

2023 Municipal By-Election

Nominations Open

November 16, 2022 until January 16, 2023 at 12:00 p.m.

Municipal Elections are conducted every four years, under the provision of the Local Authorities Election Act. When a vacancy occurs, a by-election is held if there is more than 18 months before the next general election. The Town of Athabasca's by-election is scheduled to take place **Monday, February 13, 2023**.

The Town of Athabasca residents will elect 1 Councillor to serve the remaining four-year-term, concluding October 2025.

Please note: each candidate is responsible for ensuring compliance with the laws governing elections and for obtaining any necessary legal advice.

The [Local Authorities Election Act](#) can be accessed through the Alberta King's Printer.

If you are considering running in the 2023 Municipal By-Election, no candidate may accept campaign contributions, including the funds of the candidate, unless the candidate is registered with the municipality under Section 147.21(1) of the Act. The Candidate Registration Form (Notice of Intent) is attached.

General information:

- Changes to any information must be reported in writing to the Municipality within 48 hours after the change.
- The Candidate Registration list is made public and posted on the Town of Athabasca's website.
- Once an individual is registered, they are permitted to start fundraising.
- Candidates funding their entire election campaign exclusively out of the candidates own funds up to a maximum of \$10,000 are NOT required to register with the Municipality as per the [Local Authorities Election Act](#) under 147.21 (6).

NOTICE TO ALL CANDIDATES

Nomination period is November 16, 2022, until the official nomination Day, January 16, 2023, at noon.

Nominator Eligibility

For a candidate's nomination to be valid, the candidate must complete the prescribed Nomination Paper and have five eligible voters sign his or her Nomination Paper. The candidate is encouraged, however, to seek more than five in case a nominator becomes disqualified.

Nominator's must be:

- a) At least 18 years old
- b) A Canadian citizen
- c) A resident of the local jurisdiction on the date of signing the nomination paper and on election day
- d) Not otherwise ineligible or disqualified (Refer to S. 22(1) of the *Local Authorities Election Act*.).

Filing of Nomination Papers

Nomination Papers **MUST** be filed on or before Nomination Day – Monday, January 16, 2023. The Returning Officer will receive each candidate's originally signed Nomination Paper from November 16, 2022, until January 16, 2023, at noon at the Town of Athabasca Council Chambers, 4705 – 49 Avenue, Athabasca, AB. Faxed or emailed nomination papers will **NOT** be accepted.

Nomination Deposit

Nomination Deposits of \$100 (cash, certified cheque or money order) must accompany a Candidates Nomination Paper. This deposit shall be held by the Town in keeping with the terms outlined in Bylaw 010-2022 and the appropriate sections of the *Local Authorities Election Act*.

Deposits shall be returned to the candidate if:

- a) The candidate is declared elected
- b) The candidate obtains at least one-half the number of votes of the person elected to office with the least number of votes, or
- c) The candidate withdraws within 24-hours of the close of nominations in accordance with Section 32 of the *Local Authorities Election Act*.

Please ensure that your Nomination Papers are appropriately completed with all information. If the candidate will not be personally present to file the Nomination, the Acceptance Section must be duly signed by the candidate and a Commissioner for Oaths. If the candidate will be personally present to file the Nomination, the acceptance portion may be completed at that time.

Withdrawal of Nomination Papers

If more than the required number of candidates for any particular office are nominated, you may, within 24 hours of the close of nominations (i.e. – before 12 noon on Monday, January 16, 2023) withdraw

your name as a candidate by submitting a notice of withdrawal in writing to the Returning officer. A faxed or emailed notice of withdrawal will **NOT** be accepted.

Your nomination cannot be withdrawn after the 24-hour deadline has passed and your name will appear on the ballot if you withdraw after the 24-hour period.

Positions

Nominations are being sought for the following position:

Councillor	01
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Additional Information

Additional information is available on-line by visiting the Alberta Municipal Affairs website at:
<https://www.alberta.ca/municipal-elections.aspx>

or by viewing the Local Authorities Election Act at:
<https://kings-printer.alberta.ca/documents/Acts/L21.pdf>

For more information please contact:

Jeff Dalley, Returning Officer
Town of Athabasca
4705 – 49 Avenue
Athabasca, AB T9S 1B7
Telephone: 780-675-2063
Fax: 780-675-4242
Email: finance@athabasca.ca

Frequently Asked Questions

Can a person with a criminal record run in a local election?

Yes, however, if that person has been convicted of an election offence (federal, provincial or local) within the previous 10 years, they are ineligible for nomination and to be a candidate (s. 22 *Local Authorities Election Act*).

Can I look at nomination papers on Nomination Day?

After 12 noon on Nomination Day, a person may request to examine the filed nomination papers during regular business hours and in the presence of the returning officer, deputy or secretary (s.28(4) *Local Authorities Election Act*).

Council is considering providing for the submission of a question to be voted on by the electorate. Does this vote bind council?

If the question was not required to be put to a vote, then the decision does not bind council (s. 236 *Municipal Government Act*).

What happens if the nominations received meet, but do not exceed, the number of positions available?

If the number of nominations does not exceed the number of positions available, after the close of nominations, the Returning Officer will declare the candidate(s) nominated for the position elected by acclamation (s. 34, *Local Authorities Election Act*).

What is your responsibility as a Federal public servant before you file nomination papers in a municipal election?

Before a federal public servant employee can seek nomination as a candidate in a municipal election, he/she must request and obtain permission from the Public Service Commission of Canada (PSC) to do so.

For further information please contact the PSC directly or refer to the Public Service Employment Act.

- Toll-free number: 1-866-707-7152
- E-mail: pa-ap@psc-cfp.gc.ca

Can an employee file nomination papers to become a candidate?

Yes. If an employee of a municipality or a school board who wishes to be nominated as a candidate for an election, may notify the employer on or AFTER November 16 and no later than Nomination Day, indicating that they are taking a leave of absence without pay (s. 22(5) *Local Authorities Election Act*). Every employee who notifies his or her employer is entitled to a leave of absence without pay (s. 22(6) *Local Authorities Election Act*).

If an employee who has taken a leave of absence, is not elected, the employee may return to work, in the position the employee had prior to the leave, on the 5th day following the election. If an employee is declared elected, the employee is deemed to have resigned the position as employee the day the employee takes the official oath of office (s. 22(8) & s. 22(9) *Local Authorities Election Act*).

Is a person who holds the position of Volunteer Fire Chief eligible to run for municipal office in that municipality?

Yes, a person who is a volunteer chief, officer or member of a fire, ambulance or emergency measures

organization established by a local jurisdiction is not ineligible to be nominated (s. 22(4)(m) *Local Authorities Election Act*).

In addition, all other requirements for eligibility must be met under s. 21 of the *Local Authorities Election Act*:

- at least 18 years of age;
- a Canadian citizen;
- Is not otherwise ineligible under the Act.

S. 22(1) of the *Local Authorities Election Act* titled 'Ineligibility' sets out provisions for persons who may not be eligible to run for council.

The number of nominations is equal to the number of offices to be elected. Do I have to wait until after Election Day to hold an organizational meeting?

No, the organizational meeting may be held when the returning officer declares those elected by acclamation (s. 10 & s. 34 *Local Authorities Election Act*).

Can a candidate put up campaign signage prior to Nomination Day?

The *Local Authorities Election Act* does not specify when a candidate can begin to put up campaign signage. However, some municipalities may have bylaws restricting when and where campaign signage may be placed. Candidates should contact their municipal office for details on signage restrictions. Alberta Transportation also has guidelines for campaign signage on Alberta highways, which can be found [here](#).

Do I have to wait to start campaigning until I file my nomination papers?

No, however, section 147.21 of the *Local Authorities Election Act* outlines that a candidate may not accept campaign contributions, including the funds of the candidate, until the candidate is registered under the Act with the municipality that the candidate intends to run.

We encourage potential candidates to contact their municipality and obtain the "Application for Registration of Notice of Intent to Become a Candidate for Municipal Office". The form may also be found [here on](#) the Alberta Municipal Affairs website.

How many signatures are required on my nomination papers?

You must have at least 5 signatures of eligible electors in that election, sign your nomination papers.

A city with a population of at least 10,000 may, by a bylaw passed no later than June 30, require the number of signatures on a nomination paper. The required signatures cannot be less than 5 and cannot exceed 100 (s. 27 of the *Local Authorities Election Act*). It is important to confirm with your returning officer if more than 5 are required for your local jurisdiction

Can I fax my nomination papers?

No. Original documents must be filed with the Returning Officer at the local jurisdiction office between November 16, 2022, and 12 noon, on January 16, 2023, Nomination Day (s. 28(1) *Local Authorities Election Act*).

I'm not around on Nomination Day between 10:00 a.m. and 12noon. Can I file my nomination papers earlier?

Completed nomination forms can be filed with the returning officer at any time beginning on November 16, 2022, and until four (4) weeks prior to Election Day. (s. 25 *Local Authorities Election Act*).

Do I have to pay a deposit when I file my nomination papers?

Only if the elected authority has passed a bylaw, at least 30 days prior to nomination day, requiring a deposit. The amount of the deposit will be stated in the bylaw (s. 29 *Local Authorities Election Act*). Check with your municipality to determine if a deposit is required.

Do I get my nomination deposit back?

Your deposit will be returned to you if, you:

- are elected; or
- withdraw your nomination in accordance with Section 32 of the *Local Authorities Election Act*; or
- receive at least half the number of votes as the candidate elected in your race with the least number of votes.

Example: If the winning candidates in your ward receive 10,000 and 8,000 votes, you need to receive at least 4,000 votes (half the votes of the second-place winner) to reclaim your deposit.

If you do not meet any of these conditions, your deposit is paid into the general revenues of the local jurisdiction or the appropriate School District (s. 30 *Local Authorities Election Act*).

What if no nominations are received for a particular position?

If the required number of nominations are not received for the number of positions available on Nomination Day, the Returning Officer will continue to receive nominations the following day, at the local jurisdiction, between 10 a.m. and 12noon. Nominations will continue to be received at the same place between the same times until the required number of nominations has been received or a period of six working days, including Nomination Day (s. 31 *Local Authorities Election Act*).

Is it possible to withdraw my nomination?

You can withdraw within 24 hours after the close of nominations. Your notice of withdrawal must be submitted in person, in writing, to the Returning Officer at the local jurisdiction. Faxed notices of withdrawal are NOT accepted.

You can only withdraw your nomination if the number of candidates remaining, meet the positions in the race. In other words, if you are the only candidate running for School Board Trustee in your division or ward, you cannot withdraw your nomination. If you are running for councillor in a local jurisdiction with six (6) seats and there are only six (6) nominated candidates, no candidate may withdraw (s. 32 *Local Authorities Election Act*).

Your nomination cannot be withdrawn after the 24-hour deadline has passed, and your name will appear on the ballot.

What happens if a candidate dies after Nomination Day?

A local jurisdiction may pass a bylaw, prior to Nomination Day, providing for the discontinuation of an election if a candidate dies prior to the opening of the voting stations on Election Day. If a candidate dies, the election for the position will be discontinued and a new election will be held.

If the candidate dies after being nominated and a bylaw has not been passed, the returning officer will post a notice of the death in a conspicuous location at all relevant voting stations. However, the deceased person's name will remain on the ballot (s. 33 *Local Authorities Election Act*).

Do you have to pass the special ballot resolution each year?

If a municipality has an election bylaw that includes the provision of special ballots, then they don't have to pass a separate resolution for each election.

If there is a change in election personnel (returning officer), it might be difficult to find an existing resolution that was passed in a previous election, in this instance, it would be best to pass another resolution to allow for special ballots.

Are there limits to how much someone can contribute during an election?

Yes. Corporations, trade unions, and employee organizations are not allowed to contribute to candidates. Contributions:

- An Individual Albertan may contribute up to \$5,000 per candidate for both municipal and school board trustee candidates during the campaign period.
- A candidate may contribute up to \$10,000 to their own campaign during the campaign period.
- A person may accept up to \$5,000 on the aggregate, per year, outside of the campaign period.
- A person may contribute up to \$10,000 per year, outside of the campaign period (s. 147.2 *Local Authorities Election Act*).

What are allowable election campaign expenses?

