

Local Authorities Election Act: Question & Answers

Updated October 2020

Election Planning/Logistics

Given the length of the nomination period, who can accept the nomination papers during this time? Must a returning officer be available as of January 1? Can an assigned municipal employee (such as the CAO) accept the nomination papers in the beginning?

The *Local Authorities Election Act* (LAEA) allows returning officers to be appointed by council at any time prior to June 30 in the year of a general election. In the absence of council appointing a returning officer, the powers, duties and functions are the responsibility of the Chief Administrative Officer (CAO) (section 13).

Section 14 also allows the returning officer (CAO) to delegate any of their duties to a deputy returning officer. This means the CAO could appoint one or more deputy returning officer(s), to be able to accept nomination papers.

The requirement to keep election materials for a period of three months in the *Alberta Senate Election Act* does not align with the requirement to destroy local government election materials between 6 to 12 weeks following election day in the LAEA. Do you anticipate a regulation to reconcile this discrepancy?

Municipal Affairs is aware of the discrepancy between the timelines. Until Elections Alberta and Municipal Affairs review this matter further, there are different retention/destruction timelines for Senate Election Act material and LAEA materials.

Do joint election agreements need to be completed prior to January 1, 2020?

No. There is no legislative requirement to have joint agreements in place prior to January 1, 2021. The timing of when agreements are completed is up to each local jurisdiction. In the absence of an agreement, each local jurisdiction is responsible for the duties and functions as outlined in the LAEA.

Nomination Process/Candidate Eligibility

What is the rationale behind the seven month nomination period?

The LAEA was streamlined to reduce instances of multiple time periods, such as the notice of intent to run, a four-year “campaign period” and a single nomination day.

The nomination period now aligns with the beginning of the campaign period, the ability to accept contributions and incur expenses. It means candidates are no longer required to file a notice of intent to run.

If the nomination period starts January 1, 2021, when do nomination packages have to be ready for potential candidates?

Returning officers may determine what information is included in nomination packages and when they are made available to potential candidates.

Is a person pursuing civil litigation against the municipality eligible for nomination?

Yes. Sections 22 and 23 of the LAEA list the circumstances in which a person would not be eligible for nomination and does not include ongoing litigation matters.

What are the ramifications to council decisions when an existing member declares their nomination in January, or well before nomination day?

Until a general election has occurred and the newly elected individuals have taken their Oath of Office, councillors remain in office with full authority and responsibilities as outlined in the *Municipal Government Act*.

The code of conduct bylaws of municipalities may address campaign-related issues.

Is nomination day closed at 12:00 noon on September 20, 2021?

Yes.

Can candidates file and withdraw their nomination papers numerous times between January and September (during the nomination period)?

Nothing in the legislation prevents a candidate from submitting and withdrawing nomination papers between January 1, 2021 and 12:00 noon on September 20, 2021.

Will there be a prescribed form for nomination withdrawal?

No. The returning officer has the ability to determine the appropriate written format for how candidates may withdraw their nominations.

Our understanding from the LAEA is a nominee must be a resident for six months prior to January 1, 2021, so that would be June 1, 2020. Can someone be nominated as a candidate if they are not a resident as of January 1, but intend to reside in the municipality six months prior to September 20, 2021?

It is the position of Municipal Affairs that when a person signs their nomination paper they are eligible under section 21 and not otherwise ineligible under section 22 and 23 of the LAEA. That includes meeting the six month eligibility requirement. Candidates may seek independent legal advice if they are unsure of their eligibility under the LAEA.

The returning officer does not have the authority to challenge the validity of the information provided on the nomination papers. Electors have the responsibility to question the validity of the nomination papers and it also may be challenged through the court.

If self-funded candidates are spending zero dollars on campaigning, what is the trigger for filing nomination papers?

Candidates must be nominated before incurring any campaign expenses or accepting contributions. However, a person may accept up to \$5,000 in the aggregate or contribute up to \$10,000, per year, outside of the campaign period.

Candidates must be aware that section 147.1(1)(a) defines campaign expenses as any expense incurred (including a non-monetary contribution received) by a candidate to the extent that the property or service is used to directly promote or oppose a candidate during a campaign period.

