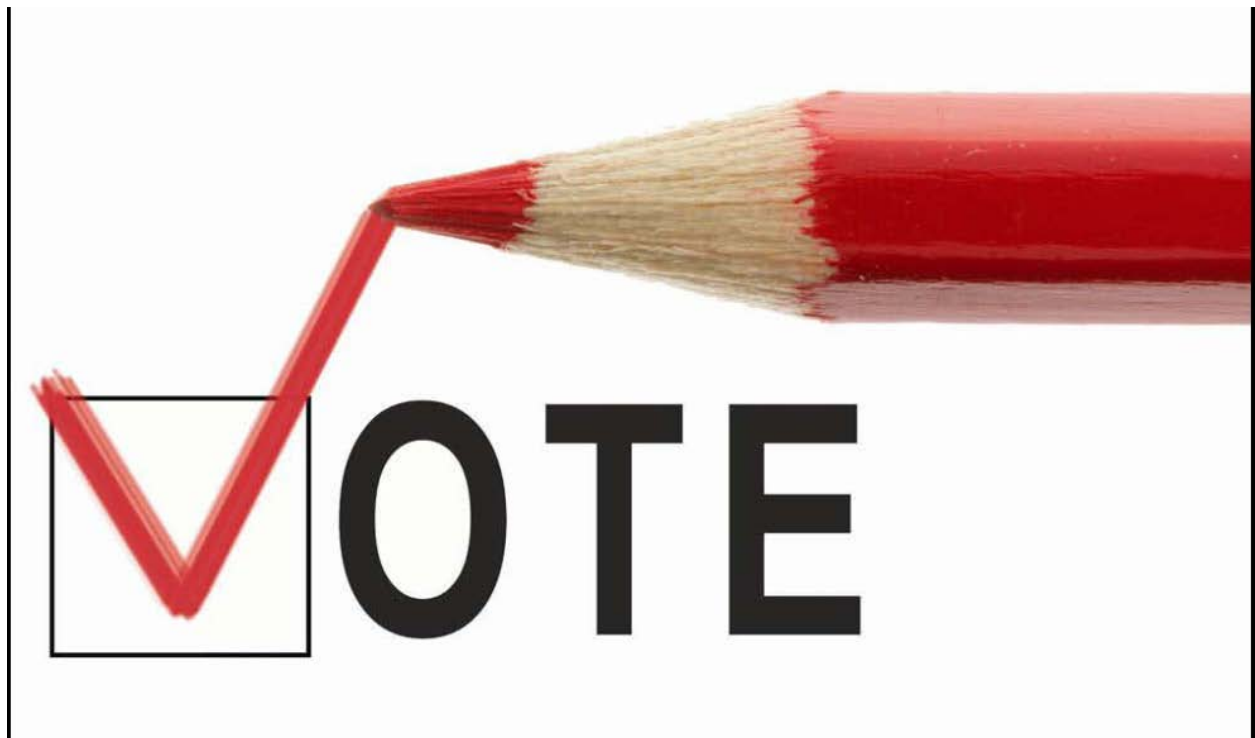


# An Election Guide for Saskatchewan Municipalities



January 2016

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## Introduction

This guide has been prepared to assist election officials to carry out the duties and responsibilities of holding municipal elections. It is based on the election provisions contained in:

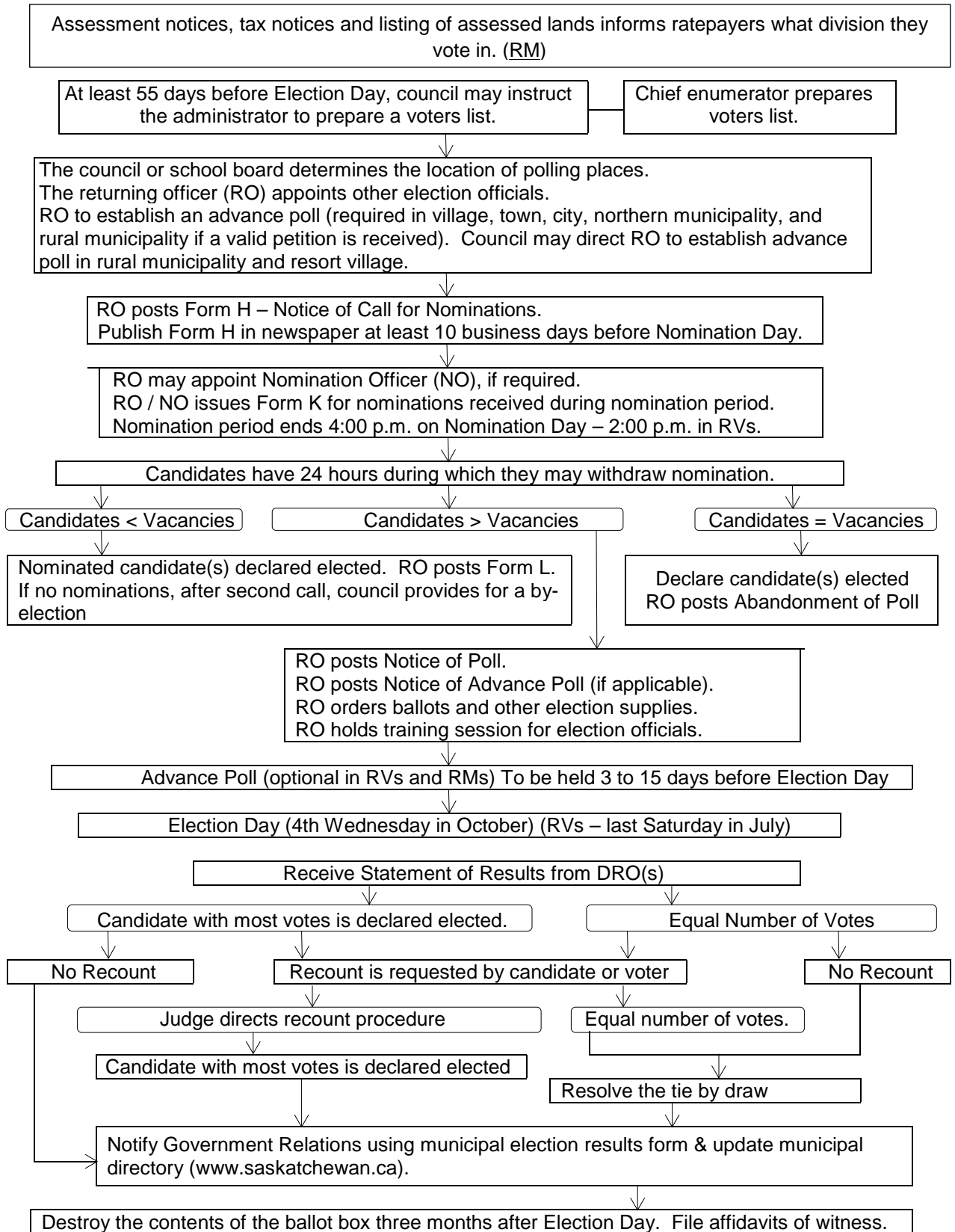
- *The Local Government Election Act, 2015* (LGEA);
- *The Local Government Election Regulations, 2015*;
- *The Cities Act* (CA);
- *The Municipalities Act* (MA); and
- *The Northern Municipalities Act, 2010* (NMA).

Please note that this guide has no legal authority. It is intended to be used for reference purposes only and not as a replacement to the actual legislation. *The Election Process Flowchart* on the following page provides a general overview of the local election process. It is intended to be used in conjunction with the material in this guide and the actual legislation.

Throughout this guide, relevant legislation and regulation section numbers are included to assist municipal election officials. It is important to ensure that the most recent copy of the legislation and regulations are used, which can be downloaded free of charge from the Queen's Printer website [www.qp.gov.sk.ca](http://www.qp.gov.sk.ca).

Information throughout this guide applies to all forms of municipalities. Status differences will be underlined.

## Election Process Flow Chart



## Definitions

The following terms are used within this guide:

1. **“Administrator”**: means the administrator for the municipality;
2. **“Business Day”**: means a day other than a Saturday, Sunday or holiday;
3. **“Day”**: includes a Saturday, Sunday or holiday;
4. **“RO”**: means the returning officer;
5. **“DRO”**: means the deputy returning officer;
6. **“Election Official”**: includes the returning officer, DRO, poll clerk, revising officer, associate DRO, nomination officer, enumerator, constable, and any other supervisory officer and assistant appointed as per section 47, 48, 49 and 54 of *The Local Government Election Act, 2015*;
7. **“Forms”**: means prescribed forms, which appear in Appendix C of *The Local Government Election Regulations, 2015*;
8. **“Judge”**: means a judge for the Court of Queen’s Bench for Saskatchewan;
9. **“LGEA”**: means *The Local Government Election Act, 2015*;
10. **“MA”**: means *The Municipalities Act*;
11. **“Municipality”**: means a city, town, village, resort village, rural municipality, municipal district, or northern municipality;
12. **“Newspaper”**: means a newspaper having wide circulation within the municipality; and
13. **“Regulations”**: means *The Local Government Election Regulations, 2015*.

## General Information

General elections are held for each office every four years. Rural municipalities hold an election for selected divisions every two years; however, each council member holds office for a four year term. The next general municipal elections in:

- rural municipalities will be held on October 26, 2016, for Reeves and Councillors representing odd numbered divisions and October 24, 2018, for Councillors representing even numbered divisions;
- resort villages will be held on Saturday July 30, 2016;
- cities, towns and villages will be held on October 26, 2016;
- northern municipalities will be held on October 26, 2016:
  - council may set the general election day 90 days before the general election as:
    - the second last Wednesday in September;
    - the last Wednesday of September; or
    - the first Wednesday in October.

Terms of office for members of council, including the mayor or the reeve, begin at the first meeting of council following the general election. Incumbent members of council

remain in office until the first meeting of council following the election:

- in municipalities other than cities the first meeting of the council following the general election is held within 31 days after the date of election at a time, date and place determined by the administrator<sup>1</sup>; and
- in cities, the first meeting of council following a general election is held on the day the City holds a regularly scheduled council meeting, provided that meeting occurs on or within 31 days after the date of general election<sup>2</sup>.

Urban municipalities may be divided into wards; rural municipalities are divided into divisions. A ward or division is a geographic subdivision of a municipality created to ensure each geographic area is represented on the municipal council:

- the voters within the ward or division will elect a specified number of councillors (usually one)<sup>3</sup>;
- if an urban municipality is not divided into wards, councillors are elected at large. That is, all voters within the municipality may choose from among all of the candidates for the office of councillor<sup>4</sup>; and
- all voters from a municipality choose from among the candidates for the office of mayor or reeve<sup>5</sup>.

### **Residency**

Residency is a qualification requirement that impacts both candidates and voters. For the purpose of a municipal election, a person's residence is the place they typically refer to as "home"<sup>6</sup>:

- a person does not lose residency if he or she is temporarily absent;
- as long as the person remains in Saskatchewan, a person does not lose residency until they acquire another residence; and
- a person who is not a full time student cannot have more than one residence in Saskatchewan. If they have more than one home in Saskatchewan, the person shall elect one of those as his or her residence.

To be consistent with *The Election Act, 2015*, active members of the Canadian Armed Forces are deemed to have ordinary residence at the place where they reside, or at the place they have moved from if that place is in Saskatchewan, for the duration of their service<sup>7</sup>. Full time students are deemed to have residence at the place where they study and the place they have moved from when the places are in Saskatchewan.