Allowable election expenses are (s. 118 *Local Authorities Election Act*):

- Actual personal expenses of the candidate;
- The cost of acquiring premises, accommodation, goods or services used for proper election campaign expenses;
- Payments for the fair cost of printing and advertising;
- Reasonable payment to any person for the hire of transportation used by a candidate or speakers in travelling to and from public meetings or by any person in connection with and for the proper purposes of an election.

Election Day & Voting

Form 4A, Notice of Election with List of Electors requires that the acceptable forms of identification be shown. Does this mean that the entire list must be advertised?

The municipality should list the most common types of identification required to vote and a statement indicating that other types of identification that may be acceptable to verify identity and address. The elector should check with the municipal office or on the municipal website to ensure they provide the proper identification on Election Day.

If a person has resided in a municipality 24 hours prior to the election, are they eligible to vote?

A voter must be at least 18 years old, a Canadian Citizen, have been resided in Alberta for the 6 consecutive months immediately preceding Election Day and their place of residence must be located in the area on Election Day (s. 47 of the *Local Authorities Election Act*).

The rules of residency indicate that a person only has one place of residency at a time for the purposes of voting. Therefore, if a person is only visiting, they are not eligible to vote in that municipal election (s. 48 *Local Authorities Election Act*).

Do I need to be a Canadian citizen to vote in a municipal election?

Yes, you must be a Canadian citizen. You must also have been a resident of Alberta for at least six (6) months immediately preceding Election Day and your place of residence must be located in the area on Election Day (s. 47 *Local Authorities Election Act*).

Do I need to show voter identification when I vote?

Voter identification is required for local elections where a voters list is not prepared. The identification requirement sets a uniform standard of one piece of picture identification or other authorized identification as indicated for the purposes of section 95(1)(a)(ii) of the *Local Authorities Election Act* that establishes the elector's name and current address.

Local authorities may also pass a bylaw no later than six (6) months prior to Nomination Day which provides the opportunity to supplement the number and types of identification required to allow a person to vote.

Check with your local authority as to whether a bylaw has been passed to ensure that you are aware of any additional voter identification requirements.

The general basic requirement for municipal elections is set out in section 53 of the *Local Authorities Election Act* and outlines a single piece of identification.

I own property in more than one municipality, can I vote in both?

No. A person may be a resident of only one place at a time for the purposes of voting (section 28 *Local Authorities Election Act*). An exception exists for summer villages. If you, your spouse, or adult interdependent partner is named on a certificate of title, you are also eligible to vote in a summer village.

If I own a business in a municipality, but do not live in that municipality, can I still vote in the municipality where I own my business?

No. You would not meet the eligibility requirements to vote. Your place of residence must be located in the municipality on Election Day. This also applies to a vote on a question in addition to the election of local offices (s. 47(1) *Local Authorities Election Act*).

If I am a renter, not a property owner, am I entitled to vote?

Yes, a renter can vote if they meet the eligibility requirements (s. 47 *Local Authorities Election Act*). A renter is also eligible to run for office if he/she meets the eligibility requirements (s. 21 *Local Authorities Election Act*).

Are employees allowed to take time off work to vote?

Employees who are electors have the right to have three (3) consecutive hours to cast their vote while

the voting station is open (s. 58 *Local Authorities Election Act*).

If the hours of the employee's employment do not allow for three consecutive hours (if the employee's normal employment hours end at 5:00 p.m., the employee would have three consecutive hours in which to vote, from 5:00 p.m. to 8:00 p.m.), the employer shall allow him or her any additional time for voting that is necessary to provide three consecutive hours, at the convenience of the employer. The employer shall not make any deductions from pay or impose any penalty on the employee.

Can anyone vote at an institutional voting station, if it is held with an advance vote?

Section 80(2) of the *Local Authorities Election Act* states that only:

An elector who on Election Day;

- a) is confined to a hospital, auxiliary hospital, or nursing home in the local jurisdiction, or
- b) is a resident in the local jurisdiction in a seniors' accommodation facility, that is established as an institutional voting station for the election is allowed to vote at that institutional voting station.

Section 80(4) indicates that an advance vote can be held for any **residents** of seniors' accommodation.

Can a letter of attestation for residents in an institutional voting station e.g. senior's residence, be considered sufficient identification for the purposes of voting in a municipal election under the Local Authorities Election Act?

Yes. The Chief Electoral Officer has included 'Attestation of Identity and Residence issued by the authorized representative of a supportive living facility or treatment centre' as authorized identification with elector's name and address. Therefore, an authorized representative of an institutional voting station (e.g. seniors' facility) may issue a letter of attestation to each resident of the senior's facility for the purposes of voting in an election under the *Local Authorities Election Act*.

Are you allowed to campaign inside, outside or near a voting station on Election Day?

No (s. 152 *Local Authorities Election Act*).

Do I have to vote for the required number of candidates?

No, however, you may only vote once for each candidate and only up to the number of candidates to be elected to the office (s. 57 *Local Authorities Election Act*).

Can I vote for both a public and separate school board trustee?

No. You may vote for either a public or separate school board trustee depending on residency. Residency is determined by faith. If you reside within the boundaries of a separate school district and share the same faith as those who establish the district, you are a resident of the separate school district, not the public-school district (s. 44 *School Act*).

Who is eligible to observe the election process?

One of the following can be present in the voting station:

- Candidate; or
- Official Agent; or
- Scrutineer.

A candidate, their official agent, or one of their scrutineers may not be present at the same voting station

during voting hours.

Someone voted who shouldn't. What do I do?

A note of objection can be made on the voting register, at the time a voter is making the prescribed statement. An objection to a voter can be made by the returning officer, candidate, official agent, or scrutineer on Advance Vote Date and on Election Day.

The election staff will record the objection to the voter on the statement and file it appropriately. The voter is still permitted to cast a ballot once the objection has been recorded. Upon successful application to the courts, a person who votes knowing that they have no right to do so may be fined up to \$10,000 or may be imprisoned for not more than 6 months, or both (s. 54 *Local Authorities Election Act*).

I'm going to be out of town on Election Day. Can I vote in advance?

All local authorities may choose to pass a resolution allowing for advance vote or special ballot opportunities. Please check with your local authority for availability of special ballots or dates and times of advance voting opportunities, if a resolution has been passed (s.73 & s. 77.2 *Local Authorities Election Act*).

I put my special ballot package in the mail. How do I know if my vote was counted?

It is the responsibility of the voter to ensure that the special ballot is received by the returning officer before the deadline to return special ballots. It is up to the returning officer to determine if the special ballot certificate envelope is accepted or rejected (s. 77.2 *Local Authorities Election Act*).

What happens if there is a tie?

In the event of a tie, the returning officer writes the names of those candidates on separate pieces of paper of the same size, colour and texture, and "draws a name from a hat". The name on the withdrawn paper is considered to receive one more vote (s. 99 *Local Authorities Election Act*).

When are election results official?

Election results are considered official at 12noon on the fourth day following Election Day, in this case, on October 22, 2021. The returning officer may publish unofficial election results (s. 97 *Local Authorities Election Act*).

After Election Day

Who can ask for a recount?

The returning officer may undertake a recount if a candidate, official agent, or scrutineer show grounds that the count of votes is inaccurate. The returning officer may also consider the number of rejected ballots, valid ballots objected to, or any administrative or technical errors. If a recount is requested, a recount application must be made by 4:00 pm on the Wednesday following Election Day (s. 98 *Local Authorities Election Act*).

Who can challenge the validity of an election?

If the validity of an election, of a member of an elected authority, or the member's right to hold the seat, is contested, or the validity of a vote on a bylaw or question is contested, the issue may be raised before the Court of Queen's Bench (s. 126 *Local Authorities Election Act*).

The issue may be raised by:

- A candidate;
- The elected authority;
- Any elector, if the right to sit is by acclamation or contested on the ground that a member of the elected authority is ineligible, disqualified, or has forfeited the member's seat since the election; or
- An elector who gave or tendered their vote at the election.

Do I have to report on contributions and expenses?

Candidates are required to submit a campaign contribution and disclosure statement by March 1, immediately after Election Day. This disclosure statement must include:

- The total amount all contributions received that did not exceed \$100 from a single contribution;
- The name and address, along with the total amount contributed of any contribution exceeding \$100;
- The total money paid by the candidate;
- The total amount of any campaign surplus;
- A financial statement setting out the total amount of revenue and expenses.

A candidate must declare campaign contributions funded from any person, corporation, trade union, or employee organization by completing a Candidate Campaign Contribution and Disclosure Statement Form.

A candidate whose campaign is entirely self-funded is not required to file a campaign contribution and disclosure statement (s. 147.4 *Local Authorities Election Act*).

What if I do not collect campaign contributions?

A candidate may spend up to \$10,000 of their own funds during any campaign period (s. 147.2(1.1) *Local Authorities Election Act*). If a candidate has entirely self-funded, they are not required to open a bank account or file a campaign contribution and disclosure statement (s. 147.11(2) *Local Authorities Election Act*).

Roles and Responsibilities of Municipal Officials

Council roles and responsibilities

The council is the governing body of the municipal corporation and the custodian of its powers, both legislative and administrative. The *Municipal Government Act* provides that councils can only exercise the powers of the municipal corporation in the proper form, either by **bylaw** or **resolution**.

A councillor's job is to work with other council members to set the overall direction of the municipality through their role as a policy maker. The policies that council sets are the guidelines for administration to follow as it does the job of running a municipality. A councillor will spend a lot of time while on council creating new policies and programs or reviewing the current ones to make sure they are working as they should.

The Councillors

Under the *Municipal Government Act*, councillors have the following duties:

- To consider the welfare and interests of the municipality as a whole and, to bring to council's attention anything that would promote the welfare or interests of the municipality
- To participate generally in developing and evaluating the policies and programs of the municipality
- To participate in council meetings and council committee meetings and meetings of other bodies to which they are appointed by the council
- To obtain information about the operation or administration of the municipality from the chief administrative officer
- To keep in confidence matters discussed in private at a council meeting until discussed at a meeting held in public
- To perform any other duty or function imposed on councillors by this or any other enactment or by the council.

The Chief Elected Official (CEO): Mayor, Reeve or I.D. Chairperson

The CEO, in addition to performing a councillor's duties, must preside when attending a council meeting, unless a bylaw provides otherwise. The CEO must also perform any other duty imposed under the MGA or any other enactment. In practice, the CEO is also generally the main spokesperson for the municipality, unless that duty is delegated to another councillor. The title CEO may be changed to one that council feels is appropriate to the office, such as mayor, reeve, or I.D. chairperson.

The CEO of a city or town is elected by a vote of a municipality's electors, unless the council passes a bylaw requiring council to appoint the CEO from among the councillors. In a village, summer village, or municipal district, council appoints the CEO from among the councillors unless it passes a bylaw providing that the official is to be elected by a vote of the municipality's electors. The CEO role, unless a bylaw prescribes otherwise, includes:

- Chairperson of council

- Consensus seeker amongst members of council
- Liaison with senior elected officials
- Ex officio member on various boards and committees
- Key representative with regard to ceremonial responsibilities
- Liaison with other levels of government
- Advice with regard to policy development

A deputy CEO will assume this role if the CEO is not available.

To learn more about elected officials please visit the websites for the:

[Alberta Municipalities \(AM\)](#) – Deals with issues and services for urban municipalities

[Rural Municipalities of Alberta \(RMA\)](#) – Deals with issues and services for rural municipalities

The Entire Municipality

A councillor is elected to look after the interests of the entire municipality. A councillor who is in a municipality that has wards must be careful not to place the interest of the ward or electoral district above the interest of the whole municipality. As tough as it may be at times, the councillor must base any decision on what is best for the entire municipality. Council's effectiveness depends on councillors providing input on their areas while thinking and voting for the whole municipality. Councillors also have to make certain that they do not put themselves in a conflict-of-interest situation. They must ensure that decisions made do not benefit them, their immediate family, or their friends.

Chief Administrative Officer (CAO)

Every council must establish, by bylaw, a position of CAO. The council may give the position an appropriate title, such as Town Manager or Administrator. The CAO is the administrative head of the municipality. The CAO's responsibilities include ensuring that the municipality's policies and programs are implemented, advising, and informing the council on the operation of the municipality, performing other duties assigned by the council, and ensuring appropriate staffing is in place.

Staying out of the day-to-day operation of the municipality allows councillors to concentrate on policy making and program monitoring. Councillors should work with the CAO to keep informed on what the municipality is doing and will depend on the administration to provide information so that they can make sound decisions.

