

# Candidate Training 2013

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Sponsored by:  
Society of Local Government Managers of Alberta and  
Alberta Municipal Affairs

# Online Resources

- Society of Local Government Managers  
[www.albertaleaders.ca](http://www.albertaleaders.ca)
- Alberta Municipal Affairs  
[municipalaffairs.alberta.ca](http://municipalaffairs.alberta.ca)

# Legislation

- Local Authorities Election Act
- Municipal Government Act
- School Act

# Publications

- Running for Municipal Office in Alberta
- Now that You've Been Elected
- Municipal Councillors' Guidelines for Conflict of Interest
- Roles and Responsibilities of Officials in Local Government

# Outline

- Municipal Structure
- Duties of a Councillor
- Candidate Eligibility
- Nomination Procedure
- Campaigning
- Prior to Election Day
- Election Day
- Counting Process

# Outline

- Results & Recounts
- Trial of an Election
- Municipal Election Finance and Contribution Disclosure
- After the Election
- Questions

# Municipal Structure

- Term of Office
  - For local elected officials is four years.
  - In 2013 the general election date is October 21
  - In 2017 the general election date is October 16

# Municipal Structure

- The purposes of a municipality are (s.3 MGA):
  - a) To provide good government
  - b) To provide services, facilities or other things that, in the opinion of council are necessary or desirable for the municipality
  - c) To develop and maintain safe and viable communities



# Municipal Structure

- The principle role of council in a municipality is (s.201 MGA):
  - a) Develop and evaluate the policies and programs of the municipality
  - b) Make sure the powers, duties and functions of the municipality are carried out properly
  - c) Carry out the power, duties and functions given to it under the MGA or any other act

# Municipal Structure

- Councillors have the following duties (s.153 MGA) :
  - a) To consider and promote the welfare and interests of the municipality as a whole
  - b) To participate in developing and evaluating the policies and programs of the municipality
  - c) To participate in council meetings and council committee meetings

# Municipal Structure

- d) To obtain information about the operation or administration of the municipality from the CAO
- e) To keep in confidence matters discussed in private at council or council committee meetings
- f) To perform any other duties or functions imposed on councillors

# Municipal Structure

- In addition, the chief elected officer must (s.154 MGA):
  - a) Preside when in attendance at council meetings unless a bylaw provides otherwise
  - b) Perform any other duty imposed on chief elected official
    - Chief elected officer is a member of all council committees, unless council provides otherwise

# Duties of a Councillor

- Take the Oath of office
- Attend meetings
- Vote on issues
- Disclose pecuniary interest

# Duties of a Councillor

## Pecuniary Interest:

s. 170 MGA: Councillors will have a pecuniary interest if the matter could monetarily affect the councillor, the councillor's employer, or the councillor's family.

# Duties of a Councillor

## Pecuniary Interest:

- Disclose general nature of pecuniary interest
- Abstain from voting on related matters
- Abstain from discussion on related matters
- Leave the room

# Duties of a Councillor

## Liability on Council:

- Pecuniary interest
- Civil liability
  - Budgets (s. 249 MGA)
  - Borrowing (s. 275 MGA)
- Personal behaviour (s.535 MGA)



# Candidate Eligibility

- A person is eligible to be nominated as a candidate if, on nomination day, the person (s.21) LAEA
  - Is eligible to vote (18 years, Canadian citizen)
  - Is resident of the local jurisdiction and ward for 6 months immediately preceding nomination day
  - Not otherwise ineligible or disqualified

# Candidate Eligibility

- Eligibility for School Trustee (s.44(4))  
School Act
  - Reside in the area contained in school jurisdiction
  - Be a resident under School Act
  - Disclosure of campaign contributions and expenses (118(2)) if required

# Candidate Eligibility

- A person is not eligible to be nominated to council if on nomination day he/she (s.22) LAEA:
  - Is the auditor of the local jurisdiction
  - Is an employee of the local jurisdiction (unless takes a leave of absence)
  - Is indebted to the municipality for more than \$50, excluding current taxes or payment plan

# Candidate Eligibility

- Is indebted to local jurisdiction for more than \$500 and in default more than 90 days
- Has been convicted of an elections offence within the last 10 years