### **Candidates**

A person may be nominated as a candidate in a municipal election if he or she meets requirements relating to age, citizenship, residency or property. A candidate must be:

- at least 18 years of age on Election Day;
- a Canadian citizen;
- a Saskatchewan resident for the past six months;
- not disqualified from being nominated by the LGEA or any other Act; and

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<sup>1</sup> 121 – *The Municipalities Act*

<sup>2</sup> 95 – *The Cities Act*

<sup>3</sup> A ward is described in Division 2 of Part V of *The Cities Act*, Division 2 Part V of *The Municipalities Act*, or Division 2 Part 5 of *The Lloydminster Charter*

<sup>4</sup> 19 – *The Local Government Election Act, 2015*

<sup>5</sup> 20 – *The Local Government Election Act, 2015*

<sup>6</sup> 42 – *The Local Government Election Act, 2015*

<sup>7</sup> 4 – *The Local Government Election Act, 2015*



In a village, town, city, or northern municipality	In a resort village	In a rural municipality
<ul style="list-style-type: none"> <li>Is a resident of the municipality for the past three months.</li> </ul>	<ul style="list-style-type: none"> <li>Is a resident of the resort village, or the owner or lessee of assessable land in the resort village for the past three months; or</li> <li>Is the spouse of an eligible person.</li> </ul>	<ul style="list-style-type: none"> <li>Is eligible to vote in the rural municipality.</li> </ul>

### Eligibility

A member of council whose term of office expires with the upcoming general election (usually referred to as an incumbent) is not required to resign from his or her current position to seek election<sup>8</sup>.

In an urban municipality or northern municipality:

- a person cannot be nominated or elected as both a mayor and a councillor, or as a councillor in more than one ward in a municipality that is divided into wards<sup>9</sup>.

In a rural municipality:

- a person cannot be elected as a councillor in more than one division, or as a councillor of a division and as the reeve of a rural municipality<sup>10</sup>;
- a councillor for an even numbered division must resign to be a candidate for the office of reeve in a general election because the term of office continues beyond the upcoming election date; and
- resignations must be in writing and given to the administrator. Resignations cannot be withdrawn after delivery to the administrator<sup>11</sup>.

### Disqualifications

Persons who are not qualified to be nominated or elected as a member of council include:

- a judge of a court; and
- the auditor or solicitor of the municipality.

An employee must obtain a leave of absence in accordance with clause 2-54(1)(a) of *The Saskatchewan Employment Act* before seeking nomination to council, if he or she is employed by<sup>12</sup>:

- the municipality; and/or
- a board of commission (appointed by a council).

If the employee is elected to council, the person is deemed to have resigned from his or her employment on the day before the day he or she was declared elected. If the employee is not elected to council, he or she may resume employment immediately after the election.

A person is not eligible to be nominated if the person is disqualified pursuant to the Act<sup>13</sup> and is disqualified pursuant to Part VIII of *The Cities Act*, *The Municipalities Act* and *The Northern Municipalities Act, 2010*.

<sup>8</sup> 71 – *The Local Government Election Act, 2015*

<sup>9</sup> 70 – *The Local Government Election Act, 2015*

<sup>10</sup> 72 – *The Local Government Election Act, 2015*

<sup>11</sup> 96 – *The Municipalities Act*

<sup>12</sup> 43(3) – *The Local Government Election Act, 2015*

<sup>13</sup> 42(b) – *The Local Government Election Act, 2015*

## Exceptions to Disqualifications

People who have a contract with the municipality are not disqualified from holding office as a member of council.

Specific circumstances such as bankruptcies, past criminal histories, or indebtedness to the municipality may cause voters to question a candidate's eligibility; however, candidates are not disqualified because of these factors.

## Voters

A person is eligible to vote in a municipal election if he or she meets the requirements discussed below on Election Day<sup>14</sup>.

In a village, town, city or northern municipality, a voter must be:

- at least 18 years of age;
- a Canadian citizen;
- a Saskatchewan resident for the past six months; and
- a resident of the municipality or owner of assessed land in the municipality for the past three months.

In a resort village, a voter must:

- be at least 18 years of age;
- be a Canadian citizen; and
- meet one of the following criteria:
  - a. a resident of the municipality for the past three months;
  - b. owner of assessed land in the municipality for the past three months;
  - c. lessee of land within the municipality for the past three months; or
  - d. a spouse of an eligible elector.

In a rural municipality, a voter must:

- be at least 18 years of age;
- be a Canadian Citizen; and
- meet one of the following criteria:
  - a. a resident in the rural municipality for at least three consecutive months immediately preceding the day of the election;
  - b. the registered owner (or purchaser under a bona fide agreement for sale) of land in the rural municipality;
  - c. assessed with respect to land in the rural municipality under a lease, license, permit, or contract in agreement with the registered owner;
  - d. assessed with respect to an improvement in the rural municipality;
  - e. hold a permit in the rural municipality with respect to a trailer or mobile home;
  - f. a spouse of a person mentioned in clause (b), (c), (d), or (e); or
  - g. the chief executive officer of a duly incorporated co-operative, corporation or religious association that is assessed on the last revised assessment roll with respect to property in the rural municipality that is not exempt from taxation.

Voters may vote only once in a single municipality, but a person who is eligible to vote in more than one municipality may do so<sup>15</sup>.

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<sup>14</sup> 36 – *The Local Government Election Act, 2015*

<sup>15</sup> 37 – *The Local Government Election Act, 2015*

## Voting in Wards

If an urban municipality is divided into wards, a voter is eligible to vote in the ward where he or she resides<sup>16</sup>. If the voter does not reside in the municipality, they may vote:

- in the ward where they own land (does not apply to a resort village); or
- in the ward where they own or lease land (applies to a resort village only).

Non-residents who own land in more than one ward vote only in the ward where they have the highest assessment. The voter must obtain a certificate from the municipal assessor stating in which ward they are entitled to vote. The certificate is presented to the DRO when registering to vote<sup>17</sup>.

## Voting in Divisions

Each voter in a rural municipality is entitled to vote for the reeve and for one division councillor. The administrator must notify voters in which division they are entitled to vote by<sup>18</sup>:

- including the division number on the assessment notice;
- including the division number on the tax notice; and
- preparing and posting a list of all assessed land owners and the division in which they vote before each election and by-election.

The division where a person is eligible to vote is determined by the first applicable clause<sup>19</sup>:

1. the division where the voter resides;
2. the division where the voter owns assessed property; or
3. the division where the voter holds a permit as the occupant of a trailer or mobile home.

If a voter owns assessed property in more than one division, but does not live in the municipality, he or she is eligible to vote in the division where the voter has the highest total assessment. If the total assessment is equal, the person will vote in the lowest numbered division:

- a voter who owns assessed property in one or more divisions may choose to designate one of those divisions as the division in which he or she wishes to vote by providing written notice to the administrator on or before the first of September in any year; and
- the voter is bound by the notice so long as he or she has property in those same divisions.

Where a voter has property in one division and his or her spouse has property in another division, either of them may designate one of those divisions as the division in which they wish to vote by providing written notice to the administrator on or before the first of September in any year:

- both persons are bound by the notice so long as they have property in those same divisions; and
- the notice may be amended to select another division; however, the amendment does not take effect for at least four years;

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<sup>16</sup> 38 – *The Local Government Election Act, 2015*

<sup>17</sup> 38(3) – *The Local Government Election Act, 2015*

<sup>18</sup> 40 – *The Local Government Election Act, 2015*

<sup>19</sup> 39 – *The Local Government Election Act, 2015*

## Preliminary Election Procedures

### Council Duties

Council is legislatively required to determine certain matters regarding a forthcoming election. Council shall:

- set the remuneration to be paid to election officials<sup>20</sup>;
- pay all of or the municipality's share of the costs incurred in holding the election<sup>21</sup>;
- direct the returning officer to establish an advance poll if council receives a valid petition in a rural municipality<sup>22</sup>; and
- name one or more polling places within Saskatchewan for each division in a rural municipality<sup>23</sup>.

### Council Powers

Council has discretionary authority to act respecting certain aspects of the election. For some activities, legislative deadlines apply. Council may choose to:

Discretionary Authority of Council	Legislated Deadline
<ul style="list-style-type: none"> <li>• Pass a bylaw to change the size of council <u>in an urban municipality or a northern municipality</u><sup>24</sup>.</li> </ul>	180 days before a general election
<ul style="list-style-type: none"> <li>• Appoint a person other than the administrator as the returning officer<sup>25</sup>.</li> <li>• Pass a bylaw to require a candidate to include a criminal record check with the nomination form<sup>26</sup>.</li> </ul>	90 days before election day
<ul style="list-style-type: none"> <li>• Pass a bylaw to require disclosure of campaign contributions and expenses, and/or to establish election campaign limits<sup>27</sup>.</li> </ul>	60 days before an election
<ul style="list-style-type: none"> <li>• Pass a bylaw to specify that the names on the ballots be arranged in random order or rotational order<sup>28</sup>.</li> <li>• Provide for enumeration of voters and the preparation of a voters list<sup>29</sup>.</li> </ul>	55 days before a general election
<ul style="list-style-type: none"> <li>• Pass a bylaw to use vote counting machines<sup>30</sup>.</li> </ul>	No specific legislated deadline

<sup>20</sup> 52 – *The Local Government Election Act, 2015*

<sup>21</sup> 33 – *The Local Government Election Act, 2015*

<sup>22</sup> 83(2) – *The Local Government Election Act, 2015*

<sup>23</sup> 24 – *The Local Government Election Act, 2015*

<sup>24</sup> 89.1 – *The Municipalities Act*; 63.1 – *The Cities Act*; 104 – *The Northern Municipalities Act, 2010*

<sup>25</sup> 47 – *The Local Government Election Act, 2015*

<sup>26</sup> 89(1) – *The Municipalities Act*; 63(1) – *The Cities Act*

<sup>27</sup> 34 – *The Local Government Election Act, 2015*

<sup>28</sup> 91 (2) – *The Local Government Election Act, 2015*

<sup>29</sup> 54 – *The Local Government Election Act, 2015*

<sup>30</sup> 90 – *The Local Government Election Act, 2015*

<ul style="list-style-type: none"> <li>• Provide for a mail-in ballot voting System<sup>31</sup>.</li> <li>• Establish a polling place in a hospital, personal care facility, or other similar institution<sup>32</sup>.</li> <li>• Provide for homebound voting<sup>33</sup>.</li> <li>• Direct the returning officer to establish one or more advance polls <u>in a rural municipality or resort village</u><sup>34</sup>.</li> <li>• Provide for one or more polling places located outside of the resort village <u>in a resort village</u><sup>35</sup>.</li> <li>• Appoint another person to act in the capacity of the returning officer if the returning officer is unable to perform his or her duties<sup>36</sup>.</li> </ul>	
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### **Returning Officer**

Unless council appoints someone other than the administrator to be the returning officer, the administrator will be the returning officer for the municipal elections.

The returning officer is the person responsible for all matters relating to the election including:

- calling for nominations;
- receiving nominations;
- establishing one or more advance polls in a village, town, city or northern municipality;
- appointing all other election officials; and
- receiving and declaring election results.

Returning officers may be asked to determine if a person is an eligible candidate or elector. Election officials should be prepared to explain eligibility criteria; however, election officials should avoid determining a person's right to vote or seek office. Candidates and electors are personally responsible to determine their eligibility.

### **Election Officials**

The returning officer appoints all other election officials<sup>37</sup>. Legislation requires:

- one or more DROs for each polling place, including advance polls;
- poll clerks for each polling place, including advance polls; and
- enumerators, if a voters list is being prepared.

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<sup>31</sup> 92 – *The Local Government Election Act, 2015*

<sup>32</sup> 29 – *The Local Government Election Act, 2015*

<sup>33</sup> 30 – *The Local Government Election Act, 2015*

<sup>34</sup> 83(2) – *The Local Government Election Act, 2015*

<sup>35</sup> 28 – *The Local Government Election Act, 2015*

<sup>36</sup> 47(3) – *The Local Government Election Act, 2015*

<sup>37</sup> 48 – *The Local Government Election Act, 2015*

The returning officer may also choose to appoint:

- nomination officers to receive nominations and issue receipts on behalf of the returning officer;
- constables to maintain order at a polling place; and
- any other officials deemed necessary to conduct the election.

