

Township of Brock Corporate Policy



Policy Name: Council Vacancy Policy

Policy Type: Administrative

Policy Number: AP-47

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Approval By: Council

Point of Contact: Deputy CAO & Clerk

1. Purpose

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 the vacancy by appointing a person who has consented to accept the office or by holding a by-election.

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

2. Management

This policy will be managed by the Deputy CAO and Clerk.

3. Scope

These procedures apply to any of the following Council seats which are declared vacant during the term of office.

- Regional Councillor
- Ward Councillor

The Mayoral seat is exempt from this policy as per [O.Reg 530/22](#) – Strong Mayors Act, which requires the Mayoral seat to be filled by conducting a by-election.

The policy shall only be in effect for the term of the current Council. All subsequent terms of Council will review, amend and adopt the policy as they see fit, at or near the start of the new term of office.

4. Definitions

“**Act**” means the Municipal Act, S.O. 2001, C.25, as amended.

“**Appointment**” means the appointment of a consenting qualified individual, by majority vote of Council

“**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/person/nominee/applicant seeking to be appointed or elected, to fill a vacancy in the office of Councillor, having met the eligibility requirements and who has completed the nomination package as required by this policy. The use of ‘candidate’, ‘individual’, ‘person’ ‘nominee’ or ‘applicant’ shall have the same meaning and intent in this policy.

“**Clerk**” means the Clerk of the Township of Brock, or their designate, as appointed by Council.

“**Council**” means the Council of the Township of Brock.

“**Lot**” means a method of determination where the names of the candidates are placed on equal sized pieces of paper and put in a container with one name being drawn by the Clerk.

“**Term of Office**” means the period of time a member is elected to hold office 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.

5. General

5.1. Declaration of Vacancy

Council is required to declare a seat vacant in accordance with [Section 262\(1\) of the Act](#).

5.2. Method of Filling Vacancy

Council shall determine, within 60 days after the day of a declaration of vacancy is made, whether to fill a vacancy, in accordance with [Section 263\(1\) of the Act](#), by:

- a. Appointing a person who has consented to accept the office if appointed;
or
- b. Passing a by-law requiring a by-election to be held to fill the vacancy.

5.3 Limitation on Method of Filling Vacancy

In accordance with [Section 65\(2\) of the Municipal Elections Act](#), no by-election shall be held when the vacancy occurs after March 31 in the year of a regular election.

In accordance with [Section 263\(5\) of the Act](#), if a vacancy occurs 90 days or less before voting day in the year of a regular election, the municipality is not required to fill the vacancy.

5.4 Two-Third Majority Required to Suspend Policy Requirements

Council may suspend provisions of the Council Vacancy Policy at any time; such a vote requires a two-thirds majority vote of the members present.

5.5 Procedure By-law

Proceedings of Special Council meetings conducted under this policy shall be governed by the Procedure By-law. In the event of any conflict between the Procedure By-law and this policy, the provisions of this policy shall prevail.

Where a situation occurs that is not otherwise accounted for in these proceedings, the Clerk shall recommend an alternate process to Council, which Council may adopt with a simply majority vote.

5.6 Eligibility Requirements

An individual filling a vacancy must meet the eligibility requirements noted in the Municipal Elections Act, namely a person:

- a. Who is a resident of the Township of Brock, or an owner or tenant of land in the Township, or a 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.

If an employee of the Township of Brock, seeks appointment or runs in a by-election, the employee shall give written notice, in advance, of their intention to take unpaid

leave. The unpaid leave must begin as of the day the employee files nomination papers. If the employee is appointed to office, or elected to office, they will be deemed to have resigned from their position with the Township immediately before making the declaration of office.

6. Filling a Vacancy by Appointment

If a vacancy in the Office of Councillor is to be filled by appointment, Council may choose to fill the vacancy by either:

- a. Appointing any qualified individual who has consented to fill the office; or
- b. An open call for individuals for consideration by Council through a public appointment process, as detailed in this policy.

The Clerk shall be responsible for interpreting and, where appropriate, facilitating the appointment application process. The Clerk has the authority to make minor technical amendments to this policy as needed.

6.1. Procedures to Appoint a Qualified Individual

6.1.1 Council shall declare the seat of the member of Council to be vacant in accordance with the Act.

6.1.2 Council shall provide the Clerk with one name to be appointed from the possible options, which includes:

- The candidate who ran for the position that is vacant in the previous regular election, who received the next greatest number of votes but was not elected.
- Any candidate from the previous regular election that was not elected.
- A sitting member of Council.
- A former Member of Council; or
- Any qualified individual.