# Candidate Eligibility

- A person is not eligible to be nominated as a trustee of a school board if he/she (s.22):
  - Is the auditor of the local jurisdiction
  - Is employed by a school district or division charter school or public school in Alberta (unless on leave of absence)
  - Has been convicted of an elections offence within the last 10 years

# Candidate Eligibility

- If you are an employee of a municipality or an employee of a school district or division:
  - May apply for leave of absence without pay after July 1 (s.22 (5))
  - Every employee who notifies his or her employer is entitle to a leave of absence without pay
  - If not elected, may return to work
  - If elected, deemed resigned

# Candidate Eligibility

- S.174 MGA describes the reasons for disqualification from council:
  - Never were or ceases to be qualified for nomination
  - Fails to file a disclosure statement as required under S. 147.4 of the LAEA
  - Becomes a judge, member of the Senate, House of Commons or Legislative Assembly.

# Candidate Eligibility

- Absent from all regular meetings of council for an 8-week period (unless approved by council)
- Convicted of an offence punishable by imprisonment for five years or more or an offence under the Criminal Code
- Councillor does not vote on a matter at a council meeting at which the councillor is present unless permitted by legislation to abstain



# Candidate Eligibility

- Contravenes the Pecuniary Interest requirements of the MGA
- Becomes an employee of the municipality
- Liable to the municipality under the civil liability sections (284 MGA)
- How is disqualification enforced?

# Nomination Procedure

Q. When is nomination day?

A. Nomination day is four weeks before election day (s.25)

- i.e. Monday, September 23, 2013

# Nomination Procedure

- The Returning Officer will give notice of nomination day either by publishing notice (Form 2) in a local paper in each of the 2 weeks before nomination day or by mailing a notice to every residence in the local jurisdiction at least one week before nomination day (s.26(1))

# Nomination Procedure

- Nomination Paper and Candidate's Acceptance (s.27) Form 3
  - Signed by 5 electors eligible to vote
  - City may pass a bylaw requiring more signatures (between 5 and 100)
  - RO cannot accept nomination papers without appropriate number of signatures

# Nomination Procedure

- Municipality may pass a bylaw requiring a deposit along with nomination papers (s.29 and 30)
  - Bylaw must be passed 30 days before nomination day
  - Cash, certified cheque or money order
  - Shall be returned if elected or withdraws or receives more than  $\frac{1}{2}$  total number of votes cast for the candidate elected with least number of votes
  - Otherwise, paid to general revenue of municipality

# Nomination Procedure

- Candidate may, on nomination paper, appoint official agent (s.68.1)
  - Not convicted of an elections offence in the last 10 years
  - Duties as assigned by candidate
  - Notify RO immediately in writing if replacing Official Agent

# Nomination Procedure

- Requirements (s.28)
  - Completed Form 3
  - Written acceptance by candidate (under oath)
  - Deposit (if required by bylaw)

# Nomination Procedure

- Responsibility of candidate to ensure that nomination paper is properly completed
- Returning Officer not responsible to decide on validity of information contained in the nomination papers



# Nomination Procedure

- Nomination papers must be filed in person.
- Any person can file the nomination papers on behalf of a candidate.

# Nomination Procedure

- After 12 noon on nomination day and until the term of office to which the papers relate, any person may ask to view filed nomination papers. (s. 28(4))
- Nomination papers can be viewed not copied or distributed.

# Nomination Procedure

- Insufficient nominations (s.31)
  - If the number of nominations is less than the number required to be elected, nominations will stand adjourned to the following day, up to 6 days (including nomination day)

# Nomination Procedure

- Withdrawal of Nomination (s.32)
  - A candidate may withdraw his/her nomination up to 24 hours after nominations close
  - Only if there are more than enough candidates

# Nomination Procedure

- Acclamation (s.34)
  - Where number of nominees equals the number required to be elected, the Returning Officer shall declare the nominees elected by acclamation

# Campaigning

- Determine the issues
- Develop a platform
- Develop an image
- Develop a strategy

# Campaigning

- Do
  - Become familiar with your municipality's bylaws
  - Obtain ID for your campaign workers
  - Communicate with the Returning Officer or CAO
  - Become familiar with the ID requirements for voters

