

2024 Municipal and School Board Elections – Amendments to Bylaw No. 8191, The Election Bylaw, 2012

ISSUE

Bylaw No. 8191, *The Election Bylaw, 2012* (the Bylaw) requires updating to reflect process improvement and modernization efforts being undertaken for the 2024 municipal election and recent amendments made to *The Local Government Election Act, 2015* (LGEA).

RECOMMENDATION

That the Governance and Priorities Committee recommend to City Council that the City Solicitor be instructed to amend Bylaw No. 8191, *The Election Bylaw, 2012*, as outlined in the report of the City Clerk dated March 13, 2024.

BACKGROUND

On January 1, 2024, the Government of Saskatchewan amended the LGEA and [The Local Government Election Regulations, 2015](#) (LGER). The amendments are included as Appendices 1 and 2 for the LGEA and LGER respectively.

The Governance and Priorities Committee (GPC) at its May 17, 2023 meeting considered the [Election Modernization Strategy Report](#) of the City Clerk's Office and resolved to recommend to City Council, in part, that the Administration enter into an agreement with Elections Saskatchewan, including for technology and information sharing to establish a voters list.

City Council approved the recommendations of GPC at its Regular Business Meeting on May 31, 2023. As identified in the Election Modernization Strategy Report, Administration has also been working to acquire an election management system (EMS) that will allow the City to more efficiently operate the election and increase the service level for all stakeholders in the planning and delivery of the civic election.

It is necessary to amend the Bylaw to reflect the legislative amendments and procedural changes resulting from election modernization efforts.

DISCUSSION/ANALYSIS

Proposed amendments to the Bylaw can be grouped as:

1. Amendments proposed due to amendment of the LGEA and LGER;
2. Amendments proposed due to modernization of election processes; and
3. Housekeeping amendments.

Amendments Proposed Due To Amendment Of The LGEA and The LGER

In some cases, amendment of the Bylaw is required to update provisions to ensure alignment with the LGEA and LGER. In other cases, direction on new decision points allowed within legislation is required from City Council.

1. Resolving Tie Votes: Section 141 of the LGEA provides a process for breaking a tie vote between candidates. Presently ties are resolved by a blind draw amongst tied candidates. Notwithstanding section 141, new section 141.1 allows a municipality, in its general election bylaw, to provide for a by-election to resolve a tie vote. While a by-election, especially where more than two candidates were on the original ballot, may allow for voters to make an alternate decision and impact the election result, a by-election would also introduce significant costs and up to a three-month delay in filling the vacant seat. For these reasons Administration is recommending that tie votes continue to be resolved by blind draw in accordance with section 141 of the LGEA. Maintaining the status quo requires no amendments to the Bylaw.
2. Nomination Day: Clause 73(1)(a) of the LGEA sets nomination day as the fifth Wednesday before election day. Notwithstanding clause 73(1)(a), new subsection 73(2) allows a municipality, in its general election bylaw, to establish a nomination day that is up to seven weeks before election day. Introducing a change in nomination day has potential to create inconsistencies with neighboring municipalities and other cities. No change to nomination day is proposed, and maintaining the status quo requires no amendment to the Bylaw.
3. Nomination Deposits: Subsection 68(1) of the LGEA requires that the nomination paper for every nominee in a municipality with a population of 20,000 or more be accompanied by a deposit of \$100. Notwithstanding subsection 68(1), new subsection 68(1.1) allows a municipality with a population of 20,000 or more to, in their general election bylaw, require a nomination deposit not exceeding \$500 for any elected office specified in the bylaw. While refundable, increasing deposit amounts may be seen as a barrier to running for Council, with little other benefit. No change to nomination deposits is proposed, and maintaining the status quo requires no amendment to the Bylaw.
4. Candidates Order On The Ballot: Section 91 of the LGEA speaks to the form of ballot. The LGEA requires the alphabetical ordering of candidates on a ballot by surname, and in the case of candidates having the same surname, in alphabetical order of the initial of their given name. Where there are five or more

candidates, a council, by bylaw, may authorize the Returning Officer to arrange the names of the candidates on the ballot in random order in accordance with subsection 91(2). Changing to a random order of candidates on the ballot prevents any possible bias.

Election Bylaw Recommendation - That the Bylaw be amended to authorize the Returning Officer, where there are five or more candidates, to arrange candidate names on ballots in random order in accordance with the direction provided in subsection 91(2) of the LGEA.

5. Mail-In Ballot Application And Witness Declaration: An amendment to the LGER has repealed *Appendix A – Form C* (Declaration of Person Requesting Mail-in Ballot) thereby removing the requirement for a person to witness a mail-in ballot declaration when a voter is applying to vote by mail-in ballot. Although not in the prescribed form, a declaration signed by the person applying for the mail-in ballot is still required alongside appropriate evidence of the person's identity, and where applying by registered mail, ordinary mail, fax, email or as otherwise specified in the bylaw, the person's signature and copies of their identification or information evidencing their identity. Completion of a voter registration form is not required where a voters list is being used. The changes provide additional flexibility for electronic application, assisted through use of a voters list. Administration's intention is to administer the mail-in ballot application process in line with provincial and federal election procedures, which will include accepting digital signatures as part of electronic application processes.

Election Bylaw Recommendation – That the mail-in ballot application provisions of the Bylaw be amended to align with the new provincial legislation and provincial and federal election procedures.