A performance appraisal system for the CAO is a key building block for a lasting and positive relationship between council and the CAO. Section 205.1 of the *Municipal Government Act* states that a council must provide the CAO with an annual written performance evaluation.

Designated Officers

A CAO may delegate any of his or her powers, duties, or functions to a designated officer or to another employee. Designated officer positions are established by bylaw and are subject to the CAO's supervision, unless otherwise provided by bylaw. A designated officer may also further delegate to an employee of the municipality any of those powers, duties, or functions



Pecuniary interest for municipal councillors

JANUARY 2021

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Pecuniary Interest for Municipal Councillors

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The Government of Alberta and Municipal Affairs will not be liable for any damages that result from the use of this guide. While Municipal Affairs attempts to ensure the accuracy of the information contained within this guide, a municipality and/or councillor may wish to obtain advice from a lawyer, in order to ensure the legislative requirements with regards to pecuniary interest provisions are met. Municipal Affairs and the Government of Alberta do not warrant or make any other representations regarding the use, accuracy, applicability, or reliability of this guide.

It is important to recognize that this guide has been developed as a reference for, and as an explanatory document to the *Municipal Government Act* (MGA). This guide is not legal advice, and it cannot be used in place of consulting with a lawyer. This guide cannot anticipate every aspect, circumstance or situation that municipalities or councillors may encounter. If a municipality or councillor needs help finding a lawyer, please visit the Law Society of Alberta website.

Should this guide conflict with the *Municipal Government Act* (MGA), RSA 2000, Chapter M-26, in word or interpretation, the legislation shall prevail.

January 2021

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Table of Contents

Pecuniary Interest	4
Definition.....	4
Exceptions	5
What to Do.....	6
Temporary Absence	7
All Meetings	7
Doing Business	7
Statement of Disclosure of Interests	8
Remember.....	8

Pecuniary Interest

Alberta's municipal councillors have a strong record of public service to their communities. As a public servant, you are responsible for upholding the public interest ahead of any private interests you may have.

The *Municipal Government Act* (MGA) describes pecuniary interest and sets out the procedures you must follow if a matter in which you have a pecuniary interest comes up at a council meeting or a committee of council meeting. These rules are designed to protect the public interest while ensuring that your ability to work is not adversely affected by your election to council.

In order that the public interest is served and seen to be served, it is important you be open and honest about dealing with the municipality. Be fair to yourself, your electors and your municipality by keeping your private interests in harmony with the public interest.

This document is only a guide to the legislation. It is recommended you consult your solicitor for advice on specific situations.

Definition

Section 170 of the MGA describes pecuniary interest as something which could monetarily affect you, your spouse, or adult interdependent partner, your children, your parents or the parents of your spouse (in other words, your immediate family), or a business which employs you or in which you have an interest.

Specifically, pecuniary interest means an interest in a matter which could monetarily affect:

- You;
- a corporation, other than a distributing corporation, in which you are a shareholder, director or officer;
- a distributing corporation in which you; beneficially own voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which you are a director or officer; and/or
- a partnership or firm of which you are a member.

This section also says that *"a councillor has a pecuniary interest in a matter if (a) the matter could monetarily affect the councillor or an employer of the councillor, or (b) the councillor knows or should know that the matter could monetarily affect the councillor's family."* You must decide when you have a pecuniary interest. Council cannot make the decision for you.

Exceptions

Several exceptions are listed in section 170(3) of the MGA so that an overly-restrictive interpretation of the provisions will not disrupt the affairs of the municipality or your function as a councillor.

A councillor does not have a pecuniary interest only because of any interest:

- the councillor, an employer of the councillor or a member of the councillor's family may have as an elector, taxpayer or utility customer of the municipality;
- the councillor or a member of the councillor's family may have by reason of being appointed by the council as a director of a company incorporated for the purpose of carrying on business for and on behalf of the municipality or by reason of being appointed as the representative of the council on another body;
- the councillor or member of the councillor's family may have with respect to any allowance, honorarium, remuneration or benefit to which the councillor or member of the councillor's family may be entitled by being appointed by the council to a position described above;
- the councillor may have with respect to any allowance, honorarium, remuneration or benefit to which the councillor may be entitled by being a councillor;
- the councillor or a member of the councillor's family may have by being employed by the Government of Canada, the Government of Alberta or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department, corporation or agency of which the councillor or family member is an employee;
- a member of the councillor's family may have by having an employer, other than the municipality, that is monetarily affected by a decision of the municipality;
- the councillor or a member of the councillor's family may have by being a member or director of a non-profit organization as defined in section 241(f) or a service club;
- the councillor or member of the councillor's family may have:
 - by being appointed as the volunteer chief or other volunteer officer of a fire or ambulance service or emergency measures organization or other volunteer organization or service; or
 - by reason of remuneration received as a volunteer member of any of those voluntary organizations or services.

- the councillor, an employer of the councillor or a member of the councillor's family that is held in common with the majority of electors of the municipality or, if the matter affects only part of the municipality, with the majority of electors in that part;
- the interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor; or
- they discuss or vote on a bylaw that applies to businesses or business activities when the councillor, an employer of the councillor or a member of the councillor's family has an interest in a business, unless the only business affected by the bylaw is the business of the councillor, employer of the councillor or the councillor's family.

What to Do

Section 172 of the MGA sets out the procedure you must follow if a matter in which you have a pecuniary interest comes before any meeting in which you are taking part in your capacity as a member of council. Failure to follow these procedures could lead to your disqualification from council.

This section says that you may not take part in the discussion and decision-making on any matter in which you have a pecuniary interest. The legislation attempts to ensure that you are not discriminated either for or against by virtue of your membership on council.

If you have a pecuniary interest:

- you are to disclose that you have an interest and its general nature;
- you are to abstain from any discussion of the matter and from voting; and
- you are to leave the room until the matter has been dealt with, and you should make sure that your abstention is recorded in the minutes.

For example, you might say *“Mr. Mayor, I am abstaining on this matter because I am a shareholder in the company. I am leaving the room and I ask that my abstention be recorded.”*

If the matter is one in which you, as an elector or property owner, have a right to be heard by council (for example, a land use bylaw amendment, lane or street closure, etc.), you are to disclose your interest and abstain, but you may remain in the room to be heard by council in the same manner as any person who is not a member of council. In this case, you should follow the procedure required of any other person to be placed on the list of delegations to be heard by council. When the matter comes up for hearing, you might say *“Madam Mayor, I am abstaining from this matter because I own the property affected. I ask that my abstention be recorded.”*

You should then leave the council table and go to the area where the public sits. The mayor should call you to make your presentation in the same manner as any other person. You should state your case, answer any questions that may be asked of you and then be seated in the public area for the remainder of the public hearing.

When council debates the matter, it would be advisable to leave the room during the decision-making process.

Temporary Absence

On occasion, you may be temporarily absent from a meeting when a matter in which you have an interest comes up for discussion. If so, upon returning to the meeting, or as soon as you discover that the matter was discussed, you are to disclose the general nature of your interest. The MGA requires the secretary to note your disclosure in the minutes.

The purpose of this provision is to ensure that a member of council does not avoid disclosing an interest by simply leaving the meeting before the matter is discussed and returning after the discussion is complete. If some matter is discussed by council while you are temporarily absent from a meeting, upon your return and as soon as you become aware of the matter, you should get the attention of the chair and say something like *“Mr. Mayor, during my absence a matter was discussed in which I have an interest. I am disclosing that my husband is an employee of the company and I ask that my disclosure be recorded in the minutes.”*

All Meetings

The disclosure and abstention rules apply to every meeting of council and any of its committees. They also apply to you at a meeting of any board, committee or agency to which you are appointed as a representative of council (section 172(6) of the MGA). In other words, any time you are acting as a councillor, the disclosure and abstention rules apply to you.

It is important to remember to ask the secretary at any of these meetings to record your abstention and to check that it is actually included in the minutes.

Doing Business

Although there is no prohibition on doing business with the municipality when you are a member of council, every contract or agreement with the municipality in which you have an interest must be approved by council (section 173 of the MGA). So, if your council has delegated purchasing authority to administration, it is important that those officials know of any business interests that you have and that you make sure council approves of any contract with your business. You cannot raise the matter in council, but, if you submit a bid or offer, you can note the matter must

receive council approval. If it doesn't, you will be disqualified and the contract has no force or effect.

The following are the only exceptions:

- if the contract or agreement is for the performance of work or the provision of a service in the case of an emergency; or
- if the contract or agreement is for the sale of goods or services to the municipality or to persons contracting with the municipality at competitive prices by a dealer in those goods or services, that is incidental to, or in the ordinary course of business; or
- the agreement was entered into before your term of councillor started.

Statement of Disclosure of Interests

If you have extensive business interests, it may be difficult for you to know when these businesses are dealing with your municipality. It may be even more difficult for purchasing agents to identify a contract that requires the approval of council because a member of council has an interest.

In such cases, it may help everyone involved – yourself included – if a listing of interests is available in the office. Council may, by bylaw, require its members to file a statement with a designated officer showing the names of their immediate family members and any business in which they have an interest (section 171 of the MGA). The designated officer then compiles a list of all the names reported on the statements and provides it to the employees of the municipality indicated in the bylaw.

This provision is permissive. This means the council has the power to pass such a bylaw; however, is not required to do so.

Remember

If you vote on a matter in which you have pecuniary interest, you are subject to disqualification, even if you vote against your interest.

Ask to have your abstention recorded in the minutes of the meeting. The rules apply at all meetings of your council and its committees, and at the meetings of any board, commission, committee or agency to which you are appointed as a representative of the council.

If your council passes a bylaw requiring a statement of disclosure of interests, keep your statement up-to-date by regularly informing the designated officer of additions or deletions.

If you are in doubt as to whether you have a pecuniary interest, obtain a written legal opinion from your own solicitor.

The Government of Alberta and Municipal Affairs will not be liable for any damages that result from the use of this guide. While Municipal Affairs attempts to ensure the accuracy of the information contained within this guide, a municipality and/or councillor may wish to obtain advice from a lawyer, in order to ensure the legislative requirements with regards to pecuniary interest provisions are met. Municipal Affairs and the Government of Alberta do not warrant or make any other representations regarding the use, accuracy, applicability, or reliability of this guide.

It is important to recognize that this guide has been developed as a reference for, and as an explanatory document to the *Municipal Government Act* (MGA). This guide is not legal advice, and it cannot be used in place of consulting with a lawyer. This guide cannot anticipate every aspect, circumstance or situation that municipalities or councillor may encounter. If a municipality or councillor needs help finding a lawyer, please visit the Law Society of Alberta website at www.lawsociety.ab.ca/.

Copies of the *Municipal Government Act* and the *Local Authorities Election Act* can be purchased from Alberta King's Printer Bookstore or accessed on the King's Printer website:

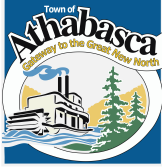
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Nomination Paper and Candidate's Acceptance

Local Authorities Election Act
(Sections 12, 21, 22, 23, 27, 28, 47,
68.1, 151, Part 5.1)
Education Act (Sections 4(4), 74)

Note: The personal information on this form is being collected to support the administrative requirements of the local authorities election process and is authorized under sections 21 and 27 of the *Local Authorities Election Act* and section 33(c) of the *Freedom of Information and Protection of Privacy Act*. The personal information will be managed in compliance with the privacy provisions of the *Freedom of Information and Protection of Privacy Act*. If you have any questions concerning the collection of this personal information, please contact

Jeff Dalley, Returning Officer

780-675-2063

Title of the Responsible Official

Business Phone Number

LOCAL JURISDICTION: ATHABASCA, PROVINCE OF ALBERTA

We, the undersigned electors of Athabasca, AB, nominate
Name of Local Jurisdiction and Ward (if applicable)

Candidate Surname Given Names of

Complete Address and postal code as a candidate at the election

about to be held for the office of _____
Office Nominated for

of _____
Name of Local Jurisdiction

Signatures of at least **5 ELECTORS ELIGIBLE TO VOTE** in this election in accordance with sections 27 and 47 of the *Local Authorities Election Act* and sections 4(4) and 74 of the *Education Act* (if applicable). If a city or a board of trustees under the *Education Act* passes a bylaw under section 27(2) of the *Local Authorities Election Act*, then the signatures of up to 100 electors eligible to vote may be required.