# Campaigning

- Don't
  - Bribery (s.116)
  - Undue influence (s.117)
  - Use drawings of ballots in your posters
  - Canvas or solicit votes in voting station
  - Communicate to electors in voting station
  - Campaign in voting station
  - Deface other candidates posters



# Prior to Election Day

- The Returning Officer will give notice of election day by publishing a notice at least once a week in each of the 2 weeks preceding election day or by mailing notice to every residence at least 1 week before (s.35(2))
  - Form 4 or 4A (Notice of Election and Requirement for Voter ID)

# Prior to Election Day

- Elected authority may appoint a Returning Officer by resolution (s.13)
  - If elected authority fails to do so, the secretary of the elected authority is the Returning Officer
  - The Returning Officer may not be a candidate in that election

# Prior to Election Day

- Returning Officer's duties (s.14)
  - Appoint deputies, constables
  - Establish voting stations
  - Designate at least 2 deputies to each voting station
  - Supply & deliver ballots, ballot boxes, instructions
  - Give notice of nominations
  - Receive nominations
  - Declare acclamations
  - Give notice of elections
  - Do all things necessary to conduct election

# Prior to Election Day

- Elected authority may provide for an advance vote to be held (s.73)
  - Not within 24 hours of election day
  - Notice will be published or mailed at least one week before (s.74)
  - Conducted in same manner as vote on election day except fresh ballot box each day (s.75)

# Prior to Election Day

## Advance Vote:

- Anyone can vote at advance vote

# Prior to Election Day

## Incapacitated Elector at Home:

- Elected authority may also provide for 2 deputies to attend at the residences of incapacitated electors to take votes during the hours the advance voting station is open (s.79)
  - Or at other times fixed by resolution
  - No scrutineers can attend

# Prior to Election Day

## Special Ballots - ss. 77.1 – 77.3

- Elected authority may provide for voting by special ballot
  - Resolution passed prior to nomination day
- Elector who is unable to vote at the advance or regular vote, may apply to vote by special ballot because of (s.77.1):
  - Physical incapacity
  - Absence
  - Returning Officer, deputy, constable, candidate or agent

# Prior to Election Day

## Special Ballots:

- Application for a special ballot may be in writing, by phone, fax, e-mail, or in person



# Prior to Election Day

## Special Ballots:

- Must maintain secrecy
- Ballots counted at close of voting stations on election day
- Must be received before close of voting stations on election day, or earlier if resolution provides.
- Candidate in voting station may obtain name of electors in the voting station who requested forms

# Prior to Election Day

## Institutional Vote:

- Elected authority may designate the location of one or more institutional voting stations (s.80)
- Electors confined to the hospital or nursing home or resident in the seniors accommodation facility designated as an institutional voting station are entitled to vote

# Election Day

Q. When is election day?

A. Election day for a local jurisdiction is the third Monday in October. (s.11(1))

- i.e. Monday, October 21, 2013

# Election Day

- On election day, there will be a separate ballot for (s. 42):
  - Chief elected official
  - Councillors
  - School representatives and trustees
- Names are placed on ballots - Form 6
- Ballot must state the maximum number of candidates to be voted for

# Election Day

- Can an elected authority use voting machines?
  - Yes, an elected authority may be bylaw provide for there use. The bylaw will set out the form of the ballot and other specific directions as set out in S. 84

# Election Day

- Name of candidates on ballot shall be arranged alphabetically (s.43)
  - Unless bylaw is passed to print ballots in lots
  - Bylaw must be passed 2 months before election day

# Election Day

- Instructions for electors will be posted in every voting compartment and in a conspicuous place in the voting station (s.45)
  - Form 7
  - May be in languages other than English

# Election Day

- Voting station hours are from 10 am to 8 pm (s.46)
  - May pass bylaw by June 30 in the year of a general election to open before 10 am



# Election Day

- A candidate may appoint a scrutineer (in writing) to attend a voting station to observe the voting (s.69) (Form 10)
  - 18 years old
  - Not convicted of an elections offence within the last 10 years
  - Returning Officer shall designate a place so scrutineer can observe person making statement