6.1.3(a) If the nomination put forth by Council is that of a sitting member of Council, that member, shall accept or decline the nomination. If the nomination is accepted, Council shall then vote to appoint the member of Council to the vacant position by by-law. The Clerk will then administer Declaration of Office. If the member declines the nomination, revert to Sections 6(a) or 6(b) of this policy. Alternatively, if within the 60-day period from declaring the seat vacant, Council may still proceed with Section 7 of this policy and fill the vacancy by by-election.

(b) If there are more than one sitting members of Council being nominated, revert to 6.4 of this policy “Process for Voting on Multiple Nominees”.

6.1.4 If the nomination put forth by Council is that of anyone other than a sitting member of Council, the Clerk shall contact that individual, have them complete the Council Vacancy Appointment Nomination and Declaration Form. A vote, confirming the appointment of that individual shall be put forth at the next meeting. The Clerk will then administer Declaration of Office. If the individual declines the nomination, revert to Sections 6(a) or 6(b) of this policy. Alternatively, if within the 60-day period from declaring the seat vacant, Council may still proceed with Section 7 of this policy and fill the vacancy by by-election.

6.2. Procedures for Appointment by Call for Nominees

6.2.1 Council shall declare the seat of the member of Council to be vacant in accordance with the Act.

6.2.2 The vote to appoint an individual to fill a vacancy shall occur at an open Special Council meeting.

6.2.3 The Clerk shall post a Council Vacancy Notice on the municipality's website, social media and any other available forms of communication. The notice shall indicate Council's intent to appoint an individual to fill a vacancy, the requirements to be considered for an appointment and the application process.

6.2.4(a) Applications to fill the vacant seat may be filed with the Clerk commencing on a time and date set by the Clerk. Any qualified individual wishing to be considered for appointment to fill the vacancy will complete and provide the following documents to the Clerk in person by the deadline established by the Clerk:

- Council Vacancy Appointment Nomination and Declaration Form

(b) Candidates may also choose to submit a personal statement of qualifications, to a maximum of five 8.5 x 11 pages in length, for consideration of Council. Any personal statements submitted will be included on the Special Council meeting agenda to fill the vacancy.

(c) Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification to prove their eligibility to the satisfaction of the Clerk.

(d) It is the candidate's sole responsibility to meet any deadlines, as set out by the Clerk, complete the application, and otherwise comply with the requirements of this policy.

- (e) The Clerk will create a list of all eligible candidates who have complied with the application process. All applications shall be considered public documents and will be made available for public viewing in the same way as a nomination for candidate in a regular municipal election or by-election and shall be available for viewing in the Clerk's Office at 1 Cameron Street East, Cannington, Ontario.
- (f) A candidate who wishes to withdraw their application may do so in person and in writing to the Clerk. The deadline for any withdrawal shall be any time up to 4:00 p.m. the day before the date of the Special Council meeting to fill the vacancy.

6.3. Special Council Meeting

6.3.1 The vote to appoint a candidate shall occur at an open Special Council meeting called for that purpose. All qualifying candidates who have submitted an application for the vacant seat will be notified by the Clerk of the date and time of the Special Council Meeting.

6.3.2 The agenda for the Special Council meeting shall be as follows:

1. Call to Order & Moment of Silence
2. Land Acknowledgement
3. Playing of the National Anthem
4. Disclosure of Pecuniary Interest and Nature Thereof
5. Presentations from certified Candidates (copies of all application documents and personal statements submitted, for each applicant will be included in this section of the public meeting agenda).
6. Matters for Consideration – Appoint to the Office of (insert Specific Councillor title)
7. Oath of Office for Newly Appointed Member of Council
8. Confirmation By-law
9. Adjournment

6.3.3 The Special Council meeting will maintain the current hybrid meeting format, with the following taking place:

- The Chair shall call the meeting to order, make a short statement of the purpose of the meeting and the general order of the proceedings.
- The Clerk shall provide the list of qualified Candidates.
- For the first round, each Candidate will be allotted five minutes to address Council.
- The order of speaking will be alphabetical by last name.
- For the first round, each Councillor will be able to ask up to two questions per Candidate.