Printed Name of Elector	Complete Address and Postal Code of Elector	Signature of Elector

Candidate's Acceptance

I, the above named candidate, solemnly swear (affirm)

- THAT I am eligible under sections 21 and 47 (and section 12, in the case of summer villages) of the *Local Authorities Election Act* and sections 4(4) and 74 of the *Education Act* (if applicable) to be elected to the office;
- THAT I am not otherwise disqualified under section 22 or 23 of the *Local Authorities Election Act*;
- THAT I will accept the office if elected;
- THAT I have read sections 12, 21, 22, 23, 27, 28, 47, 68.1, and 151 and Part 5.1 of the *Local Authorities Election Act* and sections 4(4) and 74 of the *Education Act* (if applicable) and understand their contents;
- THAT I am appointing

Name, Contact Information or Complete Address and Postal Code and Telephone Number of Official Agent (if applicable)

as my official agent.

- THAT I will read and abide by the municipality's code of conduct if elected (if applicable); and
- THAT the electors who have signed this nomination paper are eligible to vote in accordance with the *Local Authorities Election Act* and the *Education Act* and resident in the local jurisdiction on the date of signing the nomination.

Print name as it should appear on the ballot

Candidate's Surname

Given Names (may include nicknames, but not titles, i.e., Mr., Ms., Dr.)

SWORN (AFFIRMED) before me

at the _____ of _____ ,

in the Province of Alberta,

this _____ day of _____ , 20 _____ .



Candidate's Signature

Signature of Returning Officer or Commissioner for Oaths
or Notary Public in and for Alberta
(Also include printed or stamped name and expiry date)

Commissioner for Oaths Stamp

RETURNING OFFICER'S ACCEPTANCE

Returning Officer signals acceptance by signing this form:

Signature of Returning Officer

**IT IS AN OFFENCE TO SIGN A FALSE AFFIDAVIT OR A FORM THAT
CONTAINS A FALSE STATEMENT**

Running for Municipal Office in Alberta

A Guide for Candidates

Alberta Municipal Affairs

Updated 2017

Alberta Municipal Affairs

Running for Municipal Office in Alberta

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Table of Contents

Introduction	
Local Authorities Election Act	
Municipal Government Act	
Candidate Registration, Contributions & Expenses	1
Candidate Registration	1
Contributions and Expenses	1
Before You File Your Nomination Paper	3
Are you Qualified?	3
Qualification Requirements in a Ward System	3
Qualification Requirements in a City with a Ward System	3
Qualification Requirements in a Summer Village	3
Ineligibility for Nomination	4
Other Considerations	5
Time Commitment	5
Remuneration	5
Roles and Responsibilities of an Elected Official	5
Administration of a Municipality	6
How Else Can I Prepare?	6
Nomination Papers	7
Form of Nomination	7
Nomination Day	9
Filing the Nomination Form	9
Withdrawing Nominations	10
Insufficient Nominations	10
Late Filing of Nominations	10
Campaigning	11
How do I Campaign?	11
Is There Anything I Cannot Do During a Campaign?	11
Election Day	13
Recount	15
Election Results	16
Campaign Financing	17
Campaign Disclosure Statements	17
Conclusion	18

Introduction

This guide is designed to give prospective candidates an understanding of the process and legislative requirements for running for municipal office in Alberta.

This guide has no legislative sanction and therefore we recommend that you obtain a copy of the *Local Authorities Election Act* and other relevant statutes and regulations.

Local Authorities Election Act

The *Local Authorities Election Act (LAEA)* is the primary legislation that guides the conduct of a municipal or school board election or by-election. Copies can be obtained through the Alberta King's Printer, <http://www.kings-printer.alberta.ca>, 780-427-4952.

All definitions, procedures and processes outlined in this guide are from the *LAEA*. Should you require further clarification on any definitions, procedures, or processes you are encouraged to review and consult the *LAEA*, ask the returning officer in your municipality, call a Municipal Advisor, or seek an independent legal opinion.

All forms, including the notice of intent to run, nomination form and candidate's acceptance, and campaign disclosure statement can be found on the Alberta Municipal Affairs website, or by contacting your municipality.

Municipal Government Act

The *Municipal Government Act (MGA)* is the primary legislation that governs municipalities. Copies can be obtained through the Alberta Kings's Printer, <http://www.kings-printer.alberta.ca>, 780-427-4952.

Candidate Registration, Contributions & Expenses

Candidates are strongly encouraged to read and understand Part 5.1 of the *Local Authorities Election Act* as it pertains to Municipal Election Finance and Contribution Disclosure

Candidate Registration

LAEA s. 147.21

Beginning in 2014, candidates **may not** accept campaign contributions, including their own funds, unless they are registered with the municipality in which they intend to run. It is very important that candidates check with their municipality to learn where to find the registration information and how to become registered prior to accepting any campaign contributions.

If a candidate has funded their campaign exclusively from their own funds, up to \$10,000, they are not required to register with the municipality.

For more information about registering as a candidate you are encouraged to speak with the returning officer or chief administrative officer in your municipality. The municipality will have the required forms that you will need to complete.

Contributions and Expenses

What are allowable campaign expenses?

LAEA s. 118

The payments of the following expenses, related to the election campaign, are not considered a contravention of the legislation:

- Your personal expenses;
- Cost of acquiring premises, accommodation, goods or services for proper election campaign expenses;
- Payments for the costs of printing and advertising;
- Reasonable payment to any person for the hire of transportation used by a candidate or speakers in travelling to and from public meetings or by any person in connection with and for the proper purposes of an election.

Candidate Self-funded Contributions

LAEA s. 147.1

A candidate may entirely self-fund their campaign up to and including \$10,000. If a candidate self-funds their campaign, there is no need for the candidate to open a bank account specifically for campaign contributions.

LAEA s. 147.2

Contributions to Candidates

Candidates may accept contributions from any person, corporation, trade union or employee organization up to \$5,000.

A candidate must open a bank account in the name of the candidate or in the name of the campaign as soon as possible after the amount of contributions exceeds \$5000 in the aggregate **or** the amount of contributions and any amount of the candidate's own funds exceeds \$5,000.

It is important to know that contributions of real property, personal property, goods and services have a value. Receipts must be issued for every contribution received and be obtained for every expense throughout the duration of the campaign.

All campaign records of contributions and expenses should be kept for a minimum of two (2) years following the general election.

Anonymous & Ineligible Contributions

If a candidate receives an anonymous contribution, the candidate must return the contribution to the contributor immediately (if the identity of the contributor is known) or pay the total contribution to the municipality.

Before You File Your Nomination Paper

This section provides a brief overview of what to take into consideration prior to running for municipal office.

Are you Qualified?

LAEA s. 21(1)

To become a candidate you must be at least 18 years of age on nomination day, a Canadian citizen, and you must have been a resident of the local jurisdiction for the 6 consecutive months immediately preceding Nomination Day.

Qualification Requirements in a Ward System

In a municipality with a ward system, you must be a resident of the ward or the electoral division in which you intend to run for the 6 consecutive months immediately preceding nomination day.

Qualification Requirements in a City with a Ward System

In a city with a ward system, it is required that you have been a resident of the city for 6 months immediately preceding nomination day, not necessarily the ward in which you wish to run.

Qualification Requirements in a Summer Village

LAEA s. 12

In a summer village, you must meet the requirements for eligibility to vote in the election and have been a resident of Alberta for the 12 consecutive months immediately preceding Election Day.

Note: Nomination Day is 4 weeks prior to Election Day, unless a municipality has passed a bylaw under section 11(2) of the *Local Authorities Election Act*.

In the case of a general election, Election Day occurs on the 3rd Monday of October every 4 years. In the case of a by-election, Election Day will be set through a resolution of council.

In the case of a summer village, nomination day must occur in June and/or July and Election Day occurs 4 weeks following nomination day. Nomination day is set by council resolution.

Ineligibility for Nomination

You are **not** eligible to become a candidate under any of the following circumstances:

- if you are the auditor of the municipality;
- if your current property taxes are more than \$50 in arrears;
- if you are in default for any other debt to the municipality in excess of \$500 for more than 90 days; or
- if within the previous 10 years you have been convicted of an offense under the *Local Authorities Election Act*, or the *Canada Elections Act*.

If you are a judge, Member of Parliament, Senator, or Member of the Legislative Assembly, you must resign that position before you take office as a member of council.

If a person failed to comply with the requirements in the *LAEA* as they relate to campaign finance and disclosure and the secretary (chief administrative officer) transmitted a report in respect to that person, and/or the Court did not dispense with, or extend the time for compliance with respect to campaign finance and disclosure, a person is deemed to be ineligible. A person is deemed to be ineligible under these circumstances for either an 8 year period following the day that a report was transmitted by the secretary, or a 3 year period following the day the disclosure statement was filed with the municipality (which ever period expires first).

NOTE: If you are a municipal employee and you wish to run for municipal office, you must take a leave of absence as outlined in the *LAEA*. You may notify your employer on or after July 1 in the election year (on or after the day council passes a resolution setting Election Day in the case of a by-election) but before the last working day prior to Nomination Day.

Other Considerations

Time Commitment

The demands on your time while being an elected official will be heavy. You will be elected for a four-year term of office and during that time you will be required to attend:

- regular and special meetings of council;
- council committee meetings;
- meetings of other boards and agencies to which you are appointed as a council representative;
- conferences, conventions, seminars and workshops for training and discussion; and
- other events promoting your municipality.

Time must also be spent reading agenda material and talking with residents, the chief administrative officer (CAO) and other relevant stakeholders. This will all be part of the necessary preparation for meetings so that you can make informed decisions.

Remuneration

Elected officials generally receive remuneration or other financial compensation for the time and energy they have devoted to their community. The remuneration varies in each municipality, so check with your local municipal office to find out about remuneration for elected officials in your jurisdiction.

Roles and Responsibilities of an Elected Official

As a member of council you will have the opportunity to significantly influence the future of your community. Your effectiveness as a member of council depends on your ability to persuade the other members of council to adopt and support your view. Decisions of council may only be made by resolution or bylaw and must be made at public meetings, at which a quorum is present.

As an individual member of council you will not have the power to commit your municipality to any expenditure or to direct the activities of the municipal employees. Any promise you make as a part of your election campaign that involves municipal expenditures or the activities of the employees can only be carried out if you can convince a majority of council that it is a good idea.

The Canadian Constitution delegates responsibility for municipal institutions to the provinces. Through a variety of legislation, the Alberta Legislative Assembly has delegated some of its authority to municipal councils. The legislation you will refer to most often is the *Municipal Government Act*.

In accordance with the *Municipal Government Act*, a municipal council may pass legislation in the form of municipal bylaws. These bylaws remain in effect until they are amended or repealed. You will not be starting with a blank slate and creating your ideal municipality from scratch. If you are running with some kind of reform in mind, you will have to become familiar with what exists, how it has been created – by bylaw, resolution or policy – and why it exists before you will be able to start discussing your changes.

Municipalities often make local bylaws available to the public through their municipal websites.

Administration of a Municipality

As a member of council, it will be your duty to **establish** policy for your municipality. It is the job of the administration to **implement** the policy direction. Alberta municipalities have competent and dedicated administrators. The chief administrative officer is the only employee of Council, and you will rely on the support, advice, and assistance of your CAO if you are to be an effective member of council. The CAO's training, experience, and understanding of how and why things have developed the way they have will be an important resource for you.

How Else Can I Prepare?

The best way to find out what the job is all about is to spend some time reading council agendas and minutes, and talking to current members of council.

- Familiarize yourself with local bylaws and municipal legislation;
- Read council agendas and minutes;
- Sit in the gallery at council meetings; and
- Talk to municipal staff to find out what other information is available.

It is common practice in many municipalities to publish a prospective candidate's information guide. These guides will provide valuable insight into time commitments, practices, and expectations of holding office in that municipality.

Researching now will help you in your campaign and prepare you for assuming office.

Nomination Papers

This section provides a brief overview of the information included on the nomination paper and the nomination day process.

Form of Nomination

LAEA s. 27

Your nomination must be filed using the prescribed form (Form 3 – Nomination Paper and Candidate's Acceptance). Contact the local municipal office to determine where to get the nomination form and to seek advice on filling out the form accurately. The CAO, returning officer, or municipal clerk will be able to help you.

What is included in the Form of Nomination?