# Election Day

- Employees are permitted to have 3 consecutive hours while voting stations open to vote (s.58)
  - No deduction from pay or other penalty allowed

# Election Day

- The only persons entitled to be in voting station during voting are (s.67):
  - Returning Officer, deputies, constables
  - Candidates, or official agents or scrutineers
  - Electors *while they are voting*
- Deputy may authorize temporary observer

# Election Day

- Eligibility to vote (s.47)
  - 18 years old
  - Canadian citizen
  - Reside in Alberta for 6 months consecutively immediately preceding election day
  - Resident in area on election day

# Election Day

- Electors may only vote at voting station for the voting subdivision where they are resident on election day

# Election Day

- Rules of Residence (s.48(1))
  - Can only have one residence
  - Where person lives and sleeps and, when absent, intend to return
  - Temporary absence okay
  - Educational absence
  - Intention to leave is determinative

# Election Day

- If a person has more than one residence in Alberta, that person shall designate one place as the person's residence with the following factors in order of priority:
  - Address on driver's licence
  - Address income tax correspondence delivered
  - Address mail is addressed and delivered.

# Election Day

- Every person who attends at a voting station must be permitted to vote if (s.53):
  - Name on list of electors or
  - Makes a statement that they are eligible to vote and produces ID as set out in LAEA or municipal bylaw
    - Form 8



# Election Day

- If voter identification bylaw passed, elector must also produce the number and types of identification required by bylaw.
  - Bylaw passed 6 months before nomination day
  - Special advertising requirements
  - Form 4

# Election Day

- Voter Identification
  - S. 53 of the LAEA requires a person to provide proof of identify and current residence in order to vote, unless there is a list of electors and the person's name is on the list.

# Election Day

- Deputy may explain to an elector the proper method of voting (s.61)
  - As concisely as possible
  - In accordance with the instructions to electors

# Election Day

- Candidate, official agent, or scrutineer may object to the elector (s.54) only at the time the person makes the statement.
- Deputy shall note reason for objection in the voting register

# Election Day

- If Returning Officer believes, on reasonable & probable grounds, elector is not eligible, must note in voting register (s. 54(2))

# Election Day

- Special circumstances
  - Interpreter (s.72) (Form 11)
  - Blind or incapacitated elector (s.78) (Form 11)

# Election Day

- Voting shall be by secret ballot
  - No person shall show their ballot (s.55)
  - No person shall be required to disclose their vote in any legal proceeding (s.56)

# Election Day

“The secrecy of the ballot, with the complete freedom and protection which it affords the vote, is the rock on which the whole structure of representative self-government is founded. It is the main principle of any election Act, and the entire electoral machinery is elaborately designed to function around it. The Court must be zealous to see that nothing is permitted which will whittle down that right.”

*R.v. Clay* (1945) (Alberta District Court)



# Election Day

- Marking ballots (s. 62)
  - Receive ballot
  - Proceed to voting compartment
  - Mark by placing an “X”

# Election Day

- After voting, elector shall (s.63)
  - Fold ballot so deputy's initials show
  - Deliver to deputy to deposit in ballot box
  - Initials to be verified by deputy
  - Leave voting station

# Election Day

- End of voting (s.46)
  - Deputy to declare voting closed at 8 pm sharp
  - Electors in voting station when it closes who want to vote shall be allowed

# Counting Process

- Immediately after the voting stations close, the presiding deputy will open each ballot box is opened and count the votes (s.85)
- This must be done in presence of:
  - At least one other officer
  - The candidate, or official agent, or the scrutineer may be present

# Counting Process

- Void ballots will not be counted (s.86(1)):
  - No initials
  - Too many votes cast
  - Anything written or marked so as to identify elector
  - Torn or defaced so as to identify elector
  - Not marked with an “X”
  - No vote

# Counting Process

- *Notwithstanding* an incorrectly marked ballot, the deputy may count the ballot if the vote clearly indicated for whom or what the elector intended to vote (s.86(3))

# Counting Process

- A deputy shall make note of any objection made by a candidate or their agent and shall decide any question arising out of the objection
- Every objection is numbered and the corresponding number placed on the back of the ballot

