



---

# A guide for: Municipal Returning Officers in Alberta

Module 7: election day

Module 8: post-vote

Module 9: controverted elections and elections  
offences

A Guide for Municipal Returning Officers in Alberta – Module 7 – election day, Module 8 – post-vote, Module 9 – controverted elections and elections offences

Published by Alberta Municipal Affairs

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 candidate may wish to obtain advice from a lawyer, in order to ensure the correct steps are taken throughout the election process. 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 *Local Authorities Election Act*. 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 candidates may encounter while working through their specific election process. If a municipality or candidate 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, or the *Local Authorities Election Act* in word or interpretation, the legislation shall prevail.

April 2021

© 2021 Government of Alberta.

This publication is issued under the Open Government Licence – Alberta (<http://open.alberta.ca/licence>).

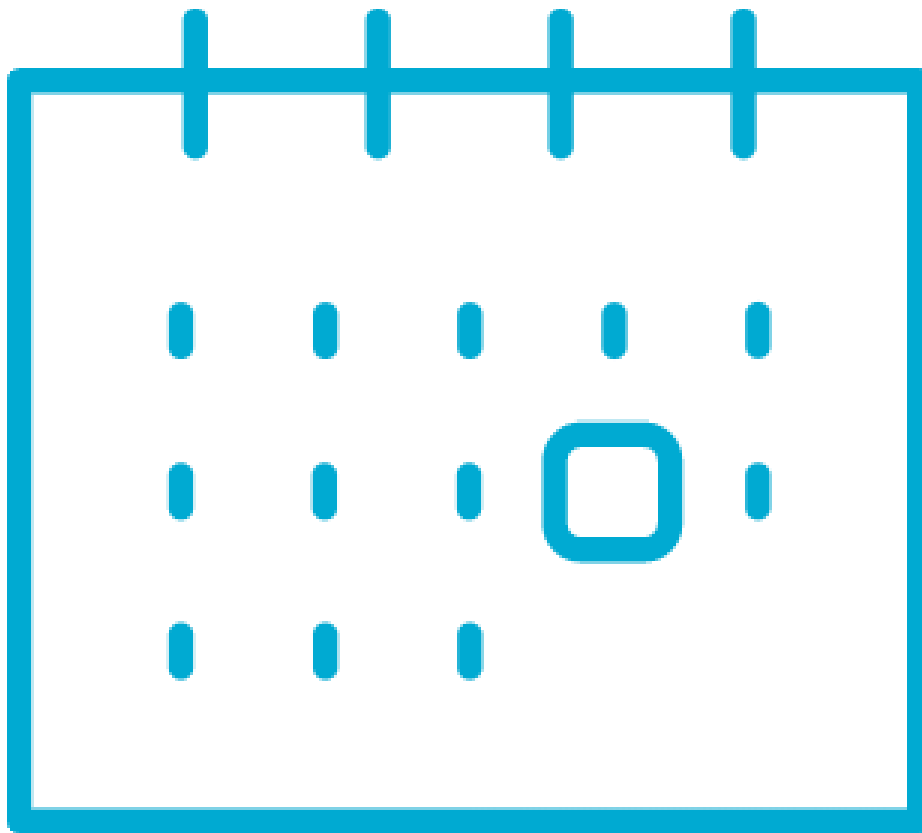
# Table of Contents

<b>Module 7: Election Day .....</b>	<b>6</b>
<b>Election Day .....</b>	<b>7</b>
Voting Hours .....	7
Summer Village Voting Hours .....	7
Voting Times for Employees .....	7
Sealing the Ballot Box .....	8
Voter Eligibility and Identification Requirements .....	8
Secrecy of the Vote .....	8
Instructions for Voters .....	8
Number of Votes .....	9
Persons Objected To .....	9
Elector Register & Issuing the Ballot .....	9
Interpreter .....	10
Marking and Disposal of Ballots .....	10
Replacement of Spoiled Ballots .....	11
Elector Declining to Vote .....	11
Prohibited Removal of Ballots .....	11
Persons at the Voting Station .....	12
Option for Official Agents .....	12
Candidate's Scrutineers .....	12
<b>Module 7 Addendum: Senate Election and Referendum Vote: Election Day .....</b>	<b>14</b>
<b>Election Day .....</b>	<b>15</b>
Application of Election Day Procedures to the Senate Election and Referendum Vote .....	15
Number of Votes .....	15
Issuing Ballots to Electors (elector register, declined, spoiled) .....	15

