

Council Vacancies

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Purpose statement

This ~~is the purpose of this~~ procedure ensures ~~is to provide for~~ an accountable and transparent process for filling vacancies on Town of Oakville Council.

Scope

This procedure applies to any ~~office~~ Council seat declared vacant during a ~~on~~ Town of Oakville Council ~~during the term of Council~~.

Procedure

When a vacancy for the position of Town Council or Town and Regional Council is declared on or:

- prior to December 31 of the second year after a regular election the position shall be filled through the conduct of a by-election. (e.g.: for the 2022-2026 election this would mean on or prior to December 31 of 2024~~2028~~)
- after January 1 of the third year after a regular election the vacancy may be filled by appointment or by by-election. (e.g.: for the 2022-2026 election this would mean on or after January 1 of 2025~~2029~~)

- The amount of time remaining in the term and the cost efficiency of filling the position by appointment shall be considered when determining how the position will be filled
- after-between January 1 of a regular election year and 90 days prior to voting day, the position shall be filled by appointment only.
- within 90 days before voting day of a regular election the position shall remain vacant until it is filled through the regular election process.

When a vacancy for the position of Mayor is declared on or:

- prior to March 31 of a regular election year, the position shall be filled through the conduct of a by-election
- on or after April 1 of a regular election year, the vacancy may be filled by appointment.

*In accordance with the Municipal 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.*

Filling a vacancy for the position of Town Council or Town and Regional Council Member by appointment

(An appointment shall be made within 60 days of the Council declaration of the vacancy in accordance with section 262 of the Municipal Act)

1. Council shall declare the seat of the Member of Council to be vacant in accordance with the *Municipal Act*.
2. The Town Clerk or designate (the Clerk) shall post ~~a notice~~ in accordance with the *Municipal Elections Act, 1996, as amended (MEA)* and the town's Public Notice and Engagement Policy~~on the Town website and in the local newspaper.~~ The notice shall indicate Council's intention to appoint a person to the vacancy and outline the process any interested person must follow to become nominated. In addition, notice will be sent to all resident groups and to any individual in the town who has requested notice.
3. No sooner than 14 days after a notice of vacancy has been given, an information session shall be conducted by staff for potential nominees.
4. All nominations must confirm in writing, on the forms provided by the Clerk's department, their consent of nomination, endorsements of nomination (in accordance with the MEA requirement for a general election), and declaration of qualification". Official forms to be provided on or before the information session.
5. The vote to fill the vacancy by appointment shall occur at a Council meeting.
6. At the meeting, the following shall take place:
 - (a) The Chair shall 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 nominees who have submitted the required documentation in accordance with this procedure.

(c) The Chair will call for a motion from Council in the following form:

“THAT the following persons, who have signified in writing that they are legally qualified to hold the office of councillor and consented to accept the office if they are appointed to fill the vacancy of councillor, be considered for appointment to fill such vacancy.”

(d) Each of the nominees shall be afforded the opportunity to address Council for a period of not more than ten minutes. The order of speaking will be determined by lot. (The Clerk shall place the names of all nominees in a container and randomly draw the names.)

~~(e) With respect to presentations, candidates may wish to consider and address the following questions in their presentation:~~

- ~~• Name three things that a Councillor does?~~
- ~~• Name the main issues facing the ward at this time?~~
- ~~• What is the role of Council?~~
- ~~• Do you intend to run in the next general municipal election?~~
- ~~• What makes you think you will be a good Councillor?~~
- ~~• What are our most important challenges facing the community?~~
- ~~• What qualities does an ideal candidate possess?~~
- ~~• Describe the type of leader you will be, by describing your two highest priorities for change in our municipality.~~
- ~~• What do you cherish the most about your community?~~
- ~~• Would you support the strategic plan of Council?~~

~~(f)~~(e) Upon hearing all the submissions of the nominees, Council will proceed to vote as follows:

- i. In accordance with Section 244 of the *Municipal Act*, Members of Council will vote by way of public vote;
- ii. where the candidate receiving the greatest number of votes cast does not receive more than one-half the votes of all Members of Council, the nominee or nominees who received the fewest number of votes shall be excluded from the voting and the vote will be taken again by the Clerk and, if necessary, more than once, excluding in each successive vote the nominee or nominees who receive the fewest number of votes in the preceding vote, until the nominee receiving the greatest number of votes has also received more than one-half of the votes of the Members of Council present and voting;

- iii. where the votes cast are equal for all the nominees and if:
 - (1) there are three or more candidates remaining, the Clerk shall by lot select one such nominee to be excluded from the subsequent voting;
 - (2) only two nominees remain, the tie shall be broken and the vacancy shall be filled by the nominee selected by lot conducted by the Clerk;
- ~~(g)~~(f) Upon conclusion of the voting, the Clerk will declare to be elected the nominee receiving the votes of more than one-half of the number of the Members of Council present and voting.
- ~~(h)~~(g) A by-law confirming the appointment shall be enacted by Council appointing the successful nominee to the office for the remainder of the term of the present Council.

Filling a vacancy for the position of mayor by appointment

(After March 31 of a regular election year, an appointment shall be made within 60 days of the Council declaration of the vacancy in accordance with section 248.12(3)262 of the Municipal Act. Note: if the vacancy occurs within 90 days before voting day of a regular election, the town is not required to fill the vacancy.)

1. Council shall declare the seat of the Mayor to be vacant in accordance with the *Municipal Act*.
2. The vote to appoint a member to the position of Mayor shall occur at a Council Meeting.
3. Any Member of Council wishing to be considered for appointment to the vacancy shall advise the Clerk in writing by 12:00 noon, five business days prior to the meeting.
4. At the meeting, the following shall take place:
 - (a) The Chair shall make a short statement of the purpose of the meeting and the general order of proceedings to be followed.
 - (b) Members of Council seeking appointment (candidates) shall declare a pecuniary conflict of interest
 - (c) The Clerk will provide to the Chair a list of the names of those Members of Council 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 candidates, who have signified in writing their interest in being appointed to the office of Mayor, be considered for appointment to fill such vacancy.

- (d) Each of the candidates shall be afforded the opportunity to address Council for a period of not more than five minutes. The order of speaking will be

- determined by lot. (The Clerk shall place the names of all candidates in a container and randomly draw the names.)
- (e) Each Member of Council not being considered for the appointment will be allowed no more than one question to each candidate.
 - (f) Upon hearing all the submissions of the candidates, Council will proceed to vote as follows:
 - i. Members of Council, including those who are being considered for appointment, will vote by way of public vote;
 - ii. 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 shall be excluded from 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 shall 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;
 - iii. where the votes cast are equal for all the candidates:
 - 1. if there are three or more candidates remaining, the Clerk shall by lot select one such candidate to be excluded from the subsequent voting;
 - 2. if only two candidates remain, the tie shall be broken and the vacancy shall be filled by the candidate selected by lot, as conducted by the Clerk.
 - (g) Upon conclusion of the voting, the Clerk will declare to be elected the candidate receiving the votes of more than one-half of the number of the voting Members of Council.
 - (h) A by-law confirming the appointment shall be enacted by Council appointing the successful candidate to the office for the remainder of the term of the present Council.
 - (i) Where a Mayor is appointed pursuant to section 284.12(3) of the Municipal Act, the town will be deemed not to be prescribed for Part VI.1 of the Municipal Act.

Filling a vacancy by by-election

A by-election shall be held in accordance with the *Municipal Elections Act*.

References and related documents

Elections Policy

Municipal Act

Municipal Elections Act

Public Notice and Engagement Policy and related procedures

Definitions

Lot: for the purpose of this procedure, means a method of determination by placing the names of the nominees on equal size pieces of paper and placed in a container with one name being drawn by the Clerk, or designate.

Responsibilities

The Town Clerk or designate shall be responsible for interpreting and where appropriate administering the Council Vacancies Procedure.

The Town Clerk or designate shall be responsible for conducting any by-election in accordance with the *Municipal Elections Act* and all applicable policy and procedure.