# Counting Process

- Deputy will endorse on the back of ballot “rejected” and, if rejection is objected to, “rejection objected to” and initial each endorsement (s.86(2))



# Counting Process

## Ballot Account:

- After all ballots are counted, deputy will prepare the ballot account (s.88)

# Counting Process

- 2 deputies to sign ballot account (s.89)
  - Candidate, or Official Agent or Scrutineer may sign
- Presiding deputy to certify number of persons who registered to vote at that voting station (s.90)

# Counting Process

- Presiding deputy is required to make a copy of each voting register on which an objection was noted (s. 90 (2))
- Kept for 6 weeks and destroyed
- Anyone who can object can view

# Counting Process

## Ballot Packages:

- Separate packets of ballots for (s.91):
  - Valid ballots
  - Valid ballots objected to
  - Rejected ballots
  - Spoiled ballots
  - Unused ballots
  - Voting register and Form 9

# Counting Process

- What happens when the counting is done?
  - The presiding deputy places all packets containing the ballots, voting register, special ballot envelopes, statements and list of electors in ballot box and seal the ballot box (s.93)

# Results

- Presiding deputy is responsible for delivering the sealed ballot box and ballot account to the Returning Officer (s.94) if there is more than one voting station

# Results

- The candidate receiving the highest number of votes will be declared elected (s.95(1))

# Results

Q. What if there is a tie?

A. Returning Officer shall write the two names on identical pieces of paper and have a third party draw one out. The name drawn is deemed to have received one more vote (s.99)



# Results

- Returning Officer may publish unofficial results as the results are received from the voting stations (s.97(1))

# Results

- Returning Officer shall announce or post a statement of the results of the voting at 12 noon on the 4<sup>th</sup> day after election day (s.97(2))
  - Including a declaration that the candidates receiving the highest number of votes are elected

# Results

- After the election:
  - Sealed ballot boxes, ballot account and nomination papers are delivered to the secretary (s.100)
  - No one may inspect the ballot boxes without court order (s.102)
  - Secretary shall retain the ballot boxes for 6 weeks then destroy contents (s.101)

# Results & Recount

- Order may be granted permitting inspection of the contents of ballot box for (s.102):
  - Prosecution of an offence relating to the election
  - Proceedings under LAEA to contest the election
  - Preparing an application for a recount

# Results & Recount

- Returning Officer may do a recount if (s.98):
  - A candidate shows reasonable grounds for alleging the count of votes at any voting station is inaccurate
  - Returning Officer considers the number of valid ballots objected to or rejected ballots (other than those on which no vote was cast) sufficient to affect the result of the election
  - Returning Officer is of the opinion an administrative or technical error may have caused an error in the count

# Results

- Candidate, official agent or scrutineer must apply for recount within 44 hours of the closing of the voting stations

# Results

## Judicial Recount

- Any elector may apply to the court for a recount within 19 days after the close of the voting stations (s. 103)

# Trial of an Election

- The validity of an election may be challenged by a candidate, the elected authority, an elector who voted in the election or any elector if right to sit won by acclamation (s.126)
- Application must be brought within 6 weeks of the election



# Trial of an Election

- Need reasonable grounds:
  - For supposing the election was not conducted according to law
  - For supposing an unsuccessful candidate was not eligible for nomination and the results would have been different had they not run
  - For contesting the validity of the election of a candidate
  - For contesting the validity of the result of vote on a question or bylaw

# Trial of an Election

- Cases
  - *Bowerman v. Bidlock* (1993) (Alberta Q.B.)
  - *Crilly v. Isley* (1987) (Alberta Q.B.)

# Municipal Election Finance and Contribution Disclosure

- Applies to municipal elected officials only.

# Municipal Election Finance and Contribution Disclosure

- Some definitions S/. 147.1(1)
  - Campaign contributions means any money, personal property, real property or service that is provided to or for the benefit of a candidate or the candidate's election campaign without fair market value compensation from that candidate but does not include services provided by a volunteer who voluntarily performs the service .....