It is important that election officials carry out their duties in a professional, non-partisan manner. Election officials:

- cannot be a candidate in the municipal election;
- do not need to be electors in the municipality; and
- should be at least 18 years of age because they are signing documents such as the oath of office.

Due to public perception, returning officers should avoid appointing a person who is related to a candidate or who is a known close associate of a candidate as an election official.

Two officials must be appointed for each polling place – a DRO and a poll clerk. The DRO and the poll clerk cannot be the same person. The returning officer may act as the DRO for the advance poll, for the poll on Election Day, or for both polls for an election in municipalities with:

- a population of less than 200; or
- only one polling place.

Election officials are required to maintain secrecy throughout the election process:

- the official must keep the information of voters, including voter information, documentation and identification confidential and not disclose or make use of the information or document other than for the purposes of providing a ballot to the person<sup>38</sup>; and
- no election official or voter is allowed in the area where a voter marks their ballot<sup>39</sup>.

### **Deputy Returning Officer**

The DRO is responsible for the operation of the assigned polling place. To do this, the DRO:

- sets up the polling place;
- posts required notices and signs;
- ensures voters complete voter registration forms (unless a voters list is used);
- provides assistance to voters with disabilities;
- keeps track of ballots;
- provides direction to candidates and agents;
- counts the ballots after the poll is closed;
- makes the final decision to approve or reject a ballot;
- completes required forms;
- closes the poll; and
- turns over all election materials to the returning officer.

### **Poll Clerk**

The poll clerk reports to the DRO. The poll clerk:

- assists the DRO in setting up and opening the polling place;
- assists the DRO with the conduct of the vote;
- assists the DRO in allowing voters to cast their ballots in an orderly fashion;

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<sup>38</sup> 16 – *The Local Government Election Regulations, 2015*

<sup>39</sup> 122 – *The Local Government Election Act, 2015*

- assists the DRO with the counting of ballots; and
- assists the DRO to close the poll.

**Oaths**

Before starting any of the duties required for the election, the returning officer must complete Form E – Oath, Affirmation or Declaration of Election Official witnessed by<sup>40</sup>:

- a Notary Public;
- a Commissioner for Oaths; or
- a Justice of the Peace.

Other people appointed as election officials (DRO, poll clerk, constable, etc.) must also complete the oath witnessed by the returning officer or a person authorized to administer oaths.

**Required Notices**

Prescribed Forms	Non-Prescribed Forms
<ul style="list-style-type: none"> <li>• Form H – Notice of Call for Nominations</li> <li>• Form L – Notice of Call for Further Nominations</li> </ul>	<ul style="list-style-type: none"> <li>• Notice of Poll</li> <li>• Abandonment of Poll</li> <li>• Notice of Advance Poll</li> </ul>

All required notices must be<sup>41</sup>:

1. posted in the municipal office;
2. posted in the office of the returning officer (if different than the municipal office);
3. posted in one or more public location within the municipality in addition to 1, 2, or posted in one or more location in each ward if wards are established; and
4. published in at least one issue of a newspaper that circulates within the municipality.

The returning officer may also choose to advertise on the local radio, television station, and website, or by other electronic means<sup>42</sup>.

**Nomination Process**

**Call for Nominations**

Nomination Day is the 5<sup>th</sup> Wednesday before Election Day, or the 5<sup>th</sup> Saturday before Election Day for a resort village<sup>43</sup>. Northern municipality nominations are on the Wednesday that is five weeks before Election Day<sup>44</sup>. At least 10 business days before Nomination Day, the returning officer will call for nominations<sup>45</sup>. This is done by preparing Form H – Notice of Call for Nominations and posting it in the manner described in the *Required Notice* section of this guide. Administrators in a rural municipality should also post the list of the owners of assessable property and the division in which those persons are eligible to vote in the municipal office at this time<sup>46</sup>.

Nominations for candidates will be received at the specified location (usually the municipal office):

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<sup>40</sup> 50 – *The Local Government Election Act, 2015*  
<sup>41</sup> 9 – *The Local Government Election Act, 2015*  
<sup>42</sup> 9(3) – *The Local Government Election Act, 2015*  
<sup>43</sup> 73 – *The Local Government Election Act, 2015*  
<sup>44</sup> 73(b)(ii) – *The Local Government Election Act, 2015*  
<sup>45</sup> 66(1) – *The Local Government Election Act, 2015*  
<sup>46</sup> 40(c) – *The Local Government Election Act, 2015*

- during normal office hours after posting the call for nominations until Nomination Day begins; and
- between 9:00 a.m. and 4:00 p.m. on Nomination Day in a village, town, city, northern municipality or rural municipality; or
- between 11:00 a.m. and 2:00 p.m. on Nomination Day in a resort village.

Nominations are received for the entire period including lunch hour on Nomination Day.

### **Receiving Nominations**

Nomination forms may be obtained from the municipal office or from another source. Election officials must accept a completed prescribed Form I – Nomination (front) and Candidate’s Acceptance (back). A complete form will:

**1. have the correct number of nominators:**

- in an urban municipality(no wards) with a population of less than 20,000 – five voters required;
- in an urban municipality (no wards) with a population of more than 20,000 – 25 voters required;
- in an urban municipality divided in wards:
  - the voters who nominate a councillor must be from the ward that the candidate is seeking office; voters who nominate a mayor may be from any ward:
    - five voters required with a population less than 20,000; and
    - 25 voters required with a population more than 20,000; and
- in a rural municipality:
  - the voters who nominate a division councillor must be from the division that the candidate is seeking office; voters who nominate a reeve may be from any division:
    - two voters required.

**2. have completed the Candidate’s Acceptance including witness signatures:**

- the form must be signed by the candidate and witnessed by two people; and
- the returning officer or nomination officer may wish to avoid witnessing the candidates’ acceptance. This is not prohibited by legislation; but signing the nomination form may lead to questions about whether the witness signature was completed before or after the nomination form was received.

**3. include a criminal record check – if required by bylaw.**

**4. provide a deposit of \$100.00 – if the municipality has a population of more than 20,000<sup>47</sup>:**

- the deposit will be refunded following Election Day.

The returning officer or a nomination officer has no authority to reject a fully completed nomination form regardless of belief or knowledge that the candidate:

- is not qualified; and/or
- has been nominated by ineligible voters.

It is not the responsibility of the returning officer or a nomination officer to determine a candidate’s qualifications to seek office. The responsibility falls to the candidate who must attest to his/her eligibility in his/her acceptance and signing of the nomination paper<sup>48</sup>.

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<sup>47</sup> 68 – *The Local Government Election Act, 2015*

<sup>48</sup> 69(5) – *The Local Government Election Act, 2015*



## Filing the Nomination Form

A nomination form may be submitted to an authorized election official by:

- personal service by the candidate or a person acting on the candidate's behalf;
- registered or ordinary mail;
- fax;
- email; or
- as otherwise specified by the returning officer.

The election official accepts Form I – Nomination (front) and Candidate's Acceptance (back) where all aspects of the form are complete and issues a Form K – Receipt of Nomination and Candidate's Acceptance.

After receiving a nomination, the election official will:

- make a copy of the receipt issued and attach the copy to the nomination form;
- make a copy of the nomination form for public inspection;
- post a copy of each nomination form and criminal record check (if required by bylaw) in the municipal office;
- store the original nomination form in a secure location; and
- retain the nomination form for the duration of the term of office.

## Withdrawing A Nomination

A candidate may withdraw his or her nomination by providing the returning officer or nomination officer with a written declaration during normal office hours until 24 hours after the close of Nomination Day. The withdrawal period will close at 2:00 p.m. on the Monday following Nomination day in a resort village.

The statement of withdrawal (no prescribed form) must be signed by the candidate and witnessed by<sup>49</sup>:

- two witnesses; or
- the returning officer or nomination officer.

## Nomination Outcomes

Following the period for withdrawal of nominations, the returning officer must assess the outcome for each office. There may be:

- less candidates than vacancies;
- equal candidates to vacancies; or
- more candidates than vacancies.

## Call for Further Nominations<sup>50</sup>

The returning officer will need to call for further nominations in the following situations:

1. there are no candidates nominated for a single person office (mayor/ reeve; ward/division councillor):
  - the returning officer will post Form L – Notice of Call for Further Nominations using the methods described in the *Required Notices* of this guide; and
2. the number of candidates nominated is less than the number to be elected to an office (councillors elected at large):
  - the returning officer will declare any nominated candidates to be acclaimed; and
  - the returning officer will post Form L – Notice of Call for Further Nominations using the methods described in the *Required Notices* section of this guide.

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<sup>49</sup> 76 – *The Local Government Election Act, 2015*

<sup>50</sup> 78 – *The Local Government Election Act, 2015*

Nominations are received by the returning officer or nomination officer during normal office hours after the withdrawal period until:

- 4:00 p.m. on the second Wednesday following the close of the withdrawal period; or
- 2:00 p.m. on the second Saturday following the close of the withdrawal period in a resort village.

Candidates nominated as a result of the call for further nominations do not have a legislated ability to withdraw a nomination after it has been filed.

If the nominations received after the call for further nominations does not successfully fill the office, the council will set a Nomination Day and provide for a by-election at the next regular meeting:

- in a village, town, city or rural municipality, Nomination Day and Election Day will be a Wednesday; and
- in a resort village, Nomination Day and Election Day will be a Saturday.

### **Candidates Acclaimed<sup>51</sup>**

The returning officer will acclaim candidates when the number of candidates is equal to the number of vacancies to be filled.

The returning officer will:

- declare the candidate to be elected; and
- post a Notice of Abandonment of Poll (no prescribed form) using the methods described in the *Required Notices* section of this guide.

The term of office for acclaimed candidates in a general election begins at the first meeting of council following Election Day.

### **Vote Required<sup>52</sup>**

Where there are more candidates than vacancies for an office, the returning officer will:

- declare a vote will be held;
- name when, where, and for what offices the vote will be held;
- name when and where the results of the vote will be declared; and
- post a Notice of Poll (no prescribed form) using the methods described in the *Required Notices* section of this guide:
  - The returning officer may also post a Notice of Advance Poll (no prescribed form) using the methods described in the *Required Notices* section of this guide if applicable.

### **Death of a Candidate**

If a candidate dies before the close of the withdrawal period for nominations, the election proceeds as if the deceased candidate was not nominated<sup>53</sup>.

If a candidate dies before the close of voting on Election Day, the candidate is deemed to have withdrawn and:

- if there are more remaining candidates than vacancies for office, a vote is required and the election proceeds; or

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<sup>51</sup> 77 – *The Local Government Election Act, 2015*

<sup>52</sup> 81 – *The Local Government Election Act, 2015*

<sup>53</sup> 79 – *The Local Government Election Act, 2015*

- if the number of remaining candidates is equal to the number of vacancies for the office in question the returning officer immediately declares the remaining candidates as elected.

## **Preparing for Election Day**

After the Notice of Poll has been posted, the returning officer will begin to prepare for the election. As noted earlier, the returning officer must appoint a DRO and a poll clerk for each polling place.

The returning officer must ensure that their election officials are trained. A structured training session provides an opportunity to:

- discuss routine procedures;
- ensure officials are familiar with their duties and responsibilities;
- anticipate problems that may arise and plan appropriate responses; and
- execute Form E – Oath, Affirmation or Declaration of Election Official.