- Upon hearing all Candidate submissions, Council will proceed to vote by way of a recorded vote in accordance with the following:
 - i. The Chair will pass the meeting over to the Clerk to outline the process and carry out voting procedures.
 - ii. Members of Council will vote for only one Candidate.
 - iii. The Clerk will display the Candidate names on a ballot in alphabetical order by last name.
 - iv. Members of Council will vote openly starting with Ward 1 through to Ward 5, followed by Regional Councillor, and finally the Mayor.
- For the vacancy to be filled, a Candidate must receive greater than 50% of the votes of the Council members present.

6.4. Process for Voting on Multiple Nominees

- 6.4.1** If there is more than one nomination, The Clerk will proceed to take a vote on the Candidates in accordance with the following:
- a) Members of Council will vote for only one Candidate.
 - b) The Clerk will display the Candidate names on a ballot in alphabetical order by last name.
 - c) Members of Council will vote openly starting with Ward 1 through to Ward 5, followed by Regional Councillor, and finally the Mayor.
 - d) For the vacancy to be filled, a candidate must receive greater than 50% of the votes of the Council members present.
- 6.4.2** If on the first ballot, a Candidate received greater than 50% of the of the votes from the members of Council present, then Council shall appoint them to fill the vacancy. The Clerk will then administer Declaration of Office. The Special Council meeting shall conclude.
- 6.4.3** If on the first ballot, no Candidate receives greater than 50% of the votes, of the members of Council present, and if there are more than 2 nominees:
- a) The Candidate or Candidates who received the fewest number of votes, in addition to any Candidate(s) who received zero votes, will be excluded from further consideration and will be removed from the next ballot.
 - b) If 2 or more nominees are tied with the least number of votes, the Clerk shall conduct a lot of the tied nominees until there is one not drawn, and the nominee who is not drawn, shall be dropped off the next ballot.
 - c) Another vote will be taken with the updated list of Candidates.
 - d) The process outlined in Section 6.4.1 will be repeated until a single Candidate receives greater than 50% of the votes from the members of Council present.

- 6.4.4** Where the votes cast are equal for all the Candidates, and if there are three or more Candidates remaining:
- a) The remaining Candidates will be permitted 2 minutes to verbally address Council. Members of Council may ask one follow-up question of each Candidate. Following the verbal remarks, another vote will be taken as outlined in Section 6.4.1 & 6.4.3.
 - b) If after the second ballot, the votes cast remain equal for all the Candidates, a five-minute recess shall be held. Members of Council shall adhere to the definition of “meeting” as noted in the *Municipal Act, S.O. 2001, c.25* and ensure that they do not meet as quorum to discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of Council.
 - c) Following the five-minute recess, each Candidate will be permitted 2 minutes to address Council for a third and final time. There will be no further question from members of Council. Following the verbal remarks, another vote will be taken as outlined in Section 6.4.1 & 6.4.3.
 - d) If after the third ballot, the votes cast remain equal for all the Candidates remaining, the Clerk will, by Lot, select one such Candidate to be excluded from the next ballot.
 - e) Voting shall continue the remaining Candidates until a Candidate receives the majority vote required to be appointed.
- 6.4.5** Where the votes cast are equal and where only two candidates remain:
- a) The Candidates will be permitted 2 minutes to verbally address Council. Members of Council may ask one follow-up question of each Candidate. Following the verbal remarks, another vote will be taken as outlined in Section 6.4.1 & 6.4.3.
 - b) If after the second ballot, the votes cast remain equal for the Candidates, a five-minute recess shall be held. Members of Council shall adhere to the definition of “meeting” as noted in the *Municipal Act, S.O. 2001, c.25* and ensure that they do not meet as quorum to discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of Council.
 - c) Following the five-minute recess, each Candidate will be permitted 2 minutes to address Council for a third and final time. There will be no further question from members of Council. Following the verbal remarks, another vote will be taken as outlined in Section 6.4.1 & 6.4.3.
 - d) If after the third ballot, the votes cast remain equal, the Clerk will, by Lot, select one candidate, and that candidate **will be deemed to be the successful candidate to fill the vacancy.**
- 6.4.6** After each round of voting, the Clerk’s designate shall display the remaining list of nominees in alphabetical order, based on the application’s last name.

6.4.7 The Clerk will administer the Declaration of Office as required by subsection [232\(1\) of the Act](#).

7. Filling a Vacancy by By-election

If a vacancy for the Office a Councillor is to be filled by a by-election, Council, within 60 days of declaring the seat vacant, shall pass a by-law to fill the vacancy by by-election.

A by-election shall then be held in accordance with the Municipal Elections Act, and the Clerk shall be responsible for conducting the by-election.