Marking and Disposal of Ballots.....	15
Replacement of Spoiled Ballots .....	16
Elector Declining to Vote .....	16
Ballot Boxes .....	16
Scrutineer – Senate Candidate.....	17
<b>Module 8: Post-Vote.....</b>	<b>18</b>
<b>Post-Vote Procedures.....</b>	<b>19</b>
Counting Votes.....	19
Counting Centres .....	19
Void Ballots .....	20
Note of Objection.....	20
Ballot Account .....	21
Certificate of Voting Register .....	21
Packets of Ballots.....	21
Securing and Delivering Election Documents.....	22
<b>Election Results .....</b>	<b>23</b>
Tie-Vote .....	23
Declaration of Results .....	23
<b>Recount .....</b>	<b>24</b>
Returning Officer's Recount.....	24
Judicial Recount.....	25
<b>Election Materials.....</b>	<b>25</b>
Disposition of Materials .....	25
Order for Inspection of Ballots .....	25
<b>Module 8 Addendum: Senate Election and Referendum Vote: Post Vote Procedures .....</b>	<b>27</b>
<b>Post Vote Procedures .....</b>	<b>28</b>
Counting of Votes.....	28
Forms.....	28
Results Reporting – Election Night.....	28

Results Reporting – Elections Alberta.....	28
Retention of Ballots .....	29
Judicial Recount or Appeal .....	29
<b>Module 9: Controverted Elections and Elections Offences.....</b>	<b>31</b>
<b>Controverted Elections &amp; Election Offences .....</b>	<b>32</b>

# Module 7: Election Day



# Election Day

LAEA s.46

## Voting Hours

The returning officer and presiding deputy returning officers are responsible for ensuring all voting stations for the local jurisdiction during Election Day are open continuously between the hours of 10:00 a.m. and 8:00 p.m.

For institutional votes on election day, the returning officer sets the times at which votes in the institution shall be taken (see Module 6 – Voting Opportunities).

The local jurisdiction has the authority to pass a bylaw prior to June 30<sup>th</sup> of the election year to allow for the voting stations to open before 10:00 a.m.

Promptly at 8:00 p.m. on Election Day, the returning officer or presiding deputy returning officer must declare the voting station closed. If there are electors in line and in the voting station at the time of closing, they are allowed to vote; however, no other person arriving at the voting station after close are allowed to vote.

LAEA s.12(f)

## Summer Village Voting Hours

In the case of a summer village, the voting hours during an election or during a vote on a bylaw or question must be between the hours of 10:00 a.m. and 7:00 p.m.

LAEA s.58

## Voting Times for Employees

An employee who is also an elector of a local jurisdiction must have three consecutive hours for the purposes of voting while the voting stations are open on Election Day. If the employee's hours of employment do not allow for three consecutive hours, the employer must allow the employee any additional time necessary for voting. The time granted is at the convenience of the employer.

Although the time allowed must be granted at the convenience of the employer, the employer cannot make any deduction of pay from the employee and must not impose any penalty on the employee's absence from work during the three consecutive hours.

## LAEA s.40

### Sealing the Ballot Box

It is the responsibility of the presiding deputy returning officer at each voting station to immediately, after the opening of the voting station, show each ballot box to the persons present at the voting station to ensure that the ballot box is empty. The ballot box is required to be closed and sealed, ensuring it cannot be opened without breaking the seal, and placed in the view of the presiding deputy for the deposit of ballots.