## Election Supplies

The returning officer must supply each polling place with:

- Ballot Box(es) and Seals:
  - o boxes should be constructed from a durable material; and
  - o two or more seals are required for each ballot box:
    - Additional seals are advisable in case the DRO seals the box prior to inserting all the required documentation; and
  - o one ballot box may hold ballots for candidates seeking different offices.
- Form N – Ballot:
  - o make sure the printer is aware of specifications as set out in the Regulations<sup>54</sup>;
  - o ballots for mayor/reeve and for councillor/division councillor;
  - o names of the candidates are arranged in alphabetical order (Surname, Given Name) unless otherwise specified by council bylaw;
  - o occupations of candidates are the same as specified on the candidate's acceptance; and
  - o verify the accuracy of the names, the use of same font size and the number of ballots received.
- Pencils and Other Office Supplies;
- Large Envelopes; and
- Voting Screen.

At least two copies of:

- Form O – Directions for Voting;
- Form P – Sections 3, 4, 7 and 8 of *The Controverted Municipal Elections Act*;
- Forms registering voters:

Voters List Prepared	No Voters List
Form F – Voters List; and	Form Q – Poll Book
Form M – Advance Poll List	Form R – Voter's Registration Form and Poll Book
	Copy of section 181 of the LGEA

Forms to declare or appoint:

- Form T – Appointment of Candidate's Agent;
  - Form U – Declaration of Candidate or Agent;
  - Form V – Declaration of Voter Unable to Vote in the Manner Described by the Act;
  - Form W – Template for Use of Visually Impaired Voters;
  - Form X – Declaration of Friend;
  - Form Y – Declaration, Oath or Affirmation of Interpreter;
  - Form Z – Deputy Returning Officer's Statement of Results; and
  - Form BB – Declaration of Poll.
- Helpful resource materials for election officials:
- o *The Local Government Election Act, 2015*;
  - o *The Local Government Election Regulations, 2015*; and
  - o *An Election Guide for Municipalities* (this guide).

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<sup>54</sup> 41 – *The Local Government Election Regulations 2015*

## Prior to Opening of Polls

The returning officer provides each DRO with the supplies required to conduct the election. The returning officer may also serve as the DRO in a municipality with a population of less than 200, or when there is one polling place.

The DRO should review the supplies received to make sure that everything they need has been provided. It is important to count the number of ballots. The quantity of ballots may differ slightly from the number of ballots ordered; if this occurs and is not recognized, the election officials will not be able to reconcile the ballot count after voting is finished.

The DRO will perform the following duties:

- arrive at the polling place at least 15 minutes before the opening of the polls in a rural municipality<sup>55</sup>;
- arrive at the polling place at least 30 minutes before the opening of polls in an urban municipality<sup>56</sup>;
- place voting compartments to ensure voters will be able to mark their ballots without being seen<sup>57</sup>;
- post copies of Form O – Directions for Voting and Form P – Sections 3,4,7 and 8 of *The Controverted Municipal Elections Act* outside the entrance of the polling place and in each of the voting compartments<sup>58</sup>;
- post a copy of Section 181 of the LGEA at the entrance of the polling place if a voters list is not being used<sup>59</sup>;
- provide copies of the voters list (if a voters list is being used)<sup>60</sup>;
- provide a black lead pencil in each voting compartment;
- inspect the polling place to ensure there are no unauthorized election materials such as a campaign notice posted:
  - remove any such notices found within the polling place;
- examine nearby properties to ensure there are no campaign signs within 100 meters of the polling place:
  - if a sign is present, notify the candidate and request that they remove the sign prior to the poll opening; and
  - there is no authority in the LGEA for election officials to enforce legislation; and
- provide a space for candidates and agents to observe the election proceedings.
  - this should provide a clear view of the ballot box and voting procedures;
  - make sure candidates and agents are not placed in close proximity to the electors; and
  - avoid placing candidates and agents at the same table as the election officials.

The polling place should be set up to ensure easy entry and exit of voters during peak times. The placement of the table for election officials should provide the officials with a good view of all areas in the polling place.

## Rights of Candidates

Each candidate:

- may appoint one or more agents in writing using prescribed Form T – Appointment of Candidate's Agent:
  - the appointment form must be presented to the DRO at the polling place.

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<sup>55</sup> 101(1)(a) – *The Local Government Election Act, 2015*

<sup>56</sup> 101(1)(b) – *The Local Government Election Act, 2015*

<sup>57</sup> 94 – *The Local Government Election Act, 2015*

<sup>58</sup> 101(2)(b) – *The Local Government Election Act, 2015*

<sup>59</sup> 101(2)(e) – *The Local Government Election Act, 2015*

<sup>60</sup> 101(2)(d) – *The Local Government Election Act, 2015*

Candidates and agents must make a declaration in prescribed Form U – Declaration of Candidate or Agent, before exercising their duties or functions at the polling place.

Candidates have the right to:

- obtain a copy of the voters list, if one was prepared; and
- be in the polling place to observe proceedings while voters are voting.

In addition, each candidate may have two agents in attendance at each polling place to observe voting procedures. Candidates and agents may:

- object to the entitlement of any voter intending to vote<sup>61</sup>;
- examine a voter's evidence of identity; and
- request verification of vouching procedure.

Candidates and agents may enter and leave the polling place at their pleasure during the hours the poll is open. There is no express authority for candidates or agents to enter the polling place after the polls close. Candidates or one of their agents should arrange to attend the polling place prior to the close of voting in order to observe the ballot count.

Candidates or agents do not have any authority to:

- directly question a voter;
- attempt to influence a voter; or
- canvass or solicit votes or persuade a person not to vote when in or within 100 metres of a polling place<sup>62</sup>.

Candidates and agents are obliged to maintain the secrecy of the voting at the polling place. Failure to do so is an offence under the LGEA<sup>63</sup>.

### **Advance Poll**

An advance poll provides voters the opportunity to vote at a time prior to the actual Election Day. An advance poll must be open at least three days but not more than 15 days before Election Day<sup>64</sup>. As noted earlier:

- advance polls are required in legislation for villages, towns, cities, and northern municipalities;
- advance polls are optional for resort villages and rural municipalities; and
- advance polls are required when requested by a petition of at least five voters received at least 30 days before Election Day in a rural municipality.

The ballot box used in an advance poll may be used at any other advance poll or at the poll on Election Day if voter secrecy may be compromised due to low voter participation<sup>65</sup>.

Note: A voter no longer needs to be “eligible” to vote in advance or declare he or she will be absent on Election Day. It can simply be for convenience.

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<sup>61</sup> 112(1) – *The Local Government Election Act, 2015*

<sup>62</sup> 176 – *The Local Government Election Act, 2015*

<sup>63</sup> 171-173 – *The Local Government Election Act, 2015*

<sup>64</sup> 83(6) – *The Local Government Election Act, 2015*

<sup>65</sup> 32 – *The Local Government Election Act, 2015*

## **Voting at an Advance Poll**

The process for voting in an advance poll is the same as for the regular poll discussed later in this guide<sup>66</sup>.

### **At the Close of Advance Poll**

The DRO will:

- seal the ballot box so no other ballots can be placed in the box until either:
  - the opening of poll on Election Day; or
  - the counting of ballots in the ballot box.
- seal all election records, supplies and materials in a locked container and provide for safe keeping until Election Day; and
- bring the sealed ballot box and sealed election materials on Election Day to the appropriate officials as follows:
  - if the same ballot box is being used for the advance poll and the poll on Election Day to maintain voter secrecy, the DRO for the advance poll will provide the ballot box to the DRO in charge of the poll on Election Day; or
  - if a different ballot box is being used at the poll on Election Day, the DRO in charge of the advance poll will bring the ballot box from the advance poll to a place designated by the RO at the close of polls on Election Day in order to count the ballots.

## **Election Day**

### **When the Regular Poll is Open**

Polls are open between 9:00 a.m. and 8:00 p.m. on Election Day<sup>67</sup>. The returning officer may open polls earlier than 9:00 a.m.

After the poll opens, the DRO will show any people who are present that the ballot box is empty prior to closing and sealing the box. If the ballot box has previously been used at an advance poll, the DRO will remove the seal from the slot of the ballot box in the presence of the election officials and any candidates and agents present.

The ballot box should be visible to:

- the DRO and poll clerk;
- candidates and agents; and
- voters.

Access to the polling place is restricted to<sup>68</sup>:

- election officials;
- candidates;
- not more than two agents for each candidate;
- people who are voting or waiting to vote; and
- an escort or assistant to a voter with a disability or limited ability, or an interpreter or sign language interpreter.

The DRO should check the voting compartments periodically to make sure that:

- the pencil has not been removed;
- the notices posted by the DRO have not been removed or defaced; and
- materials have not been left by a previous voter.

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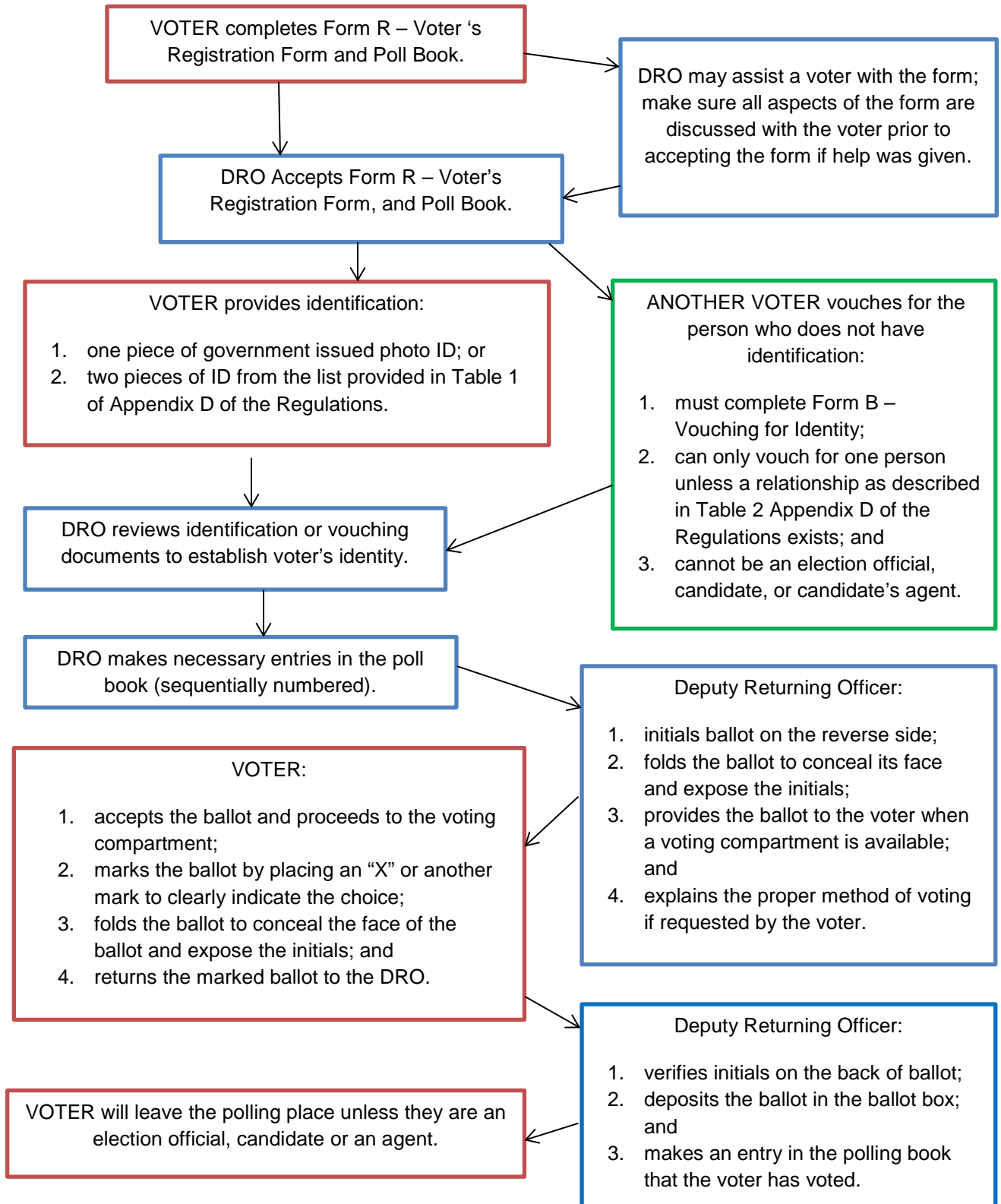
<sup>66</sup> 84 – *The Local Government Election Act, 2015*

<sup>67</sup> 100 – *The Local Government Election Act, 2015*

<sup>68</sup> 103 – *The Local Government Election Act, 2015*

## Voting Procedures

If the municipality is using a voters list, please refer to the information *Voters list* in the appendix of this guide. When a voters list is not used:





## Objections to a Voter

Candidates or agents may object to the eligibility of a voter who has not yet voted<sup>69</sup>. Objections are directed to the DRO, not to the voter. A candidate or agent is not required to provide a reason for the objection. An objection does not automatically disqualify the voter.

