**Council and Committee History**

Date	Council/Committee history
November 24, 2020	THAT Bylaw 60-2020, a bylaw that establishes rules for the conduct of elections, be given first reading. THAT Bylaw 60-2020 be given second reading. THAT Bylaw 60-2020 be considered for third reading. THAT Bylaw 60-2020 be given third reading.
October 8, 2024	Administration presented a report to Priorities Committee outlining the changes to the <i>Local Authorities Election Act</i> that require a new election bylaw.

**Other Impacts****Policy:** N/A**Legislative/Legal:** The *Local Authorities Election Act*, RSA 2000, c. L-21 and the *Municipal Government Act*, RSA 2000, c. M-26 establish the general rules for the conduct of elections for municipal councils and school boards;

Section 147(1) of the *Municipal Government Act* provides that, subject to Division 5, councillors other than a chief elected official are to be elected in accordance with the *Local Authorities Election Act*;

Section 150(4) of the *Municipal Government Act* provides that if a chief elected official is to be elected by a vote of the electors of the municipality, the *Local Authorities Election Act* applies to the election;

Section 157 of the *Municipal Government Act* provides that the term of office of councillors is governed by the *Local Authorities Election Act*;

Section 2(2) of the *Local Authorities Election Act* provides that an elected authority may by resolution enter into an agreement with one or more elected authorities in the same area for the conduct of an election;

Section 3(1) of the *Local Authorities Election Act* provides that an elected authority may by resolution enter into an agreement for the conduct of an election with one or more elected authorities of local jurisdictions that do not have contiguous boundaries but do have areas in common;

Section 13(1) of the *Local Authorities Election Act* provides that an elected authority may, by resolution, appoint a returning officer for the purposes of conducting elections under the *Local Authorities Election Act* by June 30 of the year in which the election occurs;

Section 13(2.1) of the *Local Authorities Election Act* provides that an elected authority must by resolution appoint a substitute returning officer;

Section 21.1 of the *Local Authorities Election Act* provides 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;

Sections 27(1)(d) and (e) of the *Local Authorities Election Act* provide, respectively, that every nomination of a candidate must:

(d) if required by bylaw, be accompanied with a deposit in the required amount; and

(e) if required by bylaw, be accompanied with a criminal record check.

Section 33(1)(a) of the *Local Authorities Election Act* provides that an elected authority may, by a bylaw passed prior to nomination day, provide that if prior to the opening of the voting stations on election day a candidate for an elected authority dies after being nominated, the election for the position for which the deceased candidate was nominated shall be discontinued;

Section 36(1) *Local Authorities Election Act* provides that the elected authority by resolution, or the returning officer if authorized by resolution of the elected authority, may divide the local jurisdiction into voting subdivisions and may from time to time alter their boundaries but may not alter them between the time of the giving of notice of an election and the election day;

Section 37(3) *Local Authorities Election Act* provides that the elected authority may pass a bylaw by June 30 of a year in which a general election is to be held allowing the returning officer of the elected authority to designate more than one voting station for each subdivision, and the location of those voting stations;

Section 46(2.1) *Local Authorities Election Act* provides that an elected authority that is responsible for the conduct of an election under an agreement referred to in section 3(1) may, by a bylaw passed before June 30 of a year in which an election is to be held, provide that voting stations in an area that is subject to the agreement are to be open before 10 a.m.;

Section 77.1(2) *Local Authorities Election Act* provides that an elected authority may, by resolution passed prior to nomination date, provide for special ballots and provide that special ballots may be made by any one or more of the methods listed in that section;

Section 80(1) *Local Authorities Election Act* provides that the elected authority by resolution or the returning officer, if authorized by resolution of the elected authority, may designate the location of one or more institutional voting stations for an election;

Section 85.1(4) *Local Authorities Election Act* provides that an elected authority may pass a bylaw by June 30 of a year in which a general election is to be held allowing the returning officer of the elected authority to count the special ballot box, advance vote ballot box and institutional vote ballot box no earlier than 7:30 p.m. on election day; and

Section 180(3) of the *Municipal Government Act* provides that where a council is required or authorized under this or any other enactment or bylaw to do something by resolution or to do something without specifying that it be done by bylaw or resolution, it may be done by bylaw or resolution.

**Financial/Budget:** N/A

**Interdepartmental:** Business Excellence

**Master Plan/Framework:** N/A

Author: Jacqueline Roblin and Bevan White, Legislative, Legal and Procurement

Director(s): Mavis Nathoo, Legislative, Legal and Procurement

Chief Commissioner: Darrell Reid

Lead Department: Legislative, Legal and Procurement

**Alternative**

Council could make a motion to amend the bylaw to require that a criminal record check is submitted with all candidate nominations:

THAT Bylaw 40-2024 Election Bylaw be amended by deleting section 6 and replacing it with:

6. Candidate nominations must be accompanied by:
  - a. a deposit in the amount of \$100 CAD; and
  - b. a \_\_\_\_\_ criminal record check from the local jurisdiction obtained no more than thirty days before the date the nomination is received by the returning officer.

**Enclosure(s)**

Enclosure 1	Bylaw 40-2024 Election Bylaw
Enclosure 2	PPT Bylaw 40-2024 Election Bylaw