The presiding deputy returning officers are required to keep the ballot box closed and sealed during voting hours and in the view of all those present in the voting station. The ballot box should be visible to any candidates, scrutineers or official agents observing the process.

If additional ballot boxes are required during voting hours, each ballot box should be shown to all those present to ensure the ballot box is empty. The boxes should then be closed and sealed in accordance with the above process and be kept in view of all those present at the voting station for the duration of voting hours.

### Voter Eligibility and Identification Requirements

Please refer to Module 6 for more information on these provisions.

## LAEA s.55

### Secrecy of the Vote

All voting during elections must be done by secret ballot. When an elector is in a voting compartment for the purposes of marking their ballot, no other person, other than those permitted in section 78, may enter the voting compartment or be in a position to see how an elector marks their ballot.

It is an offence under the *Local Authorities Election Act* (LAEA) for an elector to show their ballot to any person that will allow the elector's vote to be known.

In the event a minor is accompanying an elector, the deputy returning officer may permit the minor to go into the voting compartment with the elector.

## LAEA s.45

### Instructions for Voters

The returning officer and the responsible presiding deputy returning officers located at each voting station are responsible for ensuring the instructions for voters are



displayed, as set out in Form 10 – Instructions for Electors (available on Alberta.ca).. The instructions must be printed in a clearly legible and readable format and posted in the voting station and all voting compartments for the duration of Election Day.

If it is the desire of the local jurisdiction, the instructions may also be posted in languages other than English.

#### **LAEA s.57**

### **Number of Votes**

An elector may vote once for each person the elector chooses but may not vote for more than the number of persons to be elected to an office. In addition, an elector may vote once on each bylaw or question.

#### **LAEA s.54**

### **Persons Objected To**

If a candidate, official agent or scrutineer objects to a person who makes a statement, a deputy is required to note in the voting register the reason for the objection and the name of the candidate, official agent, or scrutineer who is making the objection.

The objection is only allowed to be made at the time that the elector is making their statement.

If the returning officer, on reasonable and probable grounds, believes a person is not an eligible elector, the returning officer must make a note in the voting register, indicating the reason and initial it. Even when an objection is made by a candidate, agent, scrutineer or returning officer, the person objected to is still provided with the ballot(s) they have requested. Section 93.1 requires any elector registers with objections noted to be kept separate from the rest of the registers and placed in a packet at the completion of the counting of the ballots, which will not be sealed into the ballot box.

### **Elector Register & Issuing the Ballot**

#### **LAEAs.59**

The deputy returning officer must record on the voting register that an elector received a ballot for the purposes of voting for the elected offices necessary.

#### **LAEAs.60**

At the time the deputy is issuing the ballot, they must ensure the ballot is folded and initialed by the deputy so that the initials are visible without opening the ballot.

## LAEAs.61

The deputy may, by their own discretion or at the request of the elector, explain as concisely as possible, the proper method of voting in accordance with the instructions of electors.

Election officials must not answer questions regarding candidates or, in the case of a vote on a question or bylaw, questions relating to any matters other than the proper method of voting.

## LAEA s.72

### Interpreter

If an elector is unable to read or does not understand the English language, the deputy returning officer may allow an interpreter to read or to translate the statement and the elector's response. Prior to the interpreter acting in this capacity, they must complete the statement in the prescribed form (Form 17 – Statement of Interpreter, Elector who is Unable to Vote in the Usual Manner, Friend or Relative of Elector who is Unable to Vote in the Usual Manner – available on [Alberta.ca](http://Alberta.ca)).

## LAEA s.62

### Marking and Disposal of Ballots

On receiving a ballot from the deputy returning officer, an elector must proceed to the voting compartment and shall mark the ballot:

- by placing an "X" on the right hand side opposite the name of the candidate of the electors choice; or
- in the case of a ballot for a bylaw or question, by placing an "X" within the division of the paper marked "for" or "against" or within the division of the paper marked "yes" or "no".