After an objection is made, the DRO will:

- enter the objection in the poll book, including the name of the person raising the objection and initial the note; and
- ask the voter to complete a voter's registration form if they have not already done so:
  - if the voter's registration form has already been completed, the DRO may want to review the form with the voter and request verbal confirmation for each item; and
  - if the voter declines to complete a voter's registration form, or if the voter changes the information on the form in a way that disqualifies the person from voting, the person cannot receive a ballot and would be asked to leave the polling place after the DRO provides information about eligibility criteria to help direct the person to the correct municipal election<sup>70</sup>.

In addition to objecting to a voter, a candidate or an agent may request to:

- see the identification provided by the voter to the election officials:
  - the DRO shall ask the voter to show the offered identification to the candidate or agent; and
- verify that the vouching procedures were followed:
  - the DRO would review and verify with the candidate or agent the procedures regarding establishing a voter's identity.

## Special Situations

### Forfeiture of Voter or Declined Ballot

A person forfeits their right to vote if the voter<sup>71</sup>:

- leaves or attempts to leave without returning the ballot to the DRO;
- intentionally marks the ballot in a way that a clear choice is not indicated; or
- returns the ballot to the DRO stating he or she declines to vote.

The DRO will:

- record the forfeiture or declined ballot in the poll book along with the reason;
- write "declined" or "forfeited" on the ballot and place it in one of the envelopes provided by the returning officer; and
- mark the envelope to identify it contains "Forfeited and Declined Ballots".

### Spoiled ballot

If a person accidentally spoils a ballot, the DRO provides a replacement ballot<sup>72</sup>. Examples of spoiled ballots may include things such as accidentally tearing the ballot or realizing he or she may have voted for too many candidates.

The DRO will<sup>73</sup>:

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<sup>69</sup> 112 – *The Local Government Election Act, 2015*

<sup>70</sup> 120 – *The Local Government Election Act, 2015*

<sup>71</sup> 117 – *The Local Government Election Act, 2015*

<sup>72</sup> 118(1) – *The Local Government Election Act, 2015*

<sup>73</sup> 118(2) – *The Local Government Election Act, 2015*

- write “spoiled” on the spoiled ballot;
- take measures to ensure no person can see if or how the ballot was marked;
- place the spoiled ballot in one of the envelopes provided by the returning officer; and
- mark the envelope to identify it contains “Spoiled Ballots”.

### **Voters with a disability or limited mobility**

Voters may request assistance if they are unable to read or are otherwise unable to vote in the manner described in the LGEA<sup>74</sup>. The voter must complete Form V – Declaration of Voter Unable to Vote in the Manner Described by the Act. After the voter has completed Form V either:

- the DRO will assist the voter to mark the ballot in accordance with the voter’s wishes in the presence of the poll clerk and candidate’s agents; or
- if the voter is accompanied by a friend, the DRO shall permit that person to accompany the voter to the voting compartment<sup>75</sup>:
  - the friend must complete Form X – Declaration of Friend; and
  - a person may act as a friend to no more than two voters.

The DRO shall note particulars in the poll book including<sup>76</sup>:

- the reason why the ballot was marked for the voter;
- who marked the ballot for the voter (e.g. the DRO or name of friend); and
- the word “declared” after the name of the voter and the friend if applicable.

If the voter is visually impaired, the returning officer will provide Form W – Template for Use of Visually Impaired Voters<sup>77</sup>.

### **Interpreters**

If the voter requires an interpreter to translate a declaration or discussion, the interpreter must complete Form Y – Declaration, Oath or Affirmation of Interpreter<sup>78</sup>. A candidate or agent may not act as an interpreter. The DRO will mark in the poll book that the voter used an interpreter.

### **Inaccessible polling place**

Whenever possible, the polling place should be accessible for people with a physical disability or limited mobility. “Curbside voting” applies to situations where the voter is immediately outside the polling place; however, he or she cannot access the polling place because of a physical disability or limited mobility<sup>79</sup>.

The DRO receives a request to take the voter’s vote at some other location (e.g. from their vehicle which is outside the polling place). The request may be verbal or written.

The DRO has the following authority in this situation:

- temporarily suspending proceedings in the polling place<sup>80</sup>:
  - voters in the polling place who have received ballots are permitted to vote before suspending proceedings; and
  - other voters who may attend during this time are informed that voting is temporarily suspended;

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<sup>74</sup> 123(1) – *The Local Government Election Act, 2015*

<sup>75</sup> 123(2) – *The Local Government Election Act, 2015*

<sup>76</sup> 123(4) – *The Local Government Election Act, 2015*

<sup>77</sup> 123(1)(c) – *The Local Government Election Act, 2015*

<sup>78</sup> 125(2) – *The Local Government Election Act, 2015*

<sup>79</sup> 124 – *The Local Government Election Act, 2015*

<sup>80</sup> 124(5) – *The Local Government Election Act, 2015*

- lock the polling place to secure the materials in the polling place during this time;
- invite candidates and agents in attendance to witness the proceedings; and
- proceeds to the alternate polling place (the voter's car or other location) with a voter's registration form, the poll book, the ballots to which the voter may be entitled, a pencil for use by the voter, and the ballot box.

Procedures for voting are the same as they would be within the polling place. For example, the voter completes the voter's registration form and presents identification to election officials, the ballot exchange procedures are the same, and the ballot is deposited in the ballot box.

## Process after the Close of Poll

### Preliminary

Any voters in the polling place at the time of closing are entitled to vote<sup>81</sup>. No other voters should be permitted to enter the polling place after the polls close.

When the poll closes on Election Day, the DRO will prepare a non-prescribed certificate after the last name entered into the poll book indicating the number of persons who voted at the poll on Election Day<sup>82</sup>.

- the certificate may be in the following form:

*I certify that the number of voters who voted at the election in this polling place is [Number, in words] and that [Name of last voter] was the last person who voted at this polling place.*

*[Signature of Deputy Returning Officer]*

- if the poll is using the Form R – Voter's Registration Form and Poll Book, prepare the certificate on a blank sheet of paper and attach it to the completed forms to form the poll book; and
- there may be multiple poll books if the ballot box contains ballots from another poll like an advance poll, an institutional poll, a mobile poll or mail-in ballots. A separate certificate should be prepared for each poll book.

Prior to counting the ballots, the DRO should have a discussion with candidates or agents in attendance to discuss:

- the ballot counting procedure;
- the right to object to a decision; and
- the procedure following registration of an objection.

Only the candidate or one of the candidate's agents may be in attendance to observe the ballot count<sup>83</sup>. This is different than the number of persons allowed to observe while voting takes place.

Verify the number of ballots at the polling station:

1. count the number of unused ballots along with those that were spoiled or declined;
2. add this number to the number of voters who cast ballots on Election Day; and
3. the total should equal the number of ballots provided to the DRO when the poll opened.

<sup>81</sup> 127 – *The Local Government Election Act, 2015*

<sup>82</sup> 128(1)(a) – *The Local Government Election Act, 2015*

<sup>83</sup> 134 – *The Local Government Election Act, 2015*

## Counting the ballots

After reconciling the number of ballots, the DRO will perform the following:

- open the ballot box;
- verify there are no ballots stuck within any interior flaps;
  - if separate ballot boxes are being used for each office or matter, the other boxes may remain sealed until the DRO is ready to count those ballots;
- verify that the number of ballots equal the number of voters in the poll book:
  - if the number of ballots is not equal to the number of voters, open the other ballot boxes to determine if a ballot was placed in the incorrect ballot box; and
- separate the ballots according to colour if ballots for more than one office or matter are in one ballot box.

During the counting process, the DRO should:

- be the only person to actually handle the ballots;
- examine each ballot carefully to determine if the ballot should be accepted or rejected; and
- make a decision respecting a questionable ballot immediately rather than deferring the decision until all the other ballots have been counted:
  - In the event a problematic ballot is crucial to determining the outcome of the election, the objectivity of the DRO may be called into question.

After determining if the ballot will be counted or rejected, the DRO will:

- announce the decision which the poll clerk records on the tally sheet:
  - the poll clerk records the decisions on the tally sheet; and
- show the ballot to other election officials and observers:
  - During this viewing opportunity a candidate or agent may object to the decision of the DRO.

## Rejected ballots

A rejected ballot<sup>84</sup>:

- has more marks than the voter was entitled to make;
- has been written or marked in a way that could identify the voter;
- has been torn, defaced or otherwise treated; or
- has not been marked.

A ballot may also be rejected if the DRO has not initialed the reverse side. However, if the initials of the DRO are missing, the ballot can be initialed and included in the counting process if the DRO is satisfied that<sup>85</sup>:

- the ballot is one that was provided to a voter;
- the initials were omitted in error; and
- the ballot is required to account for all ballots supplied by the returning officer.

The DRO shall not reject a ballot if the mark is something other than an “X” or if the mark is out of or partly out of the proper space on the ballot so long as the alternate mark clearly indicates the intent to vote for a candidate<sup>86</sup>. A ballot is not rejected if it is under-voted. (e.g. a voter voted for a mayor, but not for a councillor.)

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<sup>84</sup> 129 – *The Local Government Election Act, 2015*

<sup>85</sup> 131 – *The Local Government Election Act, 2015*

<sup>86</sup> 130 – *The Local Government Election Act, 2015*

## Objections

A candidate or an agent may object to the decision made by the DRO:

Deputy returning officer's decision:	Candidate's/Agent's view:
To count (or accept) a ballot.	The DRO should reject the ballot.
To reject a ballot.	The DRO should count the ballot.

When an objection is raised, the DRO will perform the following<sup>87</sup>:

- number the objection starting with "1" on the back of the ballot and initial the entry;
- record the objection in the poll book along with the number placed on the ballot:
  - if Form R – Voter's Registration Form and Poll Book was used during the election, note the number of the objection on a blank sheet of paper. The DRO will initial the number on this paper, which will then be attached to and form part of the poll book; and
- on the reverse side of the ballot, record the objection either as "Rejection objected to" or "Counting objected to".

The candidate or agent will explain why they object to the decision made by the DRO. The DRO will consider the information provided, and will decide whether to accept or reject the ballot:

- the decision of the DRO is final;
- the decision is noted in the poll book and initialed by the DRO<sup>88</sup>; and
- candidates and other voters may have a right to request a recount, which is conducted by the Court of Queen's Bench. See the *Recounts* section of this guide.