If an individual does not intend to spend any money, or accept contributions (either monetary or in-kind), the decision to file nomination papers is the choice of the candidate.

January 1, 2021 is a statutory holiday. Do we need to be available to accept nominations that day?

No. The *Interpretation Act* states that if the time limited for registration or filing of an instrument expires or falls on a day on which the office in which the instrument is required to be registered or filed is not open during its regular hours of business, the instrument may be registered or filed on the day next following on which the office is open.

Local offices are not required to be open on the January 1 statutory holiday. The filing of nomination papers may begin on the next business day.

Can a municipality still require a fee for filing nomination papers?

Yes. An elected authority may still require every nomination to be accompanied by a deposit in an amount fixed by bylaw.

Is the candidate registry still needed?

No. The requirement for a candidate registry/notice of intent to run was removed from the LAEA during the 2018 amendments.

Will there be a process/procedure to confirm candidates that have filed nomination papers early are still eligible to run and/or interested in running?

No. It is the responsibility of each candidate to ensure they remain eligible for nomination throughout the nomination period.

When will the prescribed nomination forms be available?

Forms and other resource materials will be made available as soon as possible on Alberta.ca. The LAEA Forms Regulation will be available from [Queens Printer](#).

Can we require candidates to make an appointment to submit nomination papers to ensure the necessary staff are in the office to receive the forms?

The LAEA, section 28, states that nominations shall be submitted at the local jurisdiction office at any time during the nomination period and the legislation does not provide for altering this provision.

Election Day Logistics

Are there statutory forms for vouching?

Yes. Form 14, Statement of Voucher, must be completed when a person is relying on the vouching process to confirm identity.

Is a Hutterite Colony considered one household for purposes of vouching?

The household definition for a Hutterite Colony is not separately addressed in the LAEA. Independent legal advice should be obtained if this matter will impact your local election administration.

Will Municipal Affairs be working with Alberta Education to offer support around the use of schools as voting stations?

Each local jurisdiction, including school divisions and associated schools, are responsible for determining voting station locations. Municipalities have the autonomy to work with the local school divisions to determine the potential use of schools for voting stations.



Candidate Contributions and Financial Disclosure

Do self-funded candidates need to file a disclosure statement?

Yes. Section 147.4 requires that candidates file campaign disclosure statements. All candidates are required to file disclosure statements regardless of whether or not they were self-funded.

Can surplus funds be donated to a society or does it have to be a registered charity?

Section 147.5 states that campaign surpluses greater than \$1,000 must be donated to a registered charity (or a portion must be donated to result in the surplus being less than \$1,000).

Registered charity is defined under section 1(t.4) of the LAEA and means a registered charity within the meaning of subsection 248(1) of the Income Tax Act (Canada).

Would a candidate personally get the tax receipt from the charity if surplus funds were required to be donated?

The LAEA does not provide details regarding tax receipts from donating a campaign surplus to a registered charity. Candidates can contact their accountant or the Canadian Revenue Agency to obtain more information.

Does a candidate get a tax receipt or is it just a donation, no receipt expected?

Section 147.3(e) requires that candidates obtain receipts for all expenses incurred and every contribution received. The LAEA is not specific regarding a receipt for surplus funds being donated to a registered charity.

Can you please confirm: municipalities with surplus funds held in trust need to donate on behalf of candidates, and arrange tax receipts in their names?

Section 147.51 states that the candidate in respect of whom the amount is held in trust must dispose of their own surpluses if greater than \$1,000 (or donate an amount that will result in the surplus being less than \$1,000). Funds less than \$1,000 may be released and used as the candidate sees fit or be donated to a registered charity. Candidates have until January 1, 2022, and if no further instructions have been provided, the surplus becomes the property of the local jurisdiction.

Can surplus funds, currently held in-trust from previous elections, be returned to contributors?

Section 147.5 requires surplus funds to be donated to a registered charity as defined under the Income Tax Act.

Can candidates access their 2017 election surplus to fund their 2021 election campaigns?