## LAEA s.63

After an elector has marked their ballot, the elector must fold their ballot in a way that will conceal the names of the candidates and the marks on the ballot, while showing the initials of the deputy returning officer that issued the ballot at the voting station.

After leaving the voting compartment, the elector must immediately proceed to the deputy returning officer responsible for the ballot box. The deputy must, without unfolding the ballot, verify the initials on the ballot and deposit the ballot into the ballot box. The deputy may also allow the elector to deposit their ballot into the ballot box if the elector chooses.

**LAEA s.64**

After the elector has deposited the ballot into the ballot box, the elector must immediately exit the voting station.

A person whose ballot is deposited into the ballot box is officially deemed to have voted.

**LAEA s.65****Replacement of Spoiled Ballots**

An elector who inadvertently made an error on their ballot or made an error that would cause the ballot to be spoiled (i.e.: marked their ballot for more than the number of candidates required to be elected) may return their ballot to the deputy returning officer who provided it to them. The elector must indicate to the deputy returning officer that an error was made on the ballot. The ballot does not get deposited in the ballot box. The deputy returning officer must provide the elector with another ballot in place of the returned ballot.

The deputy returning officer must immediately write the word “SPOILED” on the returned ballot and preserve it in the appropriate envelope or packet, as specified in s.91.

**LAEA s.66****Elector Declining to Vote**

If an elector returns a ballot and states that the elector is declining to vote, the elector is no longer entitled to another ballot for that elected office. The deputy returning officer who is supervising the ballot box must deposit the declined ballot into the ballot box.

**LAEA s.68****Prohibited Removal of Ballots**

No person who has received a ballot for the purposes of voting shall take the ballot out of the voting station. A person who received a ballot from the deputy returning officer and who leaves the voting station without delivering the ballot to the deputy forfeits their right to vote in the election. The deputy must record on the voting register that the person left the voting station without first delivering their ballot to the ballot box.

## LAEA s.67

### Persons at the Voting Station

The only individuals permitted at the voting station for the purposes of the election are the returning officer, deputy returning officers, constables, candidates, official agents or scrutineers (who are authorized to attend) and the electors who are engaged in voting.

The returning officer or presiding deputy returning officer may authorize a person to temporarily observe the voting procedures from a location designated in the voting station. The designated location must not allow for the observation of how electors have marked their ballots.

Any person who has been permitted to be in the voting station must leave on the request of the presiding deputy returning officer.

## LAEA s.68.1

### Option for Official Agents

Each person nominated as a candidate may appoint an elector to be the candidate's official agent. The duties of the official agent are assigned by the candidate.

The candidate may appoint a new official agent by immediately notifying the returning officer in writing of the contact information for the new official agent.

Any person who has, within the previous 10 years, been convicted of an offence under the LAEA, the *Election Act* or the *Canada Elections Act* is not eligible to be appointed as an official agent. In addition, no candidate may act as an official agent for any other candidate.

## LAEA s.69

### Candidate's Scrutineers

Candidates may appoint scrutineers for the purposes of observing the voting process during the advance vote and Election Day. To be a scrutineer, the person must be at least 18 years of age and must present to the presiding deputy returning officer a written notice, in a form acceptable by the returning officer, signed by the candidate and stating that the person is representing the candidate as the candidate's scrutineer at the voting station.

Prior to the scrutineer observing the process, they must make and subscribe, in the presence of the returning officer or presiding deputy returning officer, a statement in

the prescribed form (Form 16 – Statement of Scrutineer or Official Agent available on [Alberta.ca](http://Alberta.ca)).

Only one of a candidate, official agent or scrutineer may be present at the voting station at a time.

Any person who has, within the previous 10 years, been convicted of an offence under the LAEA, the *Election Act* or the *Canada Elections Act* is not eligible to be a scrutineer.

