

Appendix 1 – CL17-2023 – Ward 2 Councillor Vacancy

Municipality of South Huron

Clerk’s Departmental Procedure

Approved by: Alex Wolfe	Procedure Number: C07-16
Approval Date: September 27, 2023	Title: Fill Council Vacancy Procedures
Revision Date:	

1. Purpose

- 1) 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
- 2) The purpose of this procedure is to provide for an accountable and transparent process for the filling of Council vacancies which occur during a term of office.
- 3) These procedures shall be administered by the Clerk.

2. 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 the *Municipal Elections Act*, 1996, as amended.

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

“Clerk” means the Clerk or their designate of the Municipality of South Huron as appointed by Council.

“Council” means the Council of the Corporation of the Municipality of South Huron.

“Eligible Elector” has the same meaning as defined by the *Act*, namely a person:

- a. Who is a resident of the Municipality of South Huron, or an owner or tenant of land in the Municipality or a spouse of such owner or tenant;
- b. Who is Canadian Citizen;
- c. Who is at least 18 years old; and

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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 nominees/candidates on equal size pieces of paper and placed in a container with one or more names being drawn by the Clerk, or their designate.

“*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 they are elected in accordance with the *Municipal Elections Act*, 1996, as amended.

“Vacancy” means when a seat on Council has become vacant in a manner described by the *Act*.

3. 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.
- 3) 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*. 4.4
- 4) In making its determination, Council will consider the costs and timelines associated with filling a vacancy by appointment or by by-election.

4. 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.

5. Procedures

- 1) Options for filling a vacancy:
 - a. Filling a Vacancy by By-election
 - i. Within 60 days of declaring a seat vacant, Council shall pass a Resolution to fill the vacancy by By-election.
 - ii. A By-election shall be held in accordance with the *Municipal Elections Act*.

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- iii. 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.

- b. Filling a Vacancy by Appointment

- i. Council is permitted to fill a vacancy by appointment of eligible elector.
- ii. Appointment procedures with respect to this Policy are contained as in:
 - 1. Schedule 1 – Appointment Procedure to Fill Council Vacancy Office of Councillor.
 - 2. Schedule 2 – Appointment Procedure to Fill Council Vacancy Office of the Mayor and Deputy Mayor; and

6. Responsibilities

- 1) The Clerk or designate shall be responsible for interpreting and where appropriate administering the Council Vacancy Procedure and applicable procedures

7. Related Documents:

- 1) Appendix A Council Nomination - Form 1
- 2) Appendix B Council Declaration of Qualifications – Form EL33(C)

Schedule 1 - Appointment Procedure to Fill Council Vacancy in the Office of Councillor

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 Resolution.
2. Council may fill the vacancy by appointing a Candidate who ran from the last regular election
 - a. the Candidate who ran for the position that is vacant from the last regular election who received the most votes but was not elected; or
 - b. any other Candidate that ran from the last regular election who 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 they are no longer qualified to hold office, Council may appoint another Candidate who ran for the position that is vacant from the last regular election or any other Candidate that ran from the last regular election who was not elected.
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 Resolution 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 Resolution.
2. The Clerk shall post a Council Vacancy notice on the Municipal website and in the local newspaper for a minimum of two (2) 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.

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3. It is the Candidate(s) sole responsibility to meet any deadline or otherwise comply with any requirement of this procedure, the *Act* or the *Municipal Elections Act*.
4. Any individual wishing to be considered for appointment to fill the Council vacancy will complete and sign the Nomination Form (Appendix A) and a Declaration of Qualification Form (Appendix B) approved by the Clerk and will submit the forms to the Clerk in-person by the date and time established by the Clerk.
5. Candidate(s) may submit, to the Clerk, with their completed Nomination Form and Declaration of Qualification Form, 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.
6. Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification to prove their identity and qualifying address to the satisfaction of the Clerk.
7. The Clerk will create a list of all Candidates and publicly post the Candidate Listing on the Municipal website. The Listing will be updated as eligible Applications are received. All application packages shall be considered public documents and will be made available for public viewing in the same way as a nomination form for a candidate in a municipal election or by-election and shall be available for viewing in the Clerk's Office at Town Hall, 322 Main Street South, Exeter, Ontario.
8. 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.
9. No verbal delegations or written delegation correspondence will be accepted.
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.

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- 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 be considered for appointment to fill the vacancy of _____."
 - i. If the List of Candidates includes only one (1) Candidate, the Clerk will declare that Candidate elected and a resolution confirming the appointment will be passed by Council. The Declaration of Oath will take place at the next Council meeting.
 - 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 five (5) 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. Should the ballot be spoiled or incomplete the Clerk will publicly announce and the ballot will be rejected.
 - h. The Clerk will tabulate and announce the results.
 - i. 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

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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.

- j. In any round of voting one (1) vote shall be considered the lowest number of possible votes. Where Nominees receive zero (0) votes, they will be automatically excluded from the nominees in the next round of voting.
 - k. Where the votes cast are equal for all remaining Candidates, another round of voting will occur, and if another tie occurs, it will be broken by selecting Candidates by Lot to proceed to the next round of voting, as conducted by the Clerk.
 - i. If there are more than two Candidates in the tie, the Clerk will draw names by Lot until there is one Candidate remaining in the container
 - ii. The names that were drawn will move onto the next round of voting.
 - iii. The name remaining in the container is automatically excluded
 - l. Should there be a tie of the remaining final two Candidates, another round of voting will occur, and if another tie occurs, it will be broken by selecting a Candidate by Lot as conducted by the Clerk. The Candidate selected at this point will be declared the successful Candidate.
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-l).
13. The appointment of the Candidate will be made by Resolution.
14. The Clerk will administer the Declaration of Office required by subsection 232(1) of the *Act*, at the next Council meeting.

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Schedule 2 - Appointment Procedure to Fill Council Vacancy in the Office of the Mayor or Deputy Mayor

1. Within 60 days of declaring a seat vacant, Council shall appoint a new member by Resolution
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 Nomination Form (Appendix A) by 12:00 Noon on the Tuesday 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 under "Filling a Vacancy by Call for Nominees" outlined in Schedule 1.
6. The vacant seat of Councillor shall be filled in accordance with the provisions of this Procedure.