

APPENDIX B

Council Vacancy Policy - Sample

PURPOSE

The Town of [Name] is committed to an open, accountable and transparent government.

The purpose of this policy is to provide for an accountable and transparent process for the filling of Council vacancies which occur during a term of office.

SCOPE

In accordance with the *Municipal Act, S.O. 2001, c.25*, when the seat of a member of council becomes vacant during the term of office, Council may fill a vacancy by appointing a person who has consented to accept the office if appointed, or requiring that a by-election be held to fill a vacancy in accordance with the *Municipal Elections Act, S.O., 1996, c.32*.

This policy will provide for a clear, accountable and transparent process for filling vacancies on Council.

DEFINITIONS

Act means the *Municipal Act, S. O. 2001, c. 25*, as amended.

Appointment means the appointment of a qualified individual, by majority vote of Council, to fill a vacancy on Council for the remainder of the current Council term.

By-election means an election, other than a regular election, held to fill a vacancy on Council and that is conducted in accordance with Section 65 of the *Municipal Elections Act, 1996*, as amended.

Candidate means an individual seeking to be appointed to fill a vacancy in the office of Councillor, having met the eligibility requirements and who has completed the requisite documentation as required by this policy.

Clerk means the Clerk or his/her designate of the Town of [Name] as appointed by Council.

Council means the Council of the Town of [Name].

Eligible Elector has the same meaning as subsection 17(2) of the Act, namely a person:

- a. who is a resident of the Town of [Name], or an owner or tenant of land in the Town or the spouse of such an owner or tenant;
- b. who is a Canadian Citizen;
- c. who is at least 18 years old; and,
- d. who is not prohibited from voting under any other Act or from holding municipal office.

Lot means a method of determination by placing the names of the Candidates on equal size pieces of paper and placed in a container with one Candidate name being drawn by the Clerk.

Municipal Elections Act means the *Municipal Elections Act, S.O., 1996, c.32*, as amended.

Nominee means those individuals seeking to fill a vacancy on Council who meet the eligibility requirements and who have completed the requisite documentation as outlined in this policy.

Regular Election Year means the year established for a regular municipal election in accordance with the *Municipal Elections Act, 1996*, as amended.

Term of Office means the period of time a Member is elected to hold office for which he/she is elected in accordance with the *Municipal Elections Act, 1996*, as amended.

Town means The Corporation of the Town of [Name].

Vacancy means when a seat on Council has become vacant in a manner described in section 259 of the Act.

GENERAL

1. Council is required to declare a seat vacant in accordance with the Act.
2. In accordance with the Act, if a vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill a vacancy on Council.
1. Within 60 days after the day a declaration of vacancy is made by Council according to Section 262 of the Act, Council shall determine whether to fill the vacancy by by-election or by appointment in accordance with the Act, subject to:
 - a) the limitation on filling a vacancy only by appointment if the vacancy occurs after March 31 in the year of a regular election set out in Section 65(2) of the *Municipal Elections Act*; and
 - b) the restriction on filling a vacancy that occurs within 90 days of voting day of a regular election in Section 263(5)(b) of the Act.
4. In making its determination, Council will consider the costs and timelines associated with filling a vacancy by appointment or by by-election.

Eligibility Requirements

1. Any individual filling a vacancy must meet the eligibility requirements of office as outlined in the Act and the *Municipal Elections Act* as an eligible elector.
2. If an employee of the Town of [Name] seeks appointment to Council, the employee shall give Council written notice, in advance, of his or her intention to take unpaid leave. If the employee is appointed to office, they will be deemed to have resigned from their position with the Town immediately before making the declaration of office.

POLICY

A. Filling a Vacancy by Appointment of Previous Election Candidate

1. Within 60 days of declaring a seat vacant, Council shall appoint a new member by By-law.
2. Council may fill the vacancy by appointing the Candidate who ran for the position that is vacant from the last regular election who received the most votes but was not elected.
3. The Candidate shall reaffirm they meet the eligibility requirements of office as outlined in the Act and the *Municipal Elections Act*.
4. If he or she is no longer qualified to hold office, the appointment shall be to the next Candidate who ran for the position that is vacant from the last regular election who received the second most votes but was not elected, and so on.
5. A vote to fill a vacancy on Council by appointment shall occur at an open Special Council Meeting.
6. The successful Candidate shall formally be appointed by by-law and complete the Oath of Office at the next Council meeting.