# Municipal Election Finance and Contribution Disclosure

- Candidate means an individual nominated as a candidate for election as a councillor of a municipality under this Act or an individual who intends to be nominated as a candidate for such an election and accepts campaign contributions or incurs campaign expenses

# Municipal Election Finance and Contribution Disclosure

- Prohibited Organization means
  - a municipality, a corporation that is controlled by a municipality and meets the test set out in section 1(2) of the MGA, a non-profit organization that has received since the last general election any of the following from the municipality – grants, real property, personal property, a Provincial corporation, a Metis settlement, a school board

# Municipal Election Finance and Contribution Disclosure

- Prohibited Organizations continued...
  - A public post-secondary institution, any corporation that does not carry on business in Alberta or any organization designated by the LGC

# Municipal Election Finance and Contribution Disclosure

- Any money up to and including \$10,000 in a campaign period, paid by a candidate out of the candidate's own funds is not a campaign contribution.
- Campaign contributions by any person, corporation, trade union or employee organization shall not exceed \$5,000 in a year.



# Municipal Election Finance and Contribution Disclosure

- Entirely Self-Funded Campaign S 147.11
  - Not required to open and deposit funds in a campaign account
  - Not required to file a disclosure statement

This section does not apply if a candidate receives or accepts any campaign contributions

# Municipal Election Finance and Contribution Disclosure

- Limitations on Contributions
  - \$5,000 in any year from any person, corporation, trade union or employee organization
  - \$10,000 of the candidate's own funds contributed to the candidate's election campaign in any campaign period

# Municipal Election Finances and Contribution Disclosure

- Duties of the candidate S 147.3
  - Open a campaign account as soon as the total amount of campaign contributions from any person, corporation, trade union or employee organization:
    - Exceeds \$5,000 in the aggregate, or
    - In combination with money paid by the candidate exceed \$5,000 in the aggregate.

# Municipal Election Finance and Contribution Disclosure

- All contributions of money are deposited into the campaign account
- Money in the campaign account is used for payment of campaign expenses (S. 118)
- Contributions of real property, personal property and services are valued
- Receipts are issued for all contributions and obtained for every expense

# Municipal Election Finance and Contribution Disclosure

- Disclosure statements are filed as required (form 21)
- Records are retained for 2 years following the filing
- Proper directions are given to the Official Agent or any other person incurring expenses or accepting campaign contributions

# Municipal Election Finance and Contribution Disclosure

- Contributions received in contravention of the Act are returned
- Anonymous contributions are paid to the municipality

What happens if a candidate contravenes these requirements? The candidate is guilty of an offence and liable to a fine of not more than \$1,000.

# Municipal Election Finance and Contribution Disclosure

- Disclosure Statement S. 147.4
  - Filed on or before March 1, 2014
  - Prescribed Form 21
  - A person who contravenes S. 147.4 and who fails to comply within 30 days of the time period and pay the municipality a \$500 late filing fee is guilty of an offence and liable to a fine of not more than \$5,000

# Municipal Finance and Election Contribution Disclosure

- A candidate that does not file a nomination papers before the next general election on October 21 shall within 6 months after the date of the general election:
  - If there is a surplus, donate the surplus
  - If there is a deficit, eliminate the deficit and file a new disclosure statement



# Municipal Finance and Election Contribution Disclosure

- What can happen if a candidate fails to file disclosure statement as required?
  - A fine
  - A report to council
  - A report to the public

# After the Election

- s.192 MGA - Organizational meeting must be held within 2 weeks after the 3<sup>rd</sup> Monday in Oct.
- s. 9 LAEA – holds office from the beginning of the organizational meeting following the general election to immediately before the organizational meeting after the next general election
- s. 10 LAEA – following an acclamation the organizational meeting can be held immediately

# After the Election

- 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/ declare that you will diligently, faithfully, and to the best of your ability, fulfil the duties of the office to which you have been elected.

# After the Election

- Council is the governing body of the municipal corporation and the custodian of its powers.
- As a councillor, you will exercise the powers of the municipality by bylaw or resolution.
- Much of your time will be spent considering new and existing programs and policies

# After the Election

- Why a Procedural Bylaw?
- It can:
  - Provide a standard format for council meetings
  - Make it easier to all to understand the decision making process
  - Set out the responsibilities of the various committees

# QUESTIONS ?

Alberta Municipal Affairs

780-427-2225

Alberta Education

780-422-6062

# The End