Candidates who have surplus funds less than \$1,000 are permitted to retain their surplus funds to use as they see fit, or are able to donate them to a registered charity. Any surplus greater than \$1,000 must be donated to a registered charity or a portion of the surplus be donated to a registered charity that results in the surplus being less than \$1,000.

Can a campaign surplus be donated to the municipality?

Section 147.5 states that surplus funds are to be donated to a registered charity as defined by the *Income Tax Act*. The only instances where a surplus may become the property of the local jurisdiction is for surplus funds currently held in-trust and if the candidates do not dispose of those funds or provide instructions prior to January 1, 2022 (section 147.51).

Third-Party Advertising

Do third-party advertisers have to register with the municipality if they are advertising in less than 10 jurisdictions?

Yes, section 164 of the LAEA requires that a third-party must register with the local jurisdiction they intend to advertise in when it has incurred expenses (or intends to) or has accepted contributions (or intends to) of at least \$1,000.

A third-party register with the provincial registrar when it is registered in more than 10 local jurisdictions.

Senate Elections and Referendums

Can we can apply our voting procedures to the Senate Election and Referendum (e.g., advanced vote, institutional, special ballots, use of electronic voting equipment and combination of multiple ballots on one ballot card)?

Yes, all voting procedures used in conducting the municipal election apply to the Senate Election and Referendum Vote. If a municipality is offering advance voting, institutional voting and/or special ballots, then the senate and referendum ballot will also need to be provided to electors voting by those methods.

If electronic voting equipment is being used, it can also be used for the senate and referendum ballot. A consolidated ballot can also be used, provided the requirements for ballots under the legislation are followed (minimum font sizes, instructions, etc.). The longer retention period for senate election ballots will also apply, should municipal and senate election ballots be combined.

Is there a regulation on grant funding for referenda (different than Senate grant)?

No. There are currently no regulations under the *Referendum Act*. A grants regulation is required to provide Municipal Affairs with the formula for paying grants to municipalities for the conduct of a referendum vote.

The Senate Election Grants Regulation states that when an election is already occurring under the LAEA, we will receive \$1 per capita or \$1,000 whichever is greater. Is based on total population or eligible voters or per ballot cast?

This is a population-based formula.

Who is providing ballots for Senate and Referendum elections?

For the Senate Election, Elections Alberta will provide ballots to municipalities completing a hand count. Municipalities using electronic voting equipment will be responsible for supplying the ballots.

For the Referendum Vote, the responsibility for providing ballots is not outlined in the *Referendum Act*. Information will be disseminated in the event regulations are enacted under the *Referendum Act*.

If there is an acclamation in a jurisdiction or ward, will the municipality still be required to hold elections for Senate and/or referendum questions?

Yes, the Senate Election and Referendum Vote are provincial elections. All eligible electors in Alberta must have a voting opportunity for those two events. Municipalities with acclamations will still be required to provide voting opportunities in the jurisdiction or ward with the acclamation.

Will senate and referendum ballots be physically separate from municipal ballots?

For municipalities completing a manual count, these ballots will be separate from the municipal ballots and will be collected in separate ballot boxes. For municipalities using electronic voting equipment, the ballots can be together or physically separated, depending on the municipality's decisions around consolidating the ballots and tabulator set-up and post-event ballot storage.

How does the senate election apply to a summer village?

As the Senate Election (and Referendum Vote) are provincial elections, all eligible Alberta electors, including those in summer villages, need to be provided with a voting opportunity.

Municipal Affairs is responsible for arranging the conduct of the Senate Election and Referendum Vote in summer villages, so will be making arrangements for this to occur. Summer villages will be receiving additional information on the options available for conducting these votes.

If we are using electronic voting and a recount is requested, is the results tape the only item that will be requested?

Should a recount be applied for under the *Alberta Senate Election Act*, Elections Alberta will collect all ballots from municipalities that completed a hand count.

For municipalities using electronic voting equipment, Elections Alberta will collect the reports or materials used in determining the results in that jurisdiction. This could include the results tape, vendor reports, and/or ballot accounting forms. The tabulator ballots will not be collected.

What is the number of potential referendum questions?

Until the Order in Council is issued, the number or content of the questions is unknown.

