



MUNICIPALITY OF TEMAGAMI POLICY MANUAL  
SECTION: ADMINISTRATION & FINANCE  
SUB-SECTION: COUNCIL  
POLICY TITLE: FILLING VACANCIES ON COUNCIL  
SCHEDULE A TO BY-LAW: 23-xxxx  
POLICY NO: 1.2.11

## 1.0 PURPOSE

- 1.1 The purpose of this policy is to provide guidance to Council once a Council Seat is declared vacant as required by Section 262 of the Municipal Act, S.O. 2001, c.25.
- 1.2 This guidance should ensure an accountable and transparent process for filling Council Vacancies that may occur from time to time and work to support the open, accountable and transparent government to which the Municipality of Temagami is committed.

## 2.0 SCOPE

- 2.1 In accordance with Section 263 of the Municipal Act, S.O. 2001 c.25, when a seat of a member of Council becomes vacant during the term of office, Council may fill this vacancy by appointing a person who has consented to accept the office if appointed, or Council may require a by-election be held to fill the vacancy in accordance with the Municipal Elections Act, S.O. 1996 c.32.

## 3.0 DEFINITIONS

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

**Appointment** means the appointment of a qualified individual, by a majority vote of Council, to fill a vacancy on Council for the remainder of the current term 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 Section 65 of the Municipal Elections Act, S.O. 1996 c.32

**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 of the Municipality of Temagami, or their designate.

**Council** means the Council of the Municipality of Temagami.

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

- a) Who is a resident of the Municipality of Temagami, or an owner or tenant of land in the Municipality of Temagami, 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 public 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.

**Municipality** means the Corporation of the Municipality of Temagami.

**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.

**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.

**Vacancy** means when a seat on Council has been declared vacant as described in Section 262 of the Act.

#### **4.0 GENERAL**

4.1 Vacancies may arise as outlined in Section 259 of the Act.

4.2 A member may also resign their seat by notice in writing filed with the Clerk, provided the resignation, if accepted, does not reduce the remaining members to less than a quorum.

4.3 When a vacancy occurs, Council is required to declare a seat vacant in accordance with Section 262 of the Act.

4.4 In accordance with Section 263(5)(3) of the Act, Council is not required to fill any vacancies that occur within 90 days before voting day of a regular election.

4.5 Within 60 days after the day a seat has been declared vacant, Council shall determine whether to fill the vacancy by enacting a By-Law authorizing a By-election or by appointment in accordance with the Act.

4.6 Should the vacancy be declared after March 31 in a Regular Election Year, Council may only fill the vacancy by appointment.

4.7 In making the determination between by-election or appointment, Council shall consider the costs and timelines associated with filling the vacancy by either manner.

#### **5.0 ELIGIBILITY REQUIREMENTS**

5.1 Any individual filling a vacancy must meet the eligibility requires of office as outlined in the Act and the Municipal Elections Act as an eligible elector.

- 5.2 If an employee of the Municipality seeks appointment to Council, the employee shall give Council written notice, in advance, of their intention to take unpaid leave. If the employee is appointed to office, they will be deemed to have resigned from their position of employment with the Municipality immediately before making their declaration of office.

**COUNCIL SHALL CHOOSE THE APPROPRIATE PROCEDURE FOR EITHER APPOINTMENT OR BY-ELECTION AS THE CASE MAY BE**

**6.0 PROCEDURE FOR FILLING A VACANCY BY APPOINTMENT (PREVIOUS ELECTION)**

- 6.1 Within 60 days of declaring a seat vacant, Council shall appoint a new member by By-Law.
- 6.2 Within the first half of the Council term (presently two years after the Regular Election Year) Council may fill the vacancy by appointing the Candidate who ran for the position that is vacant from the last regular election and who received the most votes but not elected.
- 6.3 The Candidate shall reaffirm they continue to meet the eligibility requirements of office as outlined in the Act and the Municipal Elections Act.
- 6.4 If they are no longer qualified to hold office, Council may move to the next Candidate who ran for the position that is vacant from the last regular election and who received the second most votes but not elected.
- 6.5 A vote to fill the vacancy on Council by appointment shall occur at an open meeting of Council.
- 6.6 The successful Candidate shall formally be appointed by By-Law and take their seat at the next Council meeting once the Oath of Office has been completed.

**7.0 PROCEDURE FOR FILLING A VACANCY BY APPOINTMENT (CALL FOR NOMINEES)**

- 7.1 Within 60 days of declaring a seat vacant, Council shall appoint a new member by By-Law.
- 7.2 Should Council not elect to fill the vacancy using the procedures noted in Section 6, above, the Clerk shall post a Council Vacancy notice on the Municipal website and in the local paper for a minimum of three 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.
- 7.3 Any individual wishing to be considered for appointment to fill the Council vacancy will complete and sign the Council Vacancy Appointment Application Form and a Declaration of Qualification Form approved by the Clerk, and will submit both of these forms to the Clerk by the date and time established by the Clerk.
- 7.4 Candidate(s) may submit to the Clerk, a personal statement of qualification for

consideration by Council. Personal statements shall be typewritten in a 12-point font and submitted on letter (8.5" X 11") paper and shall not exceed two pages in length. Personal statement shall 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 shall advise the Candidate(s) of the deadline for submission of a personal statements and of the requirements contained in this Section.