B. Filling a Vacancy by Call for Nominees

1. Within 60 days of declaring a seat vacant, Council shall appoint a new member by By-law.

2. The Clerk shall post a Council Vacancy notice ([Appendix A](#)) on the Town's website and in the local newspaper for a minimum of three (3) consecutive weeks following Council's decision to fill a vacancy by appointment. The notice shall indicate Council's intention to appoint an individual to fill a vacancy and shall outline the nomination process.
3. Any individual wishing to be considered for appointment to fill the Council vacancy will complete and sign the Council Vacancy Appointment Application Form ([Appendix B](#)) and a Declaration of Qualification Form ([Appendix C](#)) approved by the Clerk, and will submit the forms to the Clerk in-person by the date and time established by the Clerk.
4. Candidate(s) may submit, to the Clerk, a personal statement of qualification for consideration of Council. Personal statements will be typewritten in a 12 point font on letter size (8 ½" x 11") paper, shall not exceed two (2) pages in length, and will include the Candidate(s) name and address. Statements that do not meet these requirements shall not be included in any Council meeting agenda, or provided to Council by the Clerk. The Clerk will advise Candidate(s) of the deadline for submission of a personal statement.
5. Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification to prove his or her identity and qualifying address to the satisfaction of the Clerk.
6. No sooner than 14 days after a notice of vacancy has been given, an information session shall be conducted by the Clerk for all interested Candidates.
7. It is the Candidate(s) sole responsibility to meet any deadline or otherwise comply with any requirement of this policy, the Act or the *Municipal Elections Act*.
8. The Clerk will create a list of all Candidates and publicly post the Candidate Listing on the Town's website. The Listing will be updated as eligible Applications are received.
9. Notwithstanding the requirement of the Procedural By-law, the agenda for the meeting shall be set by the Clerk to allow for the orderly proceeding of selecting a Candidate. The agenda shall include the following:
 - a) A certified list of all Candidates listed in alphabetical order by last name.
 - b) Any personal statement of qualification for consideration of Council.
10. At the meeting, the following shall take place:
 - a) The Chair will make a short statement of the purpose of the meeting and the general order of proceedings to be followed.
 - b) The Clerk will provide to the Chair a list of the names of those individuals who have indicated, in writing, their interest in being appointed to the vacancy and the Chair will call for a motion from Council in the following form: "*THAT the following individuals, who have signified in writing that they are legally qualified to hold office and consented to accept the office if they are appointed to fill the vacancy, be considered for appointment to fill such vacancy.*"
 - c) Candidates will be sequestered in an adjacent room until it is their time to answer the questions posed by Council. Once a candidate has answered the questions, they may remain in the Council Chambers.
 - d) Each of the nominees shall be afforded the opportunity to address Council for a period of not more than ten (10) minutes. The order of speaking will be determined by alphabetical order by last name.
 - e) Each member of Council will be permitted two (2) questions to each Candidate. Responses from the Candidates shall be limited to a maximum of two (2) minutes per question.

11. Upon hearing all the submissions of the Candidates, Council will proceed to vote as follows:
 - a) Candidate names will be displayed on the monitor in alphabetical order, in the Council Chambers by the Clerk.
 - b) Each Member of Council will be provided with a ballot by the Clerk with their name on it listing all Candidates in alphabetical order.
 - c) Each Member of Council will cast their vote on the ballot and sign their name
 - d) Members of Council will cast their vote for one (1) Candidate only.
 - e) The Clerk will collect the ballots, place the ballots of all Members of Council in a container and randomly draw the completed ballots.
 - f) When a ballot is drawn, the Clerk will publicly announce the name of the Member of Council whose vote it is and announce the Candidate in which they voted for.
 - g) The Clerk will tabulate and announce the results.
 - h) If the Candidate receiving the greatest number of votes cast does not receive more than one-half the votes of all voting members of Council, the Candidate or Candidates who received the fewest number of votes will be excluded from further consideration. The vote will be taken again by the Clerk and, if necessary, more than once, excluding in each successive vote the Candidate or Candidates who receive the fewest number of votes. This process will be repeated until the Candidate receiving the greatest number of votes has also received more than one-half of the votes of the voting Members of Council.
 - i) Where the votes cast are equal for all remaining Candidates and if:
 - i. There are three or more Candidates remaining, the Clerk will by Lot select one such Candidate to be excluded from the subsequent voting.
 - ii. If only two (2) Candidates remain, the tie will be broken by selecting a Candidate by Lot, as conducted by the Clerk.
 12. Upon conclusion of the voting, the Clerk will note the Candidate receiving the votes of more than one-half of the number of the voting Members of Council or the Candidate selected through Section 11 i) ii.
 13. The appointment of the Candidate will be made by By-law. A By-law confirming the appointment will be enacted by Council at the next Council meeting.
 14. The Clerk will administer the Declaration of Office required by subsection 232(1) of the Act, at the meeting where the By-law referred to in section 13 of this policy is enacted by Council, or as directed by Council.
- Filling a Vacancy by Appointment for the Position of Mayor or Deputy Mayor**
1. Within 60 days of declaring a seat vacant, Council shall appoint a new member by By-law.
 2. Council may fill the vacancy by appointing any Member of Council wishing to be considered for appointment.
 3. Any Member of Council wishing to be considered for appointment to the vacancy shall advise the Clerk in writing and by complete and sign the Council Vacancy Appointment Application Form ([Appendix B](#)) by 12:00 Noon on the Wednesday prior to the meeting.
 4. Individuals seeking appointment to the position of Mayor or Deputy Mayor who are current members of Council (nominees) shall declare a pecuniary interest.
 5. A vote to fill a vacancy of Mayor or Deputy Mayor by appointment shall occur at an open Council Meeting in accordance with sections 10 and 11 of this policy under “Filling a Vacancy by Call for Nominees”.
 6. The vacant seat of Councillor shall be filled in accordance with the provisions of this Policy.

Filling a Vacancy by By-election

1. Within 60 days of declaring a seat vacant, Council shall pass a By-law to fill the vacancy by By-election.
2. A By-election shall be held in accordance with the *Municipal Elections Act*.
3. The Clerk or designate shall be responsible for conducting any By-election in accordance with the *Municipal Elections Act* and all applicable policies and procedures.

RESPONSIBILITIES

The Clerk or designate shall be responsible for interpreting and where appropriate administering the Council Vacancy Policy and applicable procedures.

POLICY ADMINISTRATION AND REVIEW

This policy shall be administered by the Clerk.

This policy will be reviewed every three (3) years or as required based on revisions to corporate practises or Provincial legislation.

RELATED DOCUMENTS:

Appendix A Council Vacancy Public Notice Template
Appendix B Council Vacancy Appointment Application Form
Appendix C Council Declaration of Qualification