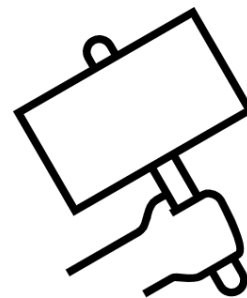
Will Elections Alberta provide advertising for municipalities for the Senate election and Referendum questions?

Elections Alberta is planning to have an informational advertising campaign during the Senate Election/Referendum period. The campaign will focus on informing electors about the additional events taking place with the municipal elections, where to access information, and to encourage electors to vote. Elections Alberta will share materials that are developed for online and social media use with municipalities.

Legislated advertising for senate elections, including the notice of election under section 35 of the LAEA, will be the responsibility of municipalities. Form 6 has been adjusted through the Senate Election and Local Authorities Election Forms Regulation.

Provincial election signage is permitted from the date the election is called until three days after election. What is the election call date now?

For questions specifically about when campaign signage is permitted under provincial elections, including senate elections and referendum questions, please contact Elections Alberta (780-427-7191 or info@elections.ab.ca).



COVID-19

Section 77 (special ballots) is only available for those who are disabled or out of the jurisdiction on election day. Will there be an order or special dispensation for those who may be in quarantine or self-isolation due to COVID-19?

Municipal Affairs is aware of concerns regarding the application of provisions of the LAEA, including special ballots, given COVID-19. The Ministry is committed to reviewing provisions of the LAEA in the event that COVID-19 continues throughout 2021.

Elections Canada brought forward a legislative amendment to allow two days of voting (Saturday & Sunday), rather than the usual Monday Election Day. This will allow voters more time to vote, assist with physical distancing, allow youth to work the polls, and open up using schools as polling stations. Will Elections Alberta consider doing something similar?

Municipal Affairs is monitoring election processes being implemented across Canada given a number of provincial and municipal elections occurring during COVID-19. The ministry will use this information to inform future decisions.

Will there be changes to the legislation to allow a municipality to turn away voters who are showing symptoms of COVID-19?

Municipal Affairs is committed to protecting fundamental rights of democracy, and that includes voting while also ensuring any recommendations or orders from the Chief Medical Officer of Health can be followed.

Will there be COVID-19 guidelines for polling stations (contact tracing forms, sanitizing poll booth after each voter, etc.)?

Municipal Affairs will rely on the expertise of Alberta Health Services and information relating to processes related to COVID-19. Information will be released when it becomes available.

Additional Information

Q: Will there be training or information resources for candidate and/or third-party advertisers and is there an anticipated timeframe?

Additional resources will be released on Alberta.ca in fall 2020.

Is there a "subscription" to receive notification for the training modules?

Information is sent directly to Chief Administrative Officers across Alberta. The ministry will continue to work with the provincial elected and administrative associations when additional training opportunities are scheduled and resources are available.

Will there be training for returning officers if they are not in place until June 30, 2021?

Resources for returning officers will be made available on Alberta.ca and continue to be available throughout 2021.

Is there a resource available outlining key dates for summer villages?

Resources will continue to be drafted and released through fall 2020 and spring 2021.

All resources will be made available on Alberta.ca when they become available.

Are there resources available for municipalities including updated FAQs, information sheets, manuals, and candidate information?

Resources, when available, will be posted to Alberta.ca and may be used by local jurisdictions.

Will there be candidate information sessions since nominations can be submitted after January 1, 2021?

Municipal Affairs is exploring options for candidate training and details will be released on Alberta.ca when information becomes available.

What should municipalities be doing now in preparation for January 1, 2021?

Local jurisdictions must be in a position to accept nomination papers beginning January 1, 2021. Before January 1, 2021 local authorities should have processes in place to facilitate this.

What is needed to be on municipal websites for January 1, 2021?

This is a local decision and each jurisdiction may make a variety of information available. There is no legislated requirement for information to be posted on websites prior to January 1, 2021.

Municipal Election Support

If you have municipal election questions, please contact us at:

780-427-2225 (or toll-free by first dialing 310-0000)

email: ma.lgsmail@gov.ab.ca