- 7.5 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.
- 7.6 No sooner than 14 days after a notice of vacancy has been given, an information session may be conducted by the Clerk for all interested Candidates.
- 7.7 It is the sole responsibility of the Candidate(s) to meet any deadline or otherwise comply with any requirement of this policy, the Act, or the Municipal Elections Act.
- 7.8 The Clerk shall create a list of all Candidates and publically post the Candidate Listing on the Municipal website. The listing will be updated as eligible applications are received.
- 7.9 Notwithstanding the requirement of the Procedural By-Law, the agenda for the meeting to select a Candidate shall be set by the Clerk to allow for the orderly proceeding of selecting a Candidate. The agenda shall include:
  - 1) A Certified List of all Candidates listed in alphabetical order by last name;
  - 2) Any personal statement of qualification for consideration by Council.
- 7.10 At the meeting to select a Candidate, the following outline shall be used:
  - 1) The Chair will make a short statement of the purpose of the meeting and the general order of proceedings to be followed;
  - 2) 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."
  - 3) 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 Council Chambers.
  - 4) Each of the nominees shall be afforded the opportunity to address Council for a period of not more than 10 minutes. The order of speaking shall be determined by alphabetical order by last name.
  - 5) each member of Council will be permitted 2 questions to each Candidate. Responses from the Candidates shall be limited to a maximum of two minutes per question.
- 7.11 Upon hearing all the submissions of the Candidates, Council will proceed to vote as follows:
  - 1) Candidate names will be displayed in alphabetical order by last name In Council

Chambers by the Clerk;

2) Each member of Council will be provided with a ballot by the Clerk with their name on it and listing all Candidates in alphabetical order;

3) Each member of Council shall cast their vote on the ballot and sign their name;

4) Members of Council will cast their vote for one Candidate only;

5) The Clerk will collect the ballots, place the ballots of all members of Council in a container and randomly draw the completed ballots;

6) When a ballot is drawn, the Clerk will publically announce the name of the member of Council whose vote it is and announce the Candidate for which they voted;

7) The Clerk will tabulate and announce the results;

8) 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 receive 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 Candidates 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.

9) Where the votes cast are equal for all remaining Candidates and if:

a) there are three or more candidates remaining the Clerk will by Lot select one such Candidate to be excluded from subsequent voting;

b) If only two Candidates remain, the tie will be broken by selecting a Candidate by Lot as conducted by the Clerk.

7.12 Upon conclusion of the voting, the Clerk will note the Candidate receiving the votes of more than one-half of the number of voting members of Council or the Candidate selected through the process outlined in Section 7.11.9.

7.13 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 regular Council meeting.

7.14 The Clerk will administer the Declaration of Office required by the Act at the meeting where the By-Law referred to above is enacted by Council, or as directed by Council.

## **8.0 FILLING A VACANY BY APPOINTMENT – MAYOR OR DEPUTY MAYOR**

8.1 Within 60 days of declaring a seat vacant, Council shall appoint a new member by By-Law;

8.2 Council may fill the vacancy by appointing any member of Council wishing to be considered for the appointment;

8.3 Any member of Council wishing to be considered for appointment to the vacancy shall advise the Clerk in writing and by completing and signing the Council Vacancy Appointment Application Form by the date and time as set by the Clerk;

8.4 A vote to fill a vacancy of Mayor or Deputy Mayor by appointment shall follow the process outlined in Section 7.10 and 11, above;

8.5 The vacant seat of the member of Council shall be declared at the meeting the By-Law to appoint the member as Mayor or Deputy Mayor is enacted by Council.

**9.0 FILLING A VACANCY BY BY-ELECTION**

- 9.1 Within 60 days of declaring a seat vacant, Council shall consider and enact a By-Law to fill the vacancy by By-election;
- 9.2 A By-election shall be held in accordance with the Municipal Elections Act;
- 9.3 The Clerk shall be responsible for conducting any By-election in accordance with the Municipal Elections Act and all applicable policies and procedures.

**10.0 RESPONSIBILITIES**

- 10.1 The Clerk shall be responsible for interpreting and where appropriate, administering the Council Vacancy Policy and applicable procedures.

**11.0 POLICY ADMINISTRATION AND REVIEW**

- 11.1 This policy shall be administered by the Clerk.
- 11.2 This policy shall be reviewed during the first 6 months of each new term of Council.