Your nomination paper must be signed by at least five (5) voters eligible to vote in the election. The signatures collected must be of people who are resident in the municipality on the date of signing the nomination, and include the voter's name, address (street address or legal description of residence) and signature.

- Cities with a population of at least 10,000 may pass a bylaw increasing the number of signatures required to a maximum of 100. Ensure that you check with the municipality to determine the number of signatures that you require.
- If you are seeking election in a municipality with a division or ward system, the voters signing your nomination form must be residents in the ward or division that are you running in.

LAEA s. 12

In Summer Villages, the nominators must:

- Be eligible to vote in the election;
- Be 18 years of age;
- A Canadian Citizen; and
- Named on the certificate of title as the person who owns property within the summer village or is the spouse or adult interdependent partner of the person named on the title.

In addition to the signatures, the nomination paper must also be complete with the written acceptance signed in the prescribed form by the person nominated.

If you do not have the required number of signatures on your nomination form, your form will not be accepted by the returning officer.

What is included in the Candidates Written Acceptance?

The candidate's written acceptance includes:

- That the person is eligible to be elected to the office;
- The name, address and telephone number of the person's official agent (if applicable);
- That the person will accept the office if elected.

The acceptance is an affidavit that must be sworn or affirmed before a Commissioner for Oaths or the returning officer.

Note: Under the Criminal Code (Canada), it is an offence to make a false affidavit and is punishable by up to 14 years imprisonment.

Nomination Day

Filing the Nomination Form

Once you have completed the nomination form, the next step is to ensure that you file the form on Nomination Day.

How do I file my Nomination Form?

LAEA s. 28

Completed nomination forms can be filed with the returning officer between 10am and 12noon on Nomination Day, four (4) weeks prior to Election Day. Municipalities may pass a bylaw prior to June 30th stating that the returning officer may receive nominations earlier than 10am and establish other locations where nominations may be received.

Municipalities will advertise a "Notice of Nomination Day" at least once a week for two weeks prior to Nomination Day that will indicate where and when the returning officer will receive the nominations. It is important to check the advertisement or with your municipality for the time and location to file your nomination papers.

Do I have to file my nomination form in person?

Nomination forms must be hand delivered. It is always a good idea to deliver your nomination form to the returning officer in person; however, anyone may file your nomination paper on your behalf. If you are unable to file your nomination paper yourself, ensure that the nomination paper is completed fully prior to Nomination Day. You, as the candidate, are responsible for ensuring that the nomination form is fully completed and meets the requirements for filing under section 27 of the *Local Authorities Election Act*.

Do I have to pay a deposit to file my nomination form?

LAEA s. 29

Municipalities may pass a bylaw requiring a deposit to accompany nominations. The amount fixed in bylaw may not exceed:

- \$1,000 in municipalities with a population over 10,000; and
- \$100 in all other municipalities.

When you inquire or pick up the nomination form from the municipality, ensure that you seek clarification on whether a deposit is required and the amount of the deposit.

If a deposit is required, it must be paid, in full, at the time you file your nomination form. A deposit must be payable to the municipality and may be paid using:

- Cash;
- Certified cheque; or

- Money Order,

Will I get my deposit back?

LAEA s. 30

Your deposit will be returned to you if you are:

- Elected; or
- If you get at least one-half the number of votes of the person elected to office, with the least number of votes.

Withdrawing Nominations

LAEA s. 32

Candidates may withdraw their nomination form within 24 hours (48 hours in a summer village) from the close of nominations, provided the number of candidates nominated exceeds the number of positions for the office you are seeking.

If candidates choose to withdraw, they must provide written notice, in person, to the returning officer.

Insufficient Nominations

LAEA s. 31

In the event that the number of nominations filed is less than the number of vacancies in the municipality, the returning officer will be available to receive nominations the next day (and for a period of up to 6 days, if required) from 10am to 12noon.

Nominations Equal Number of Vacancies

If, by noon on any of the days, the number of candidates nominated equals the number of vacancies in the municipality, nominations will be closed and the returning officer will declare the candidates elected by acclamation (no elected will be held).

Nominations Exceed Number of Vacancies

If more than the required nominations are received by noon on any of the days, nominations will be closed and the election will be held according to process.

Summer Villages

In the case of a summer village, the returning officer will announce the time and place when further nominations will be received.

Late Filing of Nominations

The returning officer **CANNOT** accept nominations after 12 noon on Nomination Day. Ensure that you check with your municipality on the time and location for filing nomination forms and ensure that you file your nomination paper on time at the location available.

Campaigning

Once you have filed your nomination form and your candidate's acceptance, there are several things to remember as you campaign to Election Day.

How do I Campaign?

There is no "standard" in campaigning when it comes to municipal elections. A candidate's campaign style will want to match the uniqueness of the municipality to the candidate's personality and available resources.

The purpose of campaigning is to convince the electors that you are the best candidate for the position in the municipality. Candidates have used various strategies including but not limited to:

- Door-knocking;
- Signage;
- Brochures or posters;
- Social media pages (Facebook, Twitter, Instagram) or websites; and
- Host a meet and greet event.

Is There Anything I Cannot Do During a Campaign?

There are a variety of offence provisions included in the *Local Authorities Election Act*; it is encouraged that candidates review and understand all offence provisions in the Act.

In addition to the offence provisions, it is essential that candidates seek additional clarification from municipal returning officers relating to campaign activities. Municipalities may have local bylaws that may address campaign activities including but not limited to the use and placement of campaign signage throughout the municipality.

If candidates require additional interpretation or clarification, they are encouraged to seek independent legal services if required.

Bribery

As a candidate, you cannot give, or promise to give, money or any other valuable consideration (such as an office or job) to anyone in return for their vote, or to agreeing not to vote.

In addition, an elector or resident of the municipality cannot accept money or any other valuable consideration in return for voting or not voting during an election.

LAEA s. 116

Undue Influence**LAEA s. 117**

As a candidate, you cannot use, or threaten to use, violence, injury, damage or intimidation to compel a person to vote or refrain from voting at an election. You cannot obstruct the voting process or obstruct a person from accessing a voting station to vote during an election.

Canvassing on Election Day**LAEA s. 152**

Candidates, official agents, or campaign volunteers cannot canvass or solicit votes in or immediately adjacent to, a voting station on Election Day. In addition, campaign materials (posters, pins, signage, etc.) cannot be displayed or distributed inside or on the outside of a building used as a voting station.

Election Day

You have filed your nomination papers, you've campaigned, and now you've reached Election Day! It is important that you understand the process for Election Day and seek clarification on any questions you may have.

How long are voting stations open on Election Day?

LAEA s. 46

Voting stations are open between the hours of 10am and 8pm on Election Day. Municipalities may pass a bylaw permitting voting stations to open earlier. It is advised that you confirm voting hours with your municipality.

Who is eligible to vote?

LAEA s. 47

A person is eligible to vote in a municipal election if the person:

- Is at least 18 years of age;
- Is a Canadian Citizen;
- Has resided in Alberta for the 6 consecutive months preceding election day;
- The person's place of residence is located in the area on Election Day.

LAEA s. 12

In the case of a summer village, a person is eligible to vote in a municipal election if the person:

- The person is eligible to vote under section 47;
- Is at least 18 years of age;
- Is a Canadian Citizen;
- Has resided in Alberta for the 6 consecutive months preceding election day;
- Is named on a certificate of title as the person who owns property within the summer village; or
- Is the spouse or adult interdependent partner of a person who owns property with the summer village.

Can people observe Election Day?

LAEA s. 69

Candidates, or official agents, or a candidate's scrutineer, may observe the processes at the voting station(s) on Election Day. The returning officer in your municipality will have details on how to appoint official agents and scrutineers. As well, the returning officer will explain the role and responsibilities of a candidate, official agent or scrutineer observing the election processes.

Is there a voters list?

LAEA s. 50

Municipalities may pass a bylaw allowing for the enumeration and use of a voters list. You may wish to confirm with your municipality; currently, there are no municipalities that use a voters list in municipal elections in Alberta.

Maintaining the Secrecy of the Vote

LAEA s. 55&56

All ballots, forms, ballot boxes, and voting machines (if applicable), are in the custody and control of the returning officer. Forms and statements made by the electors cannot be viewed by any person observing the election due to privacy reasons. All voter compartments are equipped with voting screens and instructions for electors to ensure secrecy.

At the close of the voting station and at the conclusion of the count, the ballot boxes are sealed and retained in a protected area for six (6) weeks following Election Day.

Are results made official on Election night?

LAEA s. 97

At the conclusion of the count, the returning officer may make unofficial results available. The official results are not posted or announced until 12 noon on the fourth day following Election Day.

Recount

LAEA s. 98**Who can ask for a recount?**

The returning officer may call for a recount of the votes cast at one or more of the voting stations if:

- a candidate or official agent or scrutineer shows grounds that the returning officer considers reasonable for alleging that the record of the result of the count at any voting station is inaccurate;
- the returning officer considered that the number of valid ballots objected to or rejected ballots other than those on which no vote was cast, was sufficient to affect the result of the election; or
- the returning officer is of the opinion that there may have been an administrative or technical error that may have caused an error in the count of votes.

When can a recount happen?

An application for a recount may be made within 44 hours immediately following the closing of voting stations on Election Day. No applications for recount will be accepted by the returning officer after the prescribed 44 hours has passed.

How will I know if a recount is happening?

If the returning officer calls for a recount they must, within 12 hours of the recount, notify any candidates who may be affected and those election officers that the returning officer deems necessary to conduct the recount.

Election Results

LAEA s. 97**Are results made official on Election night?**

At the conclusion of the count, the returning officer may make unofficial results available. Due to the ability for the returning officer to call a recount, official results are not posted or announced on election night.

When are election results official?

The returning officer is required to announce or post the official election results in the statement of results at 12 noon on the 4th day following Election Day, at the municipal office.

Campaign Financing

As noted above, Candidates are responsible for reading and understanding Part 5.1 of the *Local Authorities Election Act* as it pertains to Municipal Election Finance and Contribution Disclosure.

Campaign Disclosure Statements

Deadline to File

LAEA s. 147.4

Campaign disclosure statements (Form 21) must be filed with the returning officer or municipality on or before March 1 following a general election. In the case of a by-election, the disclosure statement must be filed within 180 days of the date that the by-election occurred.

What is included on the Disclosure?

The campaign disclosure statement contains information about the contributions received, any additional sources of funding, campaign expenditures, campaign deficits, or campaign surpluses.

The disclosure will include the name and address of those contributors whose donations exceeded \$100 in the aggregate, and the total amount of all contributions received that did not exceed \$100 in the aggregate.

Campaign Deficits

A candidate who incurs a deficit during an election and does not run the next general election, must clear that deficit and file an amended disclosure statement with the municipality showing the deficit has been eliminated.

Campaign Surplus

LAEA s. 147.5

A candidate who incurs a surplus during an election is required to provide all surplus funds to the municipality to be held in-trust until the next general election Nomination Day.

If the candidate does not run in the next general election, the candidate must direct the municipality to pay all surplus funds to the charity of the candidate's choice. If the municipality does not receive direction from the candidate, the surplus funds will become the property of the municipality.

Conclusion

Congratulations on taking the step to become a candidate in your municipal election!

In addition to this handbook, you are encouraged to review the *Local Authorities Election Act (LAEA)* in detail. If you have any questions about anything in the handbook or in the *LAEA*, you are encouraged to seek out additional clarification from your municipality (CAO or returning officer), legal counsel, or Alberta Municipal Affairs.

If you are elected, congratulations! You are encouraged to read “Now That You Are Elected.”

Good luck and enjoy the journey to becoming a candidate in Alberta municipal elections!



What every councillor needs to know

A council member's handbook

The Government of Alberta and Municipal Affairs will not be liable for any damages that result from the use of this handbook. While Municipal Affairs attempts to ensure the accuracy of the information contained within this handbook, a municipality or councillor may wish to obtain advice from legal counsel. Municipal Affairs and the Government of Alberta do not warrant or make any other representations regarding the use, accuracy, applicability, or reliability of this handbook.