Ballots which are the subject of an objection are set aside. After all ballots are counted, those subject to an objection will be placed in a separate envelope<sup>89</sup>.

## Post Count Activities

After all of the ballots are counted, the results are recorded in duplicate on prescribed Form Z – Deputy Returning Officer's Statement of Results<sup>90</sup>:

- copies of the statement are provided to the candidate or an agent, if requested;
- a separate Form Z – Deputy Returning Officer's Statement of Results is completed for each office; and
- the DRO makes a declaration of poll using Form BB – Declaration of Poll and attaches the declaration to the cover of the poll book.

The DRO prepares the following separate packets or envelopes for each office or matter that was the subject of a vote<sup>91</sup>:

- the original DRO's statement of results;
- all of the counted ballots to which there was no objection;
- all of the counted ballots which were the subject of an objection;
- all of the rejected ballots;
- all of the spoiled and declined ballots; and
- all of the unused ballots.

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<sup>87</sup> 132 – *The Local Government Election Act, 2015*

<sup>88</sup> 132(3)(b) – *The Local Government Election Act, 2015*

<sup>89</sup> 136 (1)(c) – *The Local Government Election Act, 2015*

<sup>90</sup> 13391(b) – *The Local Government Election Act, 2015*

<sup>91</sup> 136 – *The Local Government Election Act, 2015*

Each packet or envelope is sealed and clearly marked with:

- the contents;
- the date of the vote;
- the name of the DRO; and
- if applicable, the number of the polling area.

The DRO performs the following actions:

- places all ballot packets, poll books and voters' registration forms in the ballot box<sup>92</sup>;
- places any other forms received, such as appointment of agents and their declarations, in the ballot box;
- seals the ballot box:
  - if a metal seal is being used to seal the ballot box, the DRO may wish to enter the number of that seal on the last page of a poll book;
  - candidates and agents may affix their own seals to the ballot box; and
  - if a paper seal is being used, candidates or agents may apply their signature along with the DRO to the seal; and
- delivers a duplicate copy of Form Z – Deputy Returning Officer's Statement of Results for each office and the ballot box to the returning officer<sup>93</sup>.

### **Tie Vote**

In the event there is a tie vote for two or more candidates, the returning officer shall perform the following<sup>94</sup>:

- write the names of the candidates separately on blank sheets of paper of equal size, colour and texture;
- fold the sheets in a uniform manner making sure the names are concealed;
- deposit them in a receptacle;
- direct a person to withdraw one of the sheets:
  - the Act requires the attendance of at least one other person to draw the name; and
  - it may be prudent to use an election official who has signed an oath during this process.
- the candidate whose name is withdrawn is declared elected.

### **Declaration Results**

The returning officer will add up the number of votes for each candidate based on the statements of results provided by the DROs<sup>95</sup>. At the time and place stated on the Notice of Poll, the returning officer will declare the candidate having the highest number of votes for each office as elected<sup>96</sup>. Prescribed Form CC – Declaration of Results is prepared for each office and posted in the municipal office.

A copy of the declaration of results for each office is also provided to the council:

- a motion at the first meeting of council following the election could acknowledge the declaration of results provided by the returning officer.

### **Notification to the Ministry of Government Relations<sup>97</sup>**

As soon as possible after the ballots have been counted, or after members have been

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<sup>92</sup> 137 – *The Local Government Election Act, 2015*

<sup>93</sup> 137(c) – *The Local Government Election Act, 2015*

<sup>94</sup> 141 – *The Local Government Election Act, 2015*

<sup>95</sup> 138 – *The Local Government Election Act, 2015*

<sup>96</sup> 139 – *The Local Government Election Act, 2015*

<sup>97</sup> 140 – *The Local Government Election Act, 2015*

declared elected by acclamation, the municipal administrator will:

- provide notice of the name and address of elected or acclaimed members to the Minister of the Ministry of Government Relations; and
- update the Municipal Directory System.

Both may be done electronically on the provincial website ([www.saskatchewan.ca](http://www.saskatchewan.ca)).

### **Retention of Materials**

The returning officer brings the ballot box and the duplicate statement of results to the municipal administrator, who is then responsible for their safekeeping<sup>98</sup>. The contents of the ballot boxes and nomination forms are destroyed after the required retention period in the presence of two witnesses with an affidavit completed to this effect unless a judge has ordered otherwise.

- the contents of the ballot boxes must be kept for three months after Election Day<sup>99</sup>; and
- the nomination forms for all of the candidates must be kept for the duration of the term of office (four years from the first meeting of council)<sup>100</sup>.

All election documents, other than those contained within the sealed ballot box, are public documents kept in accordance with the municipality's Records Retention and Disposal Schedule.

## **Contesting the Election**

### **Offences**

The Act details certain actions as an offence against the legislation. Offences include:

- mismanaging ballots<sup>101</sup>;
- compromising voter secrecy<sup>102</sup>;
- interfering with voters<sup>103</sup>;
- displaying prejudice as an election official<sup>104</sup>;
- canvassing near polling places on Election Day<sup>105</sup>;
- interfering with election officials<sup>106</sup>;
- asking voters to demonstrate how they voted<sup>107</sup>;
- signing a candidate's acceptance form containing a false statement<sup>108</sup>;
- providing a ballot to a person who does not complete a voter's declaration form when required to do so<sup>109</sup>;
- printing, displaying or distributing unidentified election advertising<sup>110</sup>;
- interfering with official election notices<sup>111</sup>; or

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<sup>98</sup> 142 – *The Local Government Election Act, 2015*

<sup>99</sup> 142(2)(a) – *The Local Government Election Act, 2015*

<sup>100</sup> 142(4) – *The Local Government Election Act, 2015*

<sup>101</sup> 169; 170 – *The Local Government Election Act, 2015*

<sup>102</sup> 171 – *The Local Government Election Act, 2015*

<sup>103</sup> 172 – *The Local Government Election Act, 2015*

<sup>104</sup> 174; 178 – *The Local Government Election Act, 2015*

<sup>105</sup> 176 – *The Local Government Election Act, 2015*

<sup>106</sup> 175 – *The Local Government Election Act, 2015*

<sup>107</sup> 177 – *The Local Government Election Act, 2015*

<sup>108</sup> 179 – *The Local Government Election Act, 2015*

<sup>109</sup> 180 – *The Local Government Election Act, 2015*

<sup>110</sup> 182 – *The Local Government Election Act, 2015*

<sup>111</sup> 183 – *The Local Government Election Act, 2015*

- furnishing false or misleading information to an election official<sup>112</sup>.

### **Penalties**

Penalties are imposed by summary conviction and may include fines, disqualification from council, or imprisonment.

Every person who contravenes any provision of the LGEA or its regulations (including voters, election officials, candidates, agents etc.) for which no other penalty is provided is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000, to imprisonment for a term of not more than two years or to both<sup>113</sup>.

### **Results Not Invalidated**

The LGEA upholds the election results even if mistakes or irregularities occur if these do not overtly affect the outcome of the election; however, these matters may still be challenged by a voter.

No election is deemed or declared invalid by reason of:

- non-compliance with the provisions of the LGEA with respect to the holding of the poll or counting of the votes;
- mistakes in the use of forms; or
- any inadvertent errors or irregularities.

These reasons only apply if the court concludes that the election was conducted in accordance with the intent of the LGEA and that the non-compliance, error or irregularity did not affect the result of the election. Note: This does not prevent or affect any remedy that any person has pursuant to *The Controverted Municipal Elections Act*.

### **Methods of Challenging an Election**

Two options exist for people to contest the results of an election.

1. a recount pursuant to the LGEA will allege errors were made by the DRO during the ballot count procedure.
  - o This option is used when the disputed ballots have the potential to affect the outcome of the election; and
2. a challenge pursuant to *The Controverted Municipal Elections Act* may allege procedural errors by election officials, ballots cast by ineligible voters, or contraventions of legislation by candidates or others.

### **Recounts**

A recount may be requested if questionable ballots might impact the outcome of the election<sup>114</sup>. To request a recount, a voter must apply to the administrator by completing Form MM – Notice of Request for Recount – within 10 business days of the declaration of election results.

Within four business days after receiving Form MM – Notice of Request for a Recount the administrator:

- completes Form NN – Certificate of Returning Officer (re: Request for Recount);
- presents the certificate to a judge; and

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<sup>112</sup> 181(1) – *The Local Government Election Act, 2015*

<sup>113</sup> 184 – *The Local Government Election Act, 2015*

<sup>114</sup> 158 – *The Local Government Election Act, 2015*



- delivers a copy of the certificate to the person requesting a recount.

The judge will set a time and location for the recount that is not later than 10 business days after the date of request<sup>115</sup>. Four business days after the time and location has been determined, the returning officer must send the information regarding the recount to the person requesting a recount and any other parties determined by the judge<sup>116</sup>.

The returning officer must bring the sealed ballot boxes and statements of results to the recount<sup>117</sup>. The judge, the returning officer, each candidate, candidate's agent, the local registrar and any other person that the judge may direct are entitled to be present at the recount.

The recount procedure is directed by the judge in accordance with section 166 of the LGEA, and the results of the recount will be provided to the returning officer. The judge may make an order respecting the costs of the recount<sup>118</sup>.

An application for a recount does not jeopardize any other avenues of legal recourse<sup>119</sup>.

## **The Controverted Municipal Elections Act**

Any voter may contest the election of a member of council through *The Controverted Municipal Elections Act* (CMEA). This type of challenge is a legal process which may include proceedings in the Court of Queen's Bench. The challenger is strongly encouraged to obtain legal counsel. While the challenge may be directed toward specific individuals such as ineligible voters or candidates, the municipality will usually be involved.

Offences under the CMEA include bribery, threats, or becoming an eligible voter for the purpose of influencing the outcome of the election. Penalties may include fines, the loss of the seat, and being disqualified from running for office for a period of four years.

A voter or a candidate has up to six weeks to initiate action under the CMEA. He or she must present a deposit and an affidavit to a judge of the Court of Queen's Bench outlining reasonable grounds for contesting the election. If the judge is satisfied there are reasonable grounds, he or she will authorize the applicant to commence legal action. The judge will also state to whom and in what manner notice of the action shall be served.

The applicant prepares a formal notice of motion outlining the specific grounds for each objection regarding the election process. The notice must contain all of the evidence that will be relied upon, as well as the names of any witnesses who will be called on. If the election is overturned due to actions of municipal election officials, the municipality may be responsible for all or some of the costs. If the application is unsuccessful, the applicant may be responsible for costs over and above the original deposit.

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<sup>115</sup> 159(2) – *The Local Government Election Act, 2015*

<sup>116</sup> 159(3) – *The Local Government Election Act, 2015*

<sup>117</sup> 161 – *The Local Government Election Act, 2015*

<sup>118</sup> 167 – *The Local Government Election Act, 2015*

<sup>119</sup> 166(11) – *The Local Government Election Act, 2015*

## **Contact Information**

Ministry of Government Relations  
Advisory Services & Municipal Relations  
1010-1855 Victoria Avenue  
Regina, SK S4P 3T2

Phone: (306)787-2680  
Fax: (306)798-2568  
[www.saskatchewan.ca](http://www.saskatchewan.ca)

## **Additional Information**

- A. By-Elections
- B. Council Powers
  - 1. Criminal Record Checks
  - 2. Institutional Poll
  - 3. Homebound Voting
  - 4. Mail-In Ballot Voting System
- C. Voters List
  - 1. Voting Process when Using a Voters List.
- D. Bylaws, Resolutions, and Questions
  - 1. Actions of Municipal Employees
- E. Voting Machines

## By-Elections

A by-election is an election occurring between general elections to fill a vacancy. When a vacancy occurs, council:

- establishes the date for the by-election<sup>120</sup> which must be:
  - a Wednesday in a village, town, city, northern municipality or rural municipality; and
  - a Saturday in a resort village; and
- may appoint someone other than the administrator to be the returning officer when the date for the by-election is established even though this may be less than 90 days before Election Day<sup>121</sup>.