# Module 7 Addendum: Senate Election and Referendum Vote: Election Day

The following information has been provided by Elections Alberta, regarding the anticipated Senate Election and Referendum Vote for the 2021 Municipal Elections. Additional information is also available online at: <https://www.elections.ab.ca/elections/senate-referendum/information-for-municipalities/>

# Election Day

## Application of Election Day Procedures to the Senate Election and Referendum Vote

ASEA s. 37  
RA, s. 7

The Election Day procedures noted in the *Local Authorities Election Act* (LAEA) also apply to the conduct of the senate election and referendum vote.

### Number of Votes

ASEA s.40  
RGR s.19(2)  
LAEA s.47, 48

An elector may only vote once in the senate election and referendum. For electors with more than one residence in Alberta, they must designate one as their place of residence for the purpose of voting and cannot vote in other jurisdictions in which they reside. For summer villages, only residents of the summer village are entitled to vote.

ASEA s.46  
RGR s.21

### Issuing Ballots to Electors (elector register, declined, spoiled)

When issuing ballots to electors, the deputy returning officer should use Form 13RSE - Elector Register, as this combined form allows for the issuance of all ballots, including both senate election and referendum ballots.

Both the senate election and referendum ballots are to be initialed by the deputy returning officer and folded so that the initials are visible without opening the ballot.

The deputy returning officer shall explain the proper method of voting as per the instructions for each ballot. These instructions will also be noted on the ballot and the "Voting Instructions and Secrecy of Voting" poster provided for each polling place.

### Marking and Disposal of Ballots

ASEA s.44

The senate election ballot shall be marked as follows:

- The elector shall mark the ballot by placing an "X" in the designated area on the right-hand side of the ballot page opposite the name(s) of the candidate(s) of the elector's choice. The Order in Council for the senate election will outline how many candidates are being selected for nomination.

**RGR s.19**

The referendum ballot shall be marked as follows:

- The elector shall mark the ballot by placing an “X” indicating the elector’s choice in the designated area on the right-hand side of the ballot page opposite each question.

These instructions may be amended for municipalities that are utilizing alternative voting equipment, to allow for marking of ballots in the way recommended by the vendor of that alternative voting equipment.

**LAEA s.65****Replacement of Spoiled Ballots**

An elector may receive replacement senate election and referendum ballots when they have made an error, or the ballot is damaged and cannot be used. The same process outlined for municipal ballots is to be followed. However, when counting spoiled ballots at the close of polls, spoiled senate election and referendum ballots will need to be counted separately, as each should be recorded on the applicable Ballot Account and Result of Vote.

**LAEA s.66****Elector Declining to Vote**

If an elector returns a ballot and states that the elector is declining to vote, the elector is no longer entitled to another senate election or referendum ballot. The deputy returning officer supervising the ballot box must deposit the declined ballot into the ballot box for that contest.

Where alternative voting equipment, such as a tabulator is used in the municipality, these should be read as “blank contests” for the purpose of the count. Where composite ballots are used, electors may leave specific contests or questions blank, while having their votes counted for the remainder.

**LAEA s.69****Ballot Boxes**

A separate ballot box is required for each of the senate election and referendum ballots. This ensures that the ballots are maintained separately to facilitate the counting process at the close of polls. Each ballot box should have a clear indication of the contest that it applies to (Senate Election – YELLOW ballots, Referendum – GREY ballots).

This requirement does not apply to municipalities using alternative voting equipment.



Ballot boxes should be sealed and maintained as per the instructions for municipal election ballot boxes.

## **Scrutineer – Senate Candidate**

Senate candidates may appoint scrutineers to observe the voting process during the advance vote and Election Day. The senate candidate must use the municipality's process for appointing a scrutineer and must abide by the requirements and process outlined in the *Local Authorities Election Act* (use form 16RSE – Statement of Scrutineer or Official Agent).