Should this handbook conflict with the *Municipal Government Act (MGA)*, RSA 2000, Chapter M-26, the *Local Authorities Election Act (LAEA)*, or any other enactment, the legislation, as the case may be, shall prevail. August 2021

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Contents

Introduction	5
History of Local Government in Alberta	5
Municipal Government Act	5
Council Roles and Responsibilities	5
Councillor Duties	6
Councillor Liability	6
The Chief Elected Official (CEO)	6
Orientation and Training Opportunities	7
Policy-Making and Program Monitoring	7
The Entire Municipality	7
Time Management	7
Team Approach	8
Oath of Office	8
Organizational Meeting	8
Procedural Bylaw	8
Regular and Special Meetings	9
Meetings Closed to the Public	9
Voting	9
Pecuniary Interest	10
Council Committees	10
Municipal Organization and Administration	10
Chief Administrative Officer (CAO)	10
Designated Officers	11
Policies	11
Organizational Chart	11
Staff Development	11
Finance	11
Operating and Capital Budgets	11
Long Range Financial Plans	12
Procedure for Expenditure Authorization	12
Borrowing	12
Auditor	12
Property Assessment, Taxation, and Other Revenues	13

Assessment	13
Property Taxation	14
Education Tax and Equalized Assessment.....	14
Other Taxes and Revenues	15
Municipal Grants Web Portal	15
Planning and Development.....	15
Alberta Land Stewardship Act (ALSA) Regional Plan.....	15
Intermunicipal Development Plan	16
Municipal Development Plan	16
Intermunicipal Collaboration Framework.....	16
Area Structure and Redevelopment Plans.....	16
Land Use Bylaws	17
Subdivision	17
Subdivision or Development Agreements	17
Subdivision and Development Appeal Board.....	17
Municipal Collaboration and Mediation	18
Economic Development	18
Conclusion	19



Introduction

Congratulations on your election to council. This booklet presents an overview of your responsibilities as a municipal councillor and is intended to help you understand the powers and duties of a municipal council.

History of Local Government in Alberta

The first local government election in Alberta was held in 1883 under the Northwest Municipal Ordinance. Rural local government began with herd districts in 1883, fire districts in 1886, and statute districts in 1887, which were combined into local improvement districts in 1897. Urban local government began with unincorporated town ordinances in 1888. The village ordinance followed in 1895.

In 1912, separate acts were put in place for towns, villages, rural municipal districts, and improvement districts. Cities were incorporated by special charter.

Municipal Government Act

In 1967, the various pieces of municipal legislation were consolidated into the original *Municipal Government Act* (MGA).

In 1994, a further consolidation and revision of municipal legislation took place. The 1994 revisions gave municipalities greater autonomy in local decision making and incorporated the provisions of the former *Planning Act*.

The current MGA is the primary statute governing the affairs of your municipality. The MGA has undergone extensive review and amendments. Your Chief Administrative Officer (CAO) should provide you with a copy.

Section 3 of the MGA states the purposes of a municipality are:

- to provide good government;
- to foster the well-being of the environment;
- to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality;
- to develop and maintain safe and viable communities; and
- to work collaboratively with neighbouring municipalities to plan, deliver and fund intermunicipal services.

A municipality is a corporation and has the powers of a natural person, except to the extent that those powers are limited by the MGA or any other enactment. The introduction of natural person powers provides council with a great deal of flexibility in terms of how the municipality is organized and administered, what services are provided, and how those services are delivered. The power to pass bylaws is stated in general terms. This gives councils broad authority and respects their right to govern the municipality in the way that council considers appropriate within the jurisdiction provided under the MGA. However, bylaws authorized by the MGA or any other enactment are subordinate to federal and provincial legislation and regulations.

Council Roles and Responsibilities

Council is the governing body of the municipal corporation and the custodian of its legislative powers. As a councillor, you will exercise the powers of the municipality through decisions made at council meetings and define the policies and direction your municipal administration will put into action.

The MGA provides that councils can only exercise the powers of the municipal corporation in the proper form, either by bylaw or by resolution. What this means is that no individual or group of councillors can make a decision or ask administration to take action; this can only be done through an appropriate bylaw or resolution passed at a public meeting of council.

Your job as a councillor is to work with other council members to set the overall direction of the municipality through your role as a policy-maker. The policies council sets are the guidelines for administration to follow as it handles the operations of the municipality. Much of your time on council will be spent considering new policies and programs and reviewing the current ones to make sure they are working as they should.

Councillor Duties

Under section 153 of the MGA, all councillors have the following duties:

- to consider the welfare and interests of the municipality as a whole and to bring to council's attention anything that would promote the welfare or interests of the municipality;
- to promote an integrated and strategic approach to intermunicipal land use planning and service delivery with neighbouring municipalities;
- to participate generally in developing and evaluating the policies and programs of the municipality;
- to participate in council meetings and council committee meetings and meetings of other bodies to which they are appointed by the council;
- to obtain information about the operation or administration of the municipality from the chief administrative officer or a person designated by the chief administrative officer;
- to keep in confidence matters discussed in private at a council or council committee meeting until discussed at a meeting held in public;
- to adhere to the code of conduct established by the council by bylaw; and
- to perform any other duty or function imposed on councillors by this or any other enactment or by the council.

Councillor Liability

As you carry out these duties, the question of liability may arise as a result of your actions. However, section 535 of the MGA was written to protect you from personal liability while acting in good faith for your municipality. This section does not apply in circumstances of defamation and does not protect the municipal corporation from any such liability.

There are several provisions in the MGA that impose liability on a councillor. One of these is found in section 249 which deals with unauthorized expenditures, and is discussed later in more detail under "Procedure for Expenditure Authorization". Another is found in section 275 which deals with borrowings, loans, or guarantees that cause the municipality to exceed its debt limit, and is discussed later in more detail under "Borrowing".

While it is important to be aware of these liabilities, they should not be a concern as long as the municipality follows appropriate process.

The Chief Elected Official (CEO)

(MGA s. 150, 154 and 155)

The CEO, in addition to performing a councillor's duties, must preside when attending a council meeting unless a bylaw provides otherwise. The CEO must also perform any other duty imposed under the MGA or any other enactment. In practice, the CEO is also generally the main spokesperson for the municipality, unless that duty is delegated to another councillor. The title CEO may be changed to one that council believes is appropriate to the office, such as mayor or reeve.

The CEO of a city or town is elected by a vote of a municipality's electors, unless council passes a bylaw requiring council to appoint the CEO from among the councillors. In a village, summer village, or municipal district, council appoints the CEO from among the councillors unless it passes a bylaw providing that the official is to be elected by a vote of the municipality's electors.

Orientation and Training Opportunities

(MGA s. 201.1)

Understanding the relationships, roles and the responsibilities of an elected official and the associated limitations, will be critical to your success in the position. Orientation training must be offered to each councillor, to be held within 90 days after taking the oath of office.

Whether you are newly elected or a returning official, you should take every opportunity to learn about your municipality; key issues affecting the community; and governing processes and procedures. It is mandatory for each municipality to offer orientation training to each councillor within 90 days after the councillor takes the oath of office. This training must include:

- the role of municipalities in Alberta;
- municipal organization and functions;
- key municipal plans, policies and projects;
- roles and responsibilities of council and councillors;
- the municipality's code of conduct bylaw;
- roles and responsibilities of the chief administrative officer and staff;
- budgeting and financial administration;
- public participation policy; and
- any other topic prescribed by the regulations.

Your associations, Alberta Urban Municipalities Association and the Rural Municipalities of Alberta, offer sessions for elected officials. They also offer conferences throughout the year that will provide invaluable information and networking opportunities.

If you are newly elected, attending training, conferences and workshops is an excellent way to obtain the information you need to serve effectively. If you are a returning councillor, your knowledge and experience holds significant value for new councillors.

Policy-Making and Program Monitoring

Council is responsible for considering the types and levels of services that are necessary or desirable for the municipality. This responsibility involves providing input regarding the municipality's programs and services (policy-making) and making sure administration provides the programs and services in the best possible way (program monitoring).

Policy-making provides a way of ensuring that consistent decisions are made on similar matters. Policies should establish general guidelines that council sets for administration to follow. Administration then provides programs and services to the residents according to those policies.

Program monitoring involves staying up to date on the programs and services the municipality offers and assessing the results against what council planned to achieve.

The Entire Municipality

As a councillor, you are elected to look after the interests of the entire municipality. If you are a councillor in a municipality that has wards, you will have to be careful you do not place the interest of the ward or electoral division above the interest of the whole municipality. As difficult as it may be at times, you must base any decision you make on what is best for the entire municipality. Council's effectiveness depends on you providing input as a representative of your area, while thinking and voting for the needs of the whole municipality.

Time Management

As a council member, there will be significant demands on your time. There will be council, council committees, and various other meetings to attend. To participate effectively in all these meetings, you should review meeting materials and become familiar with the issues that will be discussed. Conferences and workshops sponsored by your municipal association or educational institutions will help provide you with the tools to be an effective elected official. If you choose to attend, these

will also help you to understand the wider picture on issues affecting the whole province or other municipalities. Telephone calls, visits from your electors, and community events are all important components of the job. Managing time in order to adequately deal with both personal and public demands is an important part of becoming an effective member of council.

Team Approach

Working as a team with the rest of council and administration will contribute to making your time on council a success. It isn't always going to be easy. Your influence as a council member rests on your ability to persuade other members of council to consider your point of view. When an issue is being studied, be sure to express your views as part of the debate.

Disagreements among council members on specific issues are common and healthy. The respectful exchange of ideas and opinions will lead to good decisions. While working through these debates, keep in mind that you all share the same desire for your municipality to be strong, safe, and viable. You may have different views about how to get there, but you do share broader common goals.

Most votes on a council resolution do not require a consensus of all councillors. As a result, there will be many occasions where a decision is made that you did not support with your vote. However, once the resolution has been passed, it becomes the official direction of the municipality. The health and ongoing success of a municipality is largely dependent upon the ability of councillors to respect and support the decisions of council in principle, despite their personal views during the debate.

Some municipalities have a communications policy in place that directs media through prescribed channels. Becoming familiar with communications procedures will allow you, council, and administration to work as a team and deliver a cohesive message.

Oath of Office

(MGA s. 156)

Before taking part in your first council meeting, you will be required to make and subscribe to the official oath. By the oath, you swear or declare that you will diligently, faithfully, and to the best of your ability, fulfill the duties of the office to which you have been elected.

Organizational Meeting

(MGA s.159 and 192)

The first meeting of council will be the organizational meeting, held within two weeks of the election (or by August 31 for a summer village), or sooner if an election was not required. This marks the official commencement of your term of office and the completion of the previous council's term. This meeting allows council to address preliminary matters such as electing a CEO if necessary, electing a deputy CEO, and commonly includes appointing people to the various committees and other bodies associated with council. If other regular business is to be conducted, the organizational meeting must be adjourned and the regular meeting convened and recorded as a separate meeting.

Procedural Bylaw

Your municipality may have a procedural bylaw (s. 145(b)) to provide a standard format for council meetings and make it easier for members of council, staff, media, and public to understand the decision-making process. A procedural bylaw may provide for naming and prescribing the responsibilities of council committees, provide for the order of business and method of distributing the agenda for council meetings, set rules regarding the proceedings at regular meetings of council, and describe how items may be put on the council agenda.

Regular and Special Meetings

(MGA s. 153, 181, 193, 194, 196, 197, 198, and 199)

It is up to council to decide how many meetings are needed to govern the affairs of the municipality. The decision to hold regular meetings must be made at a meeting with all councillors present. The time and place of a regular meeting can be changed by resolution of council. While all councillors do not have to be at the meeting to change the time or place, all councillors and public must be given 24 hours notice of the change.

All council and council committee meetings must be open to the public, except as noted below. Only people who have been expelled from the meeting because of improper conduct have no right to attend. The provisions of the MGA regarding public presence at meetings are intended to promote public involvement and the accountability of the local government process.

The timing of regular council meetings does not always align with urgent business that requires council attention. There will be times when a special council meeting is required. Section 194 of the MGA states that a special meeting may be called if the CEO believes one is needed and must be called if a majority of councillors request one in writing.

Council and council committees can hold meetings by means of electronic or other communication facilities, (Section 199) rather than in person. Notice must be given to the public of such a meeting, including the way it will be conducted. The facilities must enable all the meeting's participants to watch or hear each other, and the public to watch or listen.