6. Voter Registry and Voters List: City Council has previously authorized the use of a voters list for the 2024 civic election. Population of the voter registry and voters list will be in partnership with Elections Saskatchewan. The City's authority to use, or the process by which the City implements the use of a voter registry or voters list need not be done by bylaw. However, where a municipality intends to accept applications from a voter to either have their name struck from a voters list (section 58 LGEA) or to correct an error on the voters list (section 59 LGEA) by email or electronic means, these methods of application must be provided for in a general election bylaw. Bylaw amendments are required to authorize the use of email or electronic means to facilitate these applications. The concepts of a

voter registry and voters list will be introduced in the Bylaw simply to provide context for the provisions required by the LGEA.

Election Bylaw Recommendation – That the Bylaw be amended to authorize applications to change the voters list to strike a name or correct an error by email or electronic means as required by the LGEA.

7. Changes In Authority of Returning Officer: Legislative changes have shifted responsibilities away from City Council to the Returning Officer for items such as the establishment of polling locations for election day and the location, dates, and times for alternative polls such as advance polls, special polls, and mobile/homebound polls. While the Returning Officer now establishes and approves these voting opportunities, an information report will be brought to City Council through GPC.

Election Bylaw Recommendation – It is recommended that provisions in the Bylaw that duplicate provisions of the LGEA, such as the provision stating that the returning officer may establish a special poll, be repealed given they are no longer necessary.

Amendments Proposed Due To Modernization of Election Processes

In addition to those listed above because of changes to provincial legislation, further amendments to the Bylaw with respect to improving the civic election and implementing the modernization efforts previously directed by City Council are recommended. These amendments include:

1. Mail-In Ballot Procedures: Through modernization efforts, mail-in ballot procedures will see a significant improvement in the application and fulfilment of ballots. Amendments will reflect procedural changes resulting from utilizing a voters list and an EMS. This includes no longer requiring a voter registration form, declarations being completed electronically through the EMS, removal of witness declaration forms in line with legislation, and when individuals are considered to have voted when utilizing a mail-in ballot. Voters will be deemed to have voted via mail once the ballot has been received at the election office, rather than upon provision of the mail-in ballot. Mail-in ballots received where a voter has been marked as “voted” at a poll will be deemed as spoiled. Persons who wish to vote in person but who have been marked as having voted by mail will, subject to completion of a declaration stating that they have not yet voted, be permitted to vote in person.

Election Bylaw Recommendation – That mail-in ballot procedures be updated in the Election Bylaw to reflect changes in election modernization and best practices associated with use of a voters list in alignment with provincial and federal elections as outlined above.

2. Mail-In And Special Ballots That Are Not Accepted By The Vote Tabulating Unit:

If a ballot is not accepted by the vote tabulating unit, a person voting in person may request a replacement ballot. Mail-in and special ballots by nature are not processed immediately, and do not provide the same opportunity. Ballots in these instances that are not accepted by the vote tabulating unit have historically been considered spoiled.

Election Bylaw Recommendation - The recommended amendment is to outline a process for the Returning Officer or designated election official, where a ballot is not accepted by the vote tabulating unit, however intent is clear, to spoil the original ballot and mark another ballot. This is only allowed where designated individuals agree the intent is clear, and would be completed at a designated time, providing the ability for candidates/agents to be present at the time of determination of intent.

3. Examination Of Election Documentation: The current bylaw has a provision for candidates or their agents to examine voter registration forms, declarations of persons requesting mail-in ballots, voter and witness declaration forms and voter confirmation envelopes at the election office. Due to improvements in mail-in ballot procedure in utilizing a voters list and EMS, changes to this process are required. Voter confirmation (return) envelopes and certificates returned to the election office will continue be viewable by candidates at the election office. Reports can be extracted from the EMS for viewing of declarations of persons requesting mail-in ballots and voter declaration forms, or equivalent, ensuring that the overall transparency of the process remains unchanged and is in line with candidate ability to witness process at a polling station. Witness declarations are no longer required.

Election Bylaw Recommendation – That the Election Bylaw be updated to reflect updated mail-in ballot application form examination procedures by candidates/agents.

4. Establishment Of A Count Centre: Current bylaw language requires that tabulation of results occur at City Hall. With the election office to be located at 145 1st Avenue North, flexibility in the bylaw is recommended to provide for election night tabulation of results to occur at a location determined by the

Returning Officer. Legislation allows for the Returning Officer to establish a count centre either at City Hall or other location that in the opinion of the Returning Officer makes the tabulation of results more efficient and allows for the seamless and more practicable return logistics process of the election night.

Election Bylaw Recommendation – That the Election Bylaw be updated to provide flexibility in designating an alternate count centre, to be either of City Hall or another location, at the discretion of the Returning Officer. Direct notification to each candidate on the location shall occur with sufficient notice.

Housekeeping Amendments

Various minor housekeeping amendments are recommended, including the following:

- Repealing and replacing the definitions section to modernize formatting, add new definitions, repeal unnecessary definitions and make minor changes throughout, such as updating “memory card” to “memory device”, a more general term;
- Removing references to “electors” and using the term “voters” consistently throughout;
- Adding a table of contents;
- Minor amendments to language throughout for consistency and simplification purposes, as well as to ensure alignment with the LGEA and the LGER.

FINANCIAL IMPLICATIONS

There are no financial implications identified with this report.

NEXT STEPS

Following City Council direction, a bylaw amendment will be prepared by the City Solicitor’s Office and brought to City Council for consideration. In addition, further reporting will be provided to City Council in April/May, prior to the beginning of the campaign period outlining Returning Officer appointment and designated decisions.

APPENDICES

1. 2023, Chapter 32 – An Act to amend The Local Government Election Act, 2015
2. 120/23 – Saskatchewan Regulations

Report Approval

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