The by-election must be held within six months of the vacancy occurring<sup>122</sup> unless the vacancy occurs after January 1, during a general election year<sup>123</sup>.

The term of office for a member elected in a by-election begins when they are acclaimed or declared elected after Election Day<sup>124</sup>. A member elected in a by-election to fill a vacancy holds office for the remainder of the unexpired term of the person who they replaced<sup>125</sup>.

In an urban municipality: a councillor does not need to resign to be a candidate for the office of mayor if the vacancy is being filled at a by-election<sup>126</sup>:

- if the councillor-candidate is elected as mayor, he or she is deemed to have resigned from the office of councillor on the day prior to being declared elected as mayor; and
- if the councillor candidate is not elected as mayor, he or she retains the office of councillor.

In a rural municipality: a division councillor must resign to be a candidate for the office of reeve if the vacancy is being filled in a by-election<sup>127</sup>:

- the resignation shall take effect immediately<sup>128</sup>.

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<sup>120</sup> 11 – *The Local Government Election Act, 2015*

<sup>121</sup> 47(1) – *The Local Government Election Act, 2015*

<sup>122</sup> 11(1) – *The Local Government Election Act, 2015*

<sup>123</sup> 15 – *The Local Government Election Act, 2015*

<sup>124</sup> 16(2) – *The Local Government Election Act, 2015*

<sup>125</sup> 116(2) – *The Local Government Election Act, 2015*

<sup>126</sup> 71(2) – *The Local Government Election Act, 2015*

<sup>127</sup> 72(2) – *The Local Government Election Act, 2015*

<sup>128</sup> 72(3) – *The Local Government Election Act, 2015*

## Council Powers

### Criminal Record Checks

Council may choose to require candidates to attach a criminal record check to their nomination form<sup>129</sup>. This requirement:

- must be passed by bylaw 90 days prior to Election Day; and
- a sample bylaw is available on the Ministry's website.

The criminal record check:

- must be obtained, at the candidate's cost;
- must be in Form B.1<sup>130</sup>;
- must be dated within 30 days of the date that the nomination paper is filed<sup>131</sup>;
- is based only on the person's name – the candidate is not required to provide his or her fingerprints; and
- will not include a copy of any records; it only informs electors if the candidate does or does not have a record.

The returning officer should amend Form H – Notice of Call for Nominations if a criminal record check is required pursuant to the municipal bylaw.

### Institutional Poll

A council may provide a polling place in a hospital, a personal care facility, or a similar institution so people who are receiving care at those facilities can vote<sup>132</sup>. The term "institutional poll" does not exist in the LGEA:

- this may apply to either the poll on Election Day or an advance poll; and
- council has authority to set the duration of a poll in a hospital or a personal care facility. The poll must be open for a minimum of one hour<sup>133</sup>.

### Homebound Voting

A council may create a mobile poll to allow election officials to go to voter's homes when they cannot attend the polls<sup>134</sup>. Council will:

- set out the manner in which the prescribed application will be made to the returning officer; and
- set a deadline for when an application must be made.

Voters with a physical disability or limited mobility and their resident caregiver may apply using Form A – Application by Voter for Homebound Voting of Appendix C of the regulations in the manner and by the deadline set by council.

The returning officer will:

- accept and review applications received by voters who wish to vote in their home;
- create a list of voters who will vote at home using Form B – List of Voters Entitled to Vote by Homebound Voting of Appendix C of the regulations; and
  - the voters are listed in either alphabetical or geographical order;
- advise voters that they are included in the mobile poll list using Form C – Notice of

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<sup>129</sup> 89(1) – *The Municipalities Act*; 63(1) – *The Cities Act*; 104(1) – *The Northern Municipalities Act, 2010*

<sup>130</sup> *The Municipalities Regulations*

<sup>131</sup> 6.1(2) – *The Municipalities Regulations*

<sup>132</sup> 29 – *The Local Government Election Act, 2015*

<sup>133</sup> 100(3) – *The Local Government Election Act, 2015*

<sup>134</sup> 30 – *The Local Government Election Act, 2015*

#### Homebound Voting:

- the notice includes an approximate time when the election officials will attend.

If a mobile poll has been authorized, it may be conducted anytime between the first day of an advance poll and the close of poll on Election Day<sup>135</sup>. A DRO and a poll clerk will:

- attend the residence of electors who have applied to vote in this matter;
- ensure they have a ballot box and a supply of voter's registration forms, ballots, and other forms which may be needed; and
- treat each residence visited as a polling place:
  - typical voting procedures apply, subject to necessary modification; and
  - some voters may not be able to mark the ballot on their own due to a disability or limited mobility.

A candidate or a candidate's agents may accompany election officials during the mobile poll or make a request in writing for a copy of Form B – List of Voters Entitled to Vote by Homebound Voting of Appendix C<sup>136</sup> of the regulations.

#### Mail-In Ballot Voting System

Council may establish a mail-in ballot voting system by bylaw<sup>137</sup>. The bylaw<sup>138</sup>:

- cannot provide additional time for ballots to be received:
  - any ballots received after the close of polls on Election Day are deemed to be spoiled ballots and they are to be dealt with in the same manner as other spoiled ballots;
- sets a process to maintain the secrecy of mail-in ballots:
  - the process used is not expressly described in legislation. It is up to the municipality to design its system to maximize voting opportunities for voters and minimize risks to voter secrecy;
- describes how ballots are counted after the close of polls on Election Day;
- allows for candidates or candidates agents to inspect the voter's registration forms and declarations; and
- details the retention and destruction of the mail in ballots and forms pursuant to Section 142 of the LGEA.

The Government of Saskatchewan website includes a draft bylaw to establish a mail-in voting system. The provisions in the draft bylaw are closely based on the system used by Elections Saskatchewan. The draft bylaw suggests using Form R – Voter's Registration Form and Poll Book and modifying the form to record:

- an address to which a ballot would be mailed, if it is different than the elector's usual address; and
- critical dates, namely:
  - when the application for mail-in ballot is accepted;
  - when ballots are sent to the elector; and
  - when the ballots are returned to the returning officer.

The footnotes to the draft bylaw will highlight decisions which should be considered by the municipality as it designs the mail-in voting system. As with any bylaw, it is good administrative practice to consult with the municipality's solicitor prior to enacting the bylaw.

Voters applying to use the mail-in voting system must complete Form C<sup>139</sup> – Declaration of Person Requesting Mail-in Ballot and a form to register the voter. The voter must

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<sup>135</sup> 30(1) – *The Local Government Election Act, 2015*

<sup>136</sup> 31 – *The Local Government Election Act, 2015*

<sup>137</sup> 92 – *The Local Government Election Act, 2015*

<sup>138</sup> 18(2) – *The Local Government Election Regulations, 2015*

also establish his or her identity to the satisfaction of the returning officer or other person authorized in the bylaw. After reviewing the application, the returning officer will mail out a ballot package to the voter. Voters using the mail-in voting system must ensure the returning officer receives their ballots no later than the close of polls on Election Day.

Ballots received by mail may arrive over a prolonged period. During this time, access to the ballot box must be strictly controlled. It will be necessary to have a ballot box to hold ballots from the day they are received until Election Day. The returning officer maintains custody of the ballot box and the poll book until Election Day.

Depending on the number of voters who voted by mail, the mail-in ballots:

- may be treated as a separate poll:
  - the DRO will prepare a Form Z – Deputy Returning Officer's Statement of Results, for the mail-in ballots only; or
- may be combined with other ballots cast on Election Day if the number of voters who voted by mail is relatively low and voter secrecy may be compromised:
  - in this situation, the Form Z – Deputy Returning Officer's Statement of Results will include mail-in ballots and ballots cast at the polling place on Election Day.

## Voters List

Voters lists are not used by most Saskatchewan municipalities. The information in this section applies only when council has decided to create and use a voters list for an upcoming general election and any by-elections held in the subsequent four years<sup>140</sup>:

- the resolution to prepare a voters list must be passed at least 55 days before Election Day<sup>141</sup>; and
- the returning officer is the chief enumerator responsible for the enumeration:
  - council may appoint someone other than the returning officer to be the chief enumerator; and
  - the chief enumerator may appoint assistants to enumerate names and to prepare and revise the voters list<sup>142</sup>.

The council of a municipality may also choose to enter into agreements with respect to sharing or using a voters list, or any voter data used to create a voters list, with any officer established pursuant to a provincial Act or an Act of the parliament of Canada to conduct an election. The information obtained must be used only for the purpose of preparing or revising a voters list.

The voters list is prescribed Form F – Voters List. The form includes<sup>143</sup>:

- sequential numbering;
- the name of the voter;
- the voter's address or legal land description;
- the division where the voter can vote in a rural municipality;
- the ward where the voter can vote in an urban municipality divided into wards; and
- whether the voter is eligible to vote in respect of the public or separate school division.

Note: A voter is deemed eligible to vote in the public school division if no indication is provided.

At least 31 days before Election Day, the chief enumerator posts a copy of Form F – Voters List and Form G – Notice of Application for Revision of Voters List, in the office of the administrator, in the school board office and in any other public place he or she deems necessary<sup>144</sup>:

- if the municipality is divided into wards, at least one set of these documents must be posted in a conspicuous place in each ward.

These forms also need to be published at least once in a newspaper having general circulation in the municipality.

Voters may apply to the chief enumerator to amend the voters list no later than 15 business days before Election Day<sup>145</sup>:

- any voter may apply to the revising officer to have the name of a person (including their own) struck from the voters list, on the grounds that the person is not a qualified elector. Applications must:
  - be in writing; and
  - specify the grounds on which the person is deemed not eligible<sup>146</sup>.

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<sup>140</sup> 54 – *The Local Government Election Act, 2015*

<sup>141</sup> 54(1) – *The Local Government Election Act, 2015*

<sup>142</sup> 54(5) – *The Local Government Election Act, 2015*

<sup>143</sup> 56 – *The Local Government Election Act, 2015*

<sup>144</sup> 57 – *The Local Government Election Act, 2015*

<sup>145</sup> 58 – *The Local Government Election Act, 2015*

<sup>146</sup> 58 – *The Local Government Election Act, 2015*



- Applicants may apply to the revising officer to correct an error or omission in the voters list by filing a voter's registration form setting out the information necessary to correct the error or omission. Applicants are those persons<sup>147</sup>:
  - who are qualified as a voter but whose name is not on the voters list;
  - whose name is listed in error on the voters list;
  - whose designation as a voter of the public school division or separate school division is incorrect; or
  - whose name is listed in the incorrect division, ward, or polling place on the voters list.

The chief enumerator will perform the following:

- prepare a revised voters list at least 10 days before Election Day by considering all applications received to:
  - strike any name from the list; or
  - correct any error on the list;
- amend the voters list accordingly by initialling and dating each change made<sup>148</sup>;
- serve a notice to people who have been deleted from the original voters list informing them of this along with a written statement of the qualifications of a voter:
  - notices are to be served either personally or by registered mail<sup>149</sup>; and
- correct any apparent errors on the list and initial and date each change.

Candidates in an election may request a copy of the voters list for use during election campaigning.

### **Voting Process when Using a Voters list**

During the advance poll, election officials will make entries to prescribed Form M – Advance Poll List identifying the electors who voted at the advance poll. The DRO must ensure the advance poll list is given to the returning officer<sup>150</sup>. The returning officer will provide a non-prescribed certificate or a copy of the advance poll list to each DRO in charge of a polling place on Election Day, who will then mark their copies of the voters list indicating which electors have voted at the advance poll.<sup>151</sup>

If a voters list is used, electors are not required to complete a voter's declaration form to obtain a ballot unless:

- the elector's name does not appear on the voters list<sup>152</sup>; or
- a candidate or agent raises an objection to the elector's entitlement to vote<sup>153</sup>.