Meetings Closed to the Public

There are times when council or a council committee must discuss something in private. Personnel matters, where it would be unfair to the people involved to have the issue discussed in public, are a common example. In order to recognize specific circumstances that necessitate confidentiality of council discussions, section 197(2) of the MGA allows meetings (or portions of meetings) that are closed to the public where the subject matter falls within one of the exceptions to disclosure in Division 2 Part 1 of the *Freedom of Information and Protection of Privacy Act*. The exceptions include matters where disclosures could be harmful to personal privacy, individual or public safety, law enforcement, intergovernmental relations, or economic or other interests; reveal confidential evaluations, local public confidences, or advice from officials; or disclose information that is subject to legal privilege.

Resolutions or bylaws cannot be passed while in a closed session, other than a motion to proceed with the meeting in an open session. Any decisions must still be made at a meeting open to the public. Under section 153 of the MGA, councillors are required to keep in confidence matters discussed in private at a council or council committee meeting. They must keep this confidence until the matter is discussed at a meeting held in public.

Voting

(MGA s. 183, 184, 185, and 172)

You are on council to make decisions. Under the MGA, you are required to vote on all resolutions and bylaws unless you are required or permitted to abstain from voting under other legislated provisions. Council must ensure that each abstention and the reason for it are recorded in the minutes of the meeting.

If there is a public hearing on a proposed bylaw or resolution, you must abstain from voting on the bylaw or resolution if you were absent from all of a public hearing, and you may abstain if you were absent for a part of a public hearing. Section 172 of the MGA states that you must also abstain from voting on matters in which you have a pecuniary (monetary) interest.

At any time before a vote is taken, you may request that the vote be recorded. The minutes must show the names of the councillors present and how they voted.

Each councillor has one vote. A resolution is passed by receiving the majority of votes from the councillors in attendance at the meeting. When there is a tie vote on a motion, the motion is defeated.

A quorum must be present at a council meeting for any resolution or bylaw to be valid. A quorum is a majority of councillors making up the municipal council. For example, if your council consists of seven councillors (including the CEO); four councillors would constitute a quorum.

Pecuniary Interest

(MGA s. 170 and 172)

Membership on council is a position of public trust. The MGA describes pecuniary interest and sets out the procedure you **must** follow if a matter in which you have a pecuniary interest comes up at a meeting in which you are participating as a member of council. Failure to follow these procedures can lead to disqualification. Further information can be found in the handout "*Pecuniary Interest for Municipal Councillors*", available online at <https://open.alberta.ca/publications/pecuniary-interest-for-municipal-councillors-2021>.

Council Committees

(MGA s. 145 and 203)

Council may create council committees, by bylaw, and appoint committee members. Council may decide to create a temporary committee to look at a specific issue. There may also be standing committees that run from year to year to deal with ongoing issues.

Committees can play a bigger role in making decisions on issues for council. If council wants a committee to make decisions, council may delegate some of its powers to the committee. If a committee makes a decision delegated to it by council, it is then as if the council made the decision itself. Some council decisions, such as passing bylaws or adopting the budget, cannot be delegated.

If council is part of an emergency services committee, you may have some specific responsibilities in the case of a local emergency. You need to know what those responsibilities are and how they are to be carried out. The system of emergency response is described in the *Emergency Management Act*.

Municipal Organization and Administration

A vital part of the smooth operation of municipal government is the interaction between council and administration. Understanding how administration works will help you carry out your role as a municipal councillor.

Your administration exists to take care of the everyday work of running a municipal government. This includes providing a variety of programs and services based on the priorities council has set for the municipality. As a councillor, residents will ask you for information on the municipality's programs and services. Your most important contact is the Chief Administrative Officer (CAO).

Chief Administrative Officer (CAO)

(MGA s. 205, 205.1, 207, 208, and 209)

Every council must establish, by bylaw, a position of CAO. Council may give the position an appropriate title. The CAO is the administrative head of the municipality, and is directly responsible to council for the operational performance of the organization. The CAO is responsible to implement the decisions of council, implement the municipality's policies and programs, advice and inform council on the operation of the municipality, and perform any other duties assigned by council. The CAO, together with the administrative team, will also provide advice, information, and recommendations to council on any matters that council is dealing with.

Successful municipalities have found that clear lines of communication and accountability are essential for effective operation. This is generally achieved when the CAO is provided with the authority to take council direction (through resolutions and bylaws) and implement that direction through the administrative team. Although well intentioned, individual councillor's attempts to become involved by providing direction to the administrative team can blur this accountability. It is

important for council to develop a strong working relationship with your CAO based on mutual respect and trust, and allow the CAO to direct and set priorities for the administrative team.

A performance appraisal system for the CAO is a key building block for a lasting and positive relationship between council and the CAO. Even though the current relationship may be good, a formal appraisal process provides the opportunity to discuss opportunities for improvement. The MGA, therefore, requires that council provide the CAO with an annual written performance evaluation.

Designated Officers

(MGA s. 209 and 210)

A CAO may delegate any of their powers, duties, or functions to a designated officer or an employee. Designated officer positions are established by bylaw and are subject to the CAO's supervision, unless otherwise provided by bylaw. A designated officer may also delegate any of those powers, duties, or functions to an employee of the municipality.

Policies

The importance of policies will become apparent the first time you try to find out if a past council established guidelines on a certain matter. Most successful municipalities maintain a policy manual or files together with an index to enable easy reference. Policies should be approved by council, and should be periodically reviewed and updated to ensure that they continue to be relevant.

Organizational Chart

Most municipalities maintain an organizational chart of the administration structure. A review of the organizational chart will help you to understand the types of functions and services the municipality provides, and how it is organized to deliver those services.

Staff Development

Your human resources are as important as your financial resources. A variety of educational opportunities are available for both new and experienced municipal administrators. The most successful municipalities encourage staff development and training to ensure their employees are able to effectively carry out their duties and stay familiar with new developments in the field of municipal administration.

Finance

Almost everything the municipality is engaged in will have a cost associated with it. You will spend a lot of time on council assessing the financial implications of decisions.

Operating and Capital Budgets

(MGA s. 242, 243, 244, 245, 246, and 247)

The budget is the center of the municipal finance system. Service delivery and project development are always subject to a number of constraints, but financial constraints are generally the most limiting. As a result, the priorities of council will necessarily be reflected in the funding priorities established in the budget. Through the budget, council sets the municipality's priorities for the next year (or number of years) by allocating funding for each program, service, or project. Careful and realistic budget planning and control can translate into better and more cost-effective services for the community.

Many municipalities have a strategic plan that maps out longer term goals and identifies the municipality's priorities over a number of years. A strategic plan can provide year-to-year guidance and direction to the annual budget process, and provides the longer-term context for annual goals.

The MGA requires that every municipality adopt an annual operating and a capital budget. Property and business tax bylaws cannot be passed until both budgets have been adopted. It should be noted that municipalities are not allowed to budget for a deficit; however, some times unexpected circumstances may result in the municipality having a deficit at year end. As long as the deficit does not cause the municipality to have an overall accumulated deficit, net of the value of tangible capital assets, then the municipality remains on-side with legislative requirements and can budget to recover that deficit in future years as council sees fit.

The operating budget is a detailed estimate of how much your municipality needs to spend to meet its ongoing financial obligations and provide programs and services to the residents. The capital budget identifies the sources and uses of funding for fixed assets such as buildings, roads, vehicles, water and sewer facilities, and land.

Long Range Financial Plans

A long-range capital infrastructure plan, covering at least three to five years, is required in order to receive provincial Municipal Sustainability Initiative grant funding. The plan should set out what capital expenditures are needed and when, the future cost of maintaining the asset, when it has been built or purchased, and how the assets will be financed. Additionally, municipalities are required to have, at minimum, a three-year financial plan and five-year capital plan. These plans allow council to see the long-term impact of decisions made today, ensuring council is considering the continued sustainability of the municipality when making financial decisions.

The budget is a plan of council expenditures and revenues over the course of the year. Council needs to keep an eye on what is actually happening to make sure the municipal operations match the budget. It is recommended that council receive regular financial reports at least quarterly from administration that compare actual results to the budget. Financial reports are a good source of information and budget control.

Procedure for Expenditure Authorization

(MGA s. 248 and 249)

Each council must establish procedures to authorize and verify expenditures that are not included in a budget. If you, as a councillor, make an unauthorized expenditure, or vote to spend granted or borrowed funds for a purpose other than that for which they were granted or borrowed, you could be held personally liable under section 249 of the MGA for the amount of the expenditure, grant, or borrowing.

Borrowing

(MGA s. 249, 252, and 275)

The Minister of Municipal Affairs has, by regulation, established municipal debt and debt service limits. As long as a municipality is within the limits, no provincial approvals are required for borrowing, but the Minister's approval is required for any borrowing beyond the debt limits. If you vote for a borrowing that puts the municipality above the regulated debt or debt service limit, you could be held personally liable for the amount of the borrowing, unless the borrowing is approved by the Minister.

Auditor

(MGA s. 276, 277, 278, and 280; Alberta Regulation 313/2000)

Each council must appoint an auditor for the municipality and must submit audited financial statements and an audited financial information return to the Minister of Municipal Affairs by May 1 of each year. In addition, the financial statements or a summary of them must be made available to the public by May 1 of each year. The financial statements must disclose the municipality's debt limits, as well as the salaries of the CEO, individual councillors, the CAO, and the designated officers of the municipality.

Property Assessment, Taxation, and Other Revenues

Assessment

(MGA s. 285, 298, 454, 454.1, 454.2, 454.3, 460, 460.1, 468, and 470)

Property assessment is the process of assigning a dollar value to a property for taxation purposes. In Alberta, property is taxed based on the *ad valorem* principle. *Ad valorem* means “according to value.” This means that the amount of tax paid is based on the value of the property.

Each municipality is responsible for ensuring that each property owner pays his or her share of taxes. Property assessment is the method used to distribute the tax burden among property owners in a municipality.

The market value based standard is used to determine the assessed values for the majority of properties in Alberta. Market value is the price a property might reasonably be expected to sell for if sold by a willing seller to a willing buyer after appropriate time and exposure in an open market.

Some types of properties are difficult to assess using a market value based assessment standard because: they seldom trade in the marketplace (and when they do trade, the sale price usually includes non-assessable items that are difficult to separate from the sale price); they cross municipalities and municipal boundaries; or they are of a unique nature. Municipal Affairs prescribes rates and procedures to assess these types of properties, which are referred to as “regulated property”. Rates and procedures are determined by what a type of property is used for, its activity, or its production capability. There are four types of regulated property:

1. Farmland
2. Designated industrial property
3. Machinery and equipment
4. Railway property

Assessments for all types of property are prepared by professional, certified assessors. Assessors receive training in a variety of areas including property valuation techniques, legislation, and quality assurance. The assessor designated by the Minister of Municipal Affairs assesses designated industrial property, while assessors employed or contracted by municipalities assess all other types of property. Under provincial legislation, a municipality must appoint, by bylaw, a designated assessor. A designated assessor is responsible for the completion of a number of tasks laid out by provincial legislation and regulations.

After the assessed value of a property has been determined, the property is assigned an assessment class. The assessment class determines the tax rate that will be applied to each property, as assessment classes may have different tax rates.

The assessor for the municipality is responsible for assigning the assessment classes to property. Property is classified according to its actual use. The classes are set out in the MGA. They are:

- Class 1 – residential
- Class 2 – non-residential
- Class 3 – farmland
- Class 4 – machinery and equipment

Each year, every municipality is required to send an assessment notice to every assessed person listed on the assessment roll. Each municipality must publish a notification in one issue of a local newspaper to announce that the assessment notices have been mailed to property owners within the municipality.

To ensure property owners have a voice in the property assessment system, the MGA has set out a complaints and appeals system for property owners who have concerns about their assessment.

The process involves filing a complaint with the municipality’s assessment review board. The type of property the complaint is about will determine the type of assessment review board that will hear the complaint. Residential property with three or fewer dwelling units, farmland, or a tax notice other than a property tax notice will be heard by a Local Assessment Review Board (LARB). Residential property with four or more dwelling units or non-residential property will be heard by a Composite

Assessment Review Board (CARB). If the taxpayer believes an error in law or jurisdiction has been made by the assessment review board, the decision may be appealed to the Court of King's Bench of Alberta (CKB).

Property Taxation

(MGA s. 242, 297, 318, 354, 355, 356, and 359.1)

Each year, municipal councils determine the amount of money they need to operate their municipality through the budget process. From this amount, the council then subtracts known revenues (for example, licenses, grants, and permits). The remainder is the amount of money the municipality needs to raise through property taxes in order to provide services for the year.

This revenue requirement is then used to calculate the tax rate. The tax rate is the percentage of assessed value at which each property is taxed in a municipality. The revenue requirement is divided by the assessment base (the total value of all assessed properties in the municipality).

The tax rate calculation is expressed in the following formula:

$$\text{Revenue requirement} / \text{Assessment base} = \text{Tax rate.}$$

The tax rate is applied to each individual property assessment using the following formula:

$$\text{Property assessment} \times \text{Tax rate} = \text{Taxes payable.}$$

Council is required to pass a property tax bylaw annually (Section 353). Council may set different municipal tax rates for each of the four assessment classes once each year; however, the difference between non-residential and residential tax rates can be no more than 5:1. Council may also set different tax rates for vacant and improved non-residential property and for different sub-classes of residential property.

If, after sending out the tax notices, the municipality discovers an error or omission in the tax rates, the bylaw can be amended to correct the error, new tax notices sent out and a copy of the new bylaw must be provided to the Minister within 30 days.

In addition to municipal tax rates, municipalities must set tax rates to raise funds that are requisitioned for cost sharing programs such as the Alberta School Foundation Fund. This is discussed in the next section.

For more information on Property Assessment and Taxation, visit: <https://www.alberta.ca/municipal-propertyassessment.aspx>.

Education Tax and Equalized Assessment

(MGA s. 318, 359.1 and 359.2; School Act: Part 6 Division 3, s. 174; Alberta Regulation 22/2004-Sec 10)

Property assessment is used as the basis on which to requisition property taxes from all or a number of municipalities for the financial support of several regional and provincial programs. Equalized assessment is a process that levels the playing field for municipalities so property tax requisitions and grants can be fairly allocated.

Just as property owners pay taxes in proportion to the value of the property they own, municipalities are required to contribute to the provincial education and other requisitions based on the proportion of assessment within their jurisdictions. Equalized assessments are used to determine the specific contributions to be made by each municipality, and they are also used in formulas for provincial grants to municipalities.

Intermunicipal fairness and equity is important when requisitioning property taxes from municipalities or calculating grants. In this regard, it is usually necessary to make some adjustments in the assessment base figures that each municipality reports to the province before those assessments are used to determine each municipality's contribution to a regional or provincial program, or its equitable share of grant dollars. These adjustments are made through the equalized assessment process.

The MGA requires that most properties be assessed at market value. Ideally, all properties would be assessed at 100 per cent of market value. In practice; however, assessments may vary from market value to a limited degree. Because this variance may occur, equalization is used to adjust each municipality's assessments to 100 per cent of market value. The equalization process removes the variations in assessment levels to make the assessment bases more comparable among municipalities. The process produces a set of adjusted, or "equalized," assessments that can then be used to distribute requisitions, or allocate grants, among municipalities in a fair and equitable manner.

For more information on Equalized Assessment, visit: <https://open.alberta.ca/publications/5333000>.

Other Taxes and Revenues

(MGA s. 7, 360, 371, 381, 382, 388, 393, and 399)

In addition to the property tax levy, a municipality may impose a business tax, a special tax, or a local improvement tax. As well, the MGA provides for taxes within a business improvement area and on well drilling equipment.

Under section 360 of the MGA, franchise agreements may exist between a municipality and a utility service (power, gas, cable, telephone) that, among other things, provide for the payment of a franchise fee. The fee is usually a percentage of the distribution charges levied by the utility company, and is a rate set for rent of the municipal rights-of-way, the exclusive franchise rights granted within a municipality, and the property taxes that would otherwise be paid by the utility.

There are other sources of revenue available, mainly user fees. Utility charges for water, sewer treatment, and garbage collection are common in Alberta municipalities. Council may want to develop a policy setting the rates based on the degree of cost recovery considered desirable (full cost recovery is normal for utilities). Fees can also be set for other services, such as recreational facilities, photocopying, or meeting room rentals.

Municipal Grants Web Portal

Information on all provincial grant programs supporting municipalities is available on the Municipal Grants Web Portal at: www.municipalaffairs.alberta.ca/municipalgrants.cfm.

Within this portal, each municipal grant program has its own information page. These pages contain:

- a description of the program, including the type of projects supported and the eligibility requirements;
- links to copies of program guidelines, application forms, and reporting documents;
- a downloadable key dates calendar;
- links to program websites; and
- contact information for provincial program staff should you have any questions.

Contact the Municipal Assessment and Grants Division at 780-422-7125 (or toll-free in Alberta at 310-0000) for more details about the grant programs.

Planning and Development

Council shapes the physical future of the community through its authority over land-use planning and development control. It is the responsibility of council to focus on the future of the community as a whole while balancing the current rights, needs and concerns of property owners and residents. A number of tools are available to council for this purpose.

Alberta Land Stewardship Act (ALSA) Regional Plan

(ALSA s. 20, 21, and 22; MGA s. 618.3 and s. 618.4.)

If an ALSA regional plan is approved or amended, municipalities within an applicable ALSA regional plan are required to review their regulatory instruments, such as but not limited to, existing statutory plans, land-use bylaws, policies and procedures, and make any amendments to comply with the ALSA regional plan. After the review, municipalities are required to file a statutory declaration with the Land Use Secretariat stating that the review is complete and that the municipality is in

compliance with the regional plan. The ALSA regional plan establishes the time within which municipalities must review and amend the plans to achieve compliance.

Where there is an approved ALSA regional plan, the subdivision authority, development authority, municipal planning commission, and subdivision and development appeal board of the municipalities within that region must act in accordance with the applicable ALSA regional plan's policies and outcomes.

Intermunicipal Development Plan

(MGA s. 631, 636, 637 and 638)

Two or more municipalities may adopt an intermunicipal plan (IDP) to address issues of mutual concern with respect to designated lands. The plan must provide for the future use of land, the manner of and proposals for future development, or other matters relating to the area. The plan must include a procedure to resolve, or attempt to resolve, conflicts; a procedure to amend or repeal the plan; and provisions relating to plan administration. If the municipalities cannot agree on the need for an IDP or the issues in the IDP, the Land and Property Rights Tribunal can hear the matter. The Minister may require two (2) or more municipalities to enter into an intermunicipal development plan.

Municipal Development Plan

(MGA s. 632, 636, 637 and 638)

Every council of a municipality must adopt a municipal development plan (MDP). The MDP provides a general framework for development within the municipality and is the official statement of your municipality's policies concerning the desired future pattern of development. The municipality must afford opportunity to affected persons, school boards, adjacent First Nations or Metis Settlements, as well as neighbouring municipalities to review and make comment on the plan. Intermunicipal issues such as coordination of land use and infrastructure must be addressed in the municipality's own municipal development plan. A municipal development plan must be consistent with existing intermunicipal development plan

Intermunicipal Collaboration Framework

(MGA s. 708.28 – 708.43)

Each municipality that shares a common boundary with another municipality must have an Intermunicipal Collaboration Framework (ICF). This framework must provide for the integrated and strategic planning, delivery and funding of intermunicipal services, the stewardship of scarce resources efficiently in providing local services, and to ensure municipalities contribute funding to services that benefit their residents.

If the municipalities involved in an ICF cannot reach an agreement on the framework or disagree on its application, the MGA includes an arbitration process to follow to attempt to resolve any such matters if the ICF dispute resolution process is not successful.

Area Structure and Redevelopment Plans

(MGA s. 633, 634, 635, 636, 637 and 638)

Council may, by bylaw, adopt an area structure plan (ASP) to provide a framework for subdivision and development for a particular area. The area structure plan will generally describe the sequences of development, proposed land use, population density, and the location of major transportation routes and public utilities. An ASP or ARP must be consistent with the municipality's MDP and existing IDPs. When an area is undergoing redevelopment, council may adopt an area redevelopment plan, (ARP) which, in addition to providing guidelines, may result in a redevelopment levy being used to acquire land for park, school, or recreation purposes in the redevelopment area.

Land Use Bylaws

(MGA s. 638.2, 640, 642, 685, and 686)

All municipalities must have a land use bylaw (LUB). This bylaw provides a specific means of implementing the policies that are expressed in a general way in the municipal development plan. For instance, if a council wishes to adopt a direct control district in the land use bylaw, council must also adopt a municipal development plan that establishes that direction. All statutory documents must be consistent with each other. The LUB provides for a system for issuing development permits and divides the municipality into land use districts or 'zones' prescribing permitted and discretionary uses for land, and development standards for each land use district. Council must establish a development authority to administer the development approval process and make decisions.

When an application conforms to the provisions of the LUB and is of a permitted use, a development permit must be issued. Where an application is for a discretionally use, it may be approved with or without conditions, or it may be refused. If an application is refused the applicant may appeal to the subdivision and development appeal board (SDAB) or in certain situations to the Land and Property Rights Tribunal of Alberta. Additionally people who believe they may be affected by the propose development may make submissions to the development authority and may also appeal the decision of the development authority.

Subdivision

(MGA s. 623, 638.2, 652, 654, 655, and 678)

Dividing a piece of land into two or more parcels generally requires approval from a subdivision authority. The authority ensures that the land to be subdivided is appropriate for its proposed use. Council must establish the subdivision authority by bylaw and decide on its membership. Decisions can be appealed to the subdivision and development appeal board, or in certain situations to the Land and Property Rights Tribunal of Alberta. While a subdivision is approved by the subdivision authority, any changes to zoning that accompany the subdivision must be brought to council for approval by bylaw prior to approval of the subdivision application.

Subdivision or Development Agreements

(MGA s. 638.2, 650 and 655)

Prior to a subdivision or development having full approval, your municipality may require a developer to enter into a subdivision or development agreement. These agreements ensure that certain conditions of the proposed development are documented and met. After legal consultation, administration will bring the agreement forward to council for acceptance, after which the application can be given final approval.

Subdivision and Development Appeal Board

(MGA s. 627, 678, and 686)

A municipal council is required to establish a subdivision and development appeal board (SDAB) to act as a quasi-judicial body to deal with subdivision and development appeals. No more than one members of council can serve on a panel hearing a matter under the SDAB. Appeals are usually made by the applicant for a subdivision approval or a development permit, or by persons affected by the development authority's decision. The SDAB appeal hearing must be a public hearing.

Municipal Collaboration and Mediation

Annexation and Intermunicipal Land Use Disputes (MGA s. 690)

Alberta Municipal Affairs Intermunicipal Relations team provides assistance in building collaboration between and within municipalities across Alberta.

The team provides a number of courses to build knowledge in the fields of negotiation, dispute resolution, public input and workplace conflict, and helps municipalities to work within their own organization and intermunicipally to build capacity to collaborate.

The team also provides mediation/facilitated negotiation services to municipalities who have disputes with another municipality or with a regional entity such as a regional services commission. The team:

- works with municipalities to determine whether or not disputes are suitable for mediation;
- works with municipalities to ensure all the necessary preparations are in place to convene a dispute resolution process;
- provides a roster of qualified private sector mediators available to work with municipalities;
- works with municipalities to design dispute resolution training programs, including preparation for mediation, best practices for municipalities, when to use mediation, etc.; and
- provides funding, on a proportional basis, to the parties to cover the costs of retaining the private sector mediator(s).

The MGA requires municipalities to attempt negotiations and consider mediation before bringing an intermunicipal land use dispute under section 690, amalgamation under section 104, or a contested annexation under section 112 to the Land and Property Rights Tribunal.

Municipalities can use facilitated negotiations for any intermunicipal matters at any stage in their negotiations.

For more information on the services of the Intermunicipal Relations team, visit: <https://www.alberta.ca/municipal-dispute-resolution-services.aspx>.

Economic Development

The Economic Developers Association of Alberta (EDA Alberta) is an incorporated, non-profit organization formed to enhance the economic development profession in the province of Alberta, providing an active network of communication, information and education. EDA coordinates programs and workshops for municipal councils and economic development committee members to help communities with their economic plans by creating an awareness of what they can do on the local front to enhance their economic development activities. You can visit their website at www.edaalberta.ca.

Conclusion

This document is a starting point, not the final word. You will benefit from your time on council as you meet new people and develop a greater understanding of the local government process and its role in your community. Your community will benefit from your leadership, vision, and service. Best wishes for your success, and for the success of your community.

This guide is an information summary only and has no legislative sanction. For certainty, refer to the MGA and request your own legal advice. Copies of the MGA or other legislation mentioned in this document can be downloaded or purchased from Alberta King's Printer Bookstore:

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