If an elector's name is included within an incorrect polling area, he or she may vote at the correct polling area by completing a Voter's Registration Form<sup>154</sup>.

All electors are required to provide proof of identity and residence to the DRO<sup>155</sup>. The use of a voters list does not remove this requirement.

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<sup>147</sup> 59 – *The Local Government Election Act, 2015*

<sup>148</sup> 62 – *The Local Government Election Act, 2015*

<sup>149</sup> 63 – *The Local Government Election Act, 2015*

<sup>150</sup> 86 – *The Local Government Election Act, 2015*

<sup>151</sup> 87 – *The Local Government Election Act, 2015*

<sup>152</sup> 108 – *The Local Government Election Act, 2015*

<sup>153</sup> 112 – *The Local Government Election Act, 2015*

<sup>154</sup> 119 – *The Local Government Election Act, 2015*

<sup>155</sup> 110 – *The Local Government Election Act, 2015*

## Bylaws, Resolutions and Questions

The council of a municipality may submit bylaws, resolutions or questions regarding municipal issues to the voters of the municipality<sup>156</sup>.

A plebiscite:

- is an expression of the community's opinion regarding a question of importance to the municipality<sup>157</sup>; and
- is not binding on council.

A referendum:

- refers a political question to the voters for a decision; and
- may be initiated by council<sup>158</sup> or by the voters<sup>159</sup>;

Initiated By Council	Initiated by the Voters
<ul style="list-style-type: none"> <li>• Is binding on council<sup>160</sup>.</li> </ul>	<ul style="list-style-type: none"> <li>• Is binding on council if the voters approve a bylaw or resolution<sup>161</sup>.</li> <li>• If the majority of voters do not support the proposed resolution or bylaw, council may choose to proceed with the proposal.</li> </ul>

A council can apply to the Court of Queen's Bench for direction:

- if there is ambiguity respecting the wording of a valid petition for a referendum;
- if the municipality has received two or more petitions which are in conflict; or
- if the court's direction is needed for any other reason<sup>162</sup>.

Council must set the wording of the draft bylaw or resolution as it will appear on the ballot at least eight weeks before the vote<sup>163</sup>.

General provisions respecting elections apply to plebiscites and referendum; however, there are some variances which are highlighted in this section.

Council is required to enact an election procedure bylaw to conduct a plebiscite or referendum<sup>164</sup>. The election bylaw:

- can provide for this vote to coincide with the general election;
- can provide for voting on multiple bylaws or questions;
- specifies when results will be officially announced; and
- specifies the time and place for the returning officer to receive and designate representatives for and against the subject matter of the vote.

A draft election procedure bylaw is available on the Government of Saskatchewan website.

<sup>156</sup> 143 – *The Local Government Election Act, 2015*

<sup>157</sup> 130 – *The Municipalities Act*

<sup>158</sup> 131 – *The Municipalities Act*

<sup>159</sup> 132 – *The Municipalities Act*

<sup>160</sup> 131(3) – *The Municipalities Act*

<sup>161</sup> 137 – *The Municipalities Act*

<sup>162</sup> 138 – *The Municipalities Act*

<sup>163</sup> 136 – *The Municipalities Act*

<sup>164</sup> 146 – *The Local Government Election Act, 2015*

Council is required to post and publish a non-prescribed notice which provides notice of the vote. The notice must contain the following<sup>165</sup>:

- when and where voting will take place;
- when and where official results will be announced;
- the question which is submitted to a vote; or the intent of the bylaw which is submitted to a vote:
  - in the case of a borrowing bylaw, this will include:
    - the amount to be borrowed;
    - how the borrowing will be repaid; and
    - the annual amount to retire the debt;
  - if the bylaw grants a special franchise, the proposed bylaw must be published in full; and
- certification from the returning officer:
  - confirming the accuracy of the question or object of the bylaw; and
  - in the case of a bylaw, stating the proposed bylaw shall be passed by council if the approval of the electors is obtained.

The notice is to be posted and publicized in the same manner described in the *Required Notice* section of this guide at least three weeks before voting day.

- in a resort village, the notice may be posted in three widely separated conspicuous locations in lieu of advertising in a newspaper.

Ballots for voting on bylaws or questions are prescribed forms<sup>166</sup>.

- Form DD – Ballot for Vote on Bylaw or Resolution.
- Form FF – Ballot for Vote on Two or More Bylaws, Resolutions or Questions.
- Form EE – Ballot for Vote on Question.

Observers who support or oppose the subject matter of the vote are appointed by the returning officer<sup>167</sup>.

- two representatives from each side may observe voting.
- one observer from each side may observe the ballot count.
- if one side does not send in any applications for representatives the other side is still allowed their representatives.
- the appointments are made in writing using prescribed Form GG – Designation of Representative (Re: Voting on Bylaw, Resolution or Question).

Prior to assuming their duties, representative observers are required to provide the DRO or the returning officer:

- the form issued by the returning officer appointing him or her as a representative.
- his or her prescribed Form HH – Declaration of Representative.

Ballots are counted immediately after voting ends<sup>168</sup>. The DRO will complete the statement of results in duplicate using either<sup>169</sup>:

- Form II – Deputy Returning Officer's Statement of Results of Vote on Bylaw, Resolution or Question; or
- Form JJ – Deputy Returning Officer's Statement of Results of Vote on Conflicting Bylaws.

The original statement of results will be placed in the ballot box along with other election materials. The duplicate copy of the statement of results is given to the returning officer.

- a copy of the statement of results is to be provided to representatives upon request.

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<sup>165</sup> 147 – *The Local Government Election Act, 2015*

<sup>166</sup> 148 – *The Local Government Election Act, 2015*

<sup>167</sup> 149 – *The Local Government Election Act, 2015*

<sup>168</sup> 150 – *The Local Government Election Act, 2015*

<sup>169</sup> 151 – *The Local Government Election Act, 2015*

The returning officer performs the following:

- sums up the results from the statements of results provided by the DROs:
  - rejected ballots are not considered in determining if the matter is approved or defeated<sup>170</sup>; and
  - if there is a tie, the matter is deemed to be resolved in favour of the status quo<sup>171</sup>;
- reports the official results using:
  - Form KK – Notice of Results of Vote on Bylaw, Resolution or Question; or
  - Form LL – Notice of Results of Vote on Conflicting Bylaws;
- declares the results at the time and place specified in the election bylaw<sup>172</sup>; and
- prepares a certificate of results<sup>173</sup>:
  - the certificate may be in the following form:

I certify that the majority of persons who voted on [the question / the resolution/ the bylaw]:

- have [given / withheld] their approval of the resolution/ bylaw; or
- voted in the [affirmative / negative] of the question.

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_ at [name of urban municipality], Saskatchewan

\_\_\_\_\_  
[Signature of Returning Officer]

- provides the results to council at the first meeting of council following the vote<sup>174</sup>.

If the vote deals with a bylaw, resolution or question for a school board, the results and the certificate should be provided to:

- the Minister of Education;
- the Saskatchewan Municipal Board; and
- the school board.

Recounts regarding a vote on a bylaw, resolution or question are to be conducted as near as possible as an election for a mayor, reeve or councillors.

### **Actions of Municipal Employees Regarding Bylaws, Resolutions and Questions<sup>175</sup>**

No municipal employee is to be:

- compelled to take part in an undertaking or to make any contribution to a campaign in favour of or against a bylaw, resolution or question; or
- be threatened or discriminated against for refusing to take part in an undertaking or to make a contribution.

No municipal employee shall:

- directly or indirectly use or seek to use the authority or official influence of his or her position to influence the vote of any other person on a bylaw, resolution or question; or
- engage in any form of activity in favour of or against a bylaw, resolution or question during his or her hours of duty.

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<sup>170</sup> 154 – *The Local Government Election Act, 2015*

<sup>171</sup> 155 – *The Local Government Election Act, 2015*

<sup>172</sup> 152 – *The Local Government Election Act, 2015*

<sup>173</sup> 153 – *The Local Government Election Act, 2015*

<sup>174</sup> 156 – *The Local Government Election Act, 2015*

<sup>175</sup> 144 – *The Local Government Election Act, 2015*

A municipality may, as part of its election procedure bylaw, designate one or more municipal employees, other than a person who is or will become an election official, as spokesperson for the municipality in favour of or against the bylaw, resolution or question.

An elected member of council may oppose or support a bylaw, resolution or question and communicate his or her position to a voter.

## Voting Machines

Section 90 of the LGEA enables municipalities to establish bylaws to allow for the use of voting machines in local elections.

In 2015, new regulations were added to clarify how elections conducted using voting machines are to be carried out. Part III of *The Local Government Election Regulations, 2015*, outlines the requirements for the bylaw.

The use of voting machines is optional for municipalities; however, if a municipality chooses to use voting machines there are a number of key aspects that are to be considered before using the machines:

- **paper ballots** must be used in all municipal elections in Saskatchewan:

Two options are available:

1. a voter is provided with a paper ballot to mark which is then put through the machine; or
  2. a voter marks a ballot through electronic means, such as a touch screen, and the machine prints the electronic ballot on paper which is then inserted into a secured ballot box and treated as an official election ballot<sup>176</sup>;
- **all ballots are to be counted by machines:**
    - this includes mail-in ballots, ballots from advance polls, mobile and special polls and Election Day polls; and
    - at no time are ballots to be hand-counted. This is to maintain the fairness of how ballots are treated during counting and to conform with the regulations<sup>177</sup>.
  - **all machines must be programmed to accept all ballots** without requiring an override function or making a sound that indicates the ballot has no votes marked or has more votes than the voter is entitled to make<sup>178</sup>:
    - the machine records blank and over-voted ballots as rejected; and
    - after the close of poll, a record will be printed indicating the number of blank and over-voted ballots. The DRO will record these categories as rejected ballots as per the requirements of Form AA – Deputy Returning Officer’s Statement of Results for Voting Machines, found in Appendix C of the regulations.

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<sup>176</sup> 5 – *The Local Government Election Regulations, 2015*

<sup>177</sup> 6 – *The Local Government Election Regulations, 2015*

<sup>178</sup> 7 – *The Local Government Election Regulations, 2015*

- **voting machines are prohibited from being connected to the internet** before and during a poll to maintain the machines software security and voter privacy<sup>179</sup>.

### **Other Matters**

At the close of the poll, the machines register tape must be printed and attached to the Deputy Returning Officer's Statement of Results for Voting Machines in Form AA of Appendix C<sup>180</sup>.

If there is a machine failure, ballots are to be stored in accordance with bylaw procedures and are to be counted by another machine at a later time.

Voting machines are to be programmed, serviced and tested in accordance with the regulations and municipal bylaw<sup>181</sup>.

Recounts may be done by using the voting machines or hand-counting the ballots, as determined by a judge.

Election procedures outlined in the voting machine bylaw include:

- mobile and special polls;
- advance voting;
- mail-in ballots;
- accommodating voters with disabilities;
- machine testing and programming;
- sending of results to a central location;
- the procedures in the event a machine fails;
- the recounting of votes; and
- the storage and transportation of machines.

**Although the municipal bylaw outlines the procedures for conducting elections when voting machines are used, the rules of *The Local Government Election Act, 2015* and *The Controverted Municipal Election Act* still apply.**

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<sup>179</sup> 9 – *The Local Government Election Regulations, 2015*

<sup>180</sup> 10 – *The Local Government Election Regulations, 2015*

<sup>181</sup> 8, 11-12 – *The Local Government Election Regulations, 2015*