

Appointment Procedure for Filling Vacancy on Council

Appendix A to By-Law Number 2026-31

Purpose

The purpose of this procedure is to provide the steps to be followed to ensure an open and transparent process when filling a Council vacancy by appointing an Eligible Elector.

General

The Clerk, or designate, shall be responsible for interpreting and, where appropriate, facilitating the appointment application process.

Any individual filling the vacancy must be an Eligible Elector under the *Municipal Elections Act*.

Section 264 of the Municipal Act, 2001, provides that the person appointed or elected to fill a Vacancy shall hold the office for the remainder of the term of the person they replaced.

To be considered for Appointment, a Candidate must meet all the requirements to hold the Vacant office, and must not otherwise be disqualified from holding that office.

It is the Candidate's sole responsibility to meet any deadline or otherwise comply with any requirement established by the Council or the Clerk as part of the Appointment process.

In making its determination, Council will consider the costs and timelines associated with filling a Vacancy by appointment or by By-election.

Definitions

- a) **"Act"** means the *Municipal Act*, S.O. 2001, c. 25, as amended.
- b) **"Appointment"** means the appointment of a qualified individual to fill a Vacancy on Council for the remainder of the current Council term.
- c) **"By-election"** means an election held to fill any Vacancy in accordance with the provisions of Section 65 of the *Municipal Elections Act*, 1996, as amended.

- d) **"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 procedure.
- e) **"Chair"** means the member of Council presiding at the Council meeting to appoint an individual to fill a Council Vacancy.
- f) **"Clerk"** means the Clerk or the designate of the Township of Nipissing as appointed by Council.
- g) **"Council"** means the Council of the Township of Nipissing.
- h) **"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 Township of Nipissing, or an owner or tenant of the land in the Township or the spouse of such an owner or tenant;
 - b. Who is a Canadian Citizen;
 - c. Who is at least 18 years of age; and
 - d. Who is not prohibited from voting under any other Act or from holding office under the *Municipal Elections Act*.
- i) **"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.
- j) **"Majority"** means the largest number which is more than half of a total. For example; if there are four remaining Members of Council, then the majority would be 3 votes or if there are three remaining Members of Council, then the majority would be 2 votes.
- k) **"Municipality"** means The Corporation of the Township of Nipissing.
- l) **"Municipal Elections Act"** means the *Municipal Elections Act*, S.O., 1996, c. 32, as amended.
- m) **"Nominee"** means an individual seeking to fill a Vacancy on Council who meets the eligibility requirements and who has completed the requisite documentation as outlined in this procedure.
- n) **"Procedure By-Law"** means the By-Law adopted by Council for governing the proceedings of its Council, the conduct of its members and the calling of Meetings.
- o) **"Regular Election Year"** means the year established for a regular municipal election in accordance with the *Municipal Elections Act*.

- p) **"Term of Office"** means the period of time a Candidate is elected to hold office for which they are elected in accordance with the *Municipal Elections Act*.
- q) **"Township"** means The Corporation of the Township of Nipissing.
- r) **"Vacancy"** means when a seat on Council has become vacant in a manner described in Section 259 of the *Municipal Act*.

Legislative & Administrative Authorities

If a Vacancy occurs in the office of a member of the Council, the Township shall, subject to this section,

Within 60 days after the day a declaration of Vacancy is made with respect to the Vacancy under Section 262 of the Act, the Township shall,

- a) Fill the Vacancy by appointing a person who has consented to accept the office if appointed; or
- b) Require a By-election to be held to fill the Vacancy in accordance with the *Municipal Elections Act, 1996*.

Appointment Procedure

Notice of Vacancy

Following a Declaration of a Vacant Council seat by Council, the Clerk will prepare a post for circulation and Candidate packages will be made available online and paper copies once the notice of vacancy is posted.

The Clerk shall post a Council Vacancy Notice on the Municipal website, social media platforms, printed copies in the Township Office and other municipal facilities with public traffic for two (2) consecutive weeks. The notice shall indicate Council's intention to appoint an individual to fill a vacancy and shall outline the nomination process.

Mayor Vacancy

If the Vacancy is in the office of the Mayor, the seat will be offered to the Deputy Mayor, as the Councillor with the highest number of votes cast in their favour in the most recent municipal election. If the Deputy Mayor declines the seat, Council may choose to fill the Vacancy by appointing a current member of Council who is a qualified individual as outlined in Section 256 of the Act.

The appointment of a current member of Council to fill the Vacancy on Council shall take place at a Special Meeting of Council called for such purposes, within 60 days of declaring a Vacancy.

Only a member of Council elected for the term in which the appointment is taking place shall be considered eligible for appointment.

At the Special Meeting of Council, the Chair may call for nominations from the floor. The Chair will request that any member of Council interested in being nominated shall indicate their interest by raising their hand. Anyone being considered for nomination must be present in Council Chambers.

Individuals seeking appointment to the position of Mayor who are current members of Council (nominees) shall declare a pecuniary interest.

Upon receipt of nomination, the Chair will ask if the nominee(s) accept the nomination. Nominations shall be confirmed by Resolution.

If there is only one nominee, the Clerk then shall declare and confirm the nominee to be appointed to the office of Mayor and a Resolution shall be passed.

If there are multiple nominees, then Council will debate the matter and pass a resolution to appoint a member to the vacant office.

The successful Candidate shall formally be appointed by By-Law and complete the Oath of Office (required by subsection 232 of the Municipal Act and administered by the Clerk) immediately after the conclusion of the voting, and the new member shall take their Declaration of Office before taking their seat on Council.

Council Vacancy

Within the First Two Years of the Municipal Election:

Should a Council vacancy occur within two years of a municipal election, the Candidate with the highest number of votes cast in their favour shall be offered the Councillor seat; provided that the Candidate obtained a minimum of 20% of the total number of ballots cast.

In the event that the Candidate with the next highest total of votes cast in their favour does not accept the seat, the Clerk shall go to the next Candidate with the next highest number of ballots cast in their favour and with a minimum of 20% of the total number of ballots cast, and so on.

Should a point be reached where the remaining Candidate(s) from the municipal election did not obtain a minimum of 20% of the total ballots cast, the candidates shall not be awarded the seat and the Clerk will implement the Council Vacancy Application procedure.

During the Remaining Two Years of a Council Term Before a Municipal Election:

The Council Vacancy Application procedure shall be utilized for the selection of a Councillor to fill a vacancy.

Any individual wishing to be considered for appointment to fill the Council vacancy will complete and sign the Council Vacancy Application form, Council Vacancy Declaration of Qualification form approved by the Clerk, and Council Vacancy Freedom of Information (FOI) Release, and will submit the forms to the Clerk in person by the date and time established by the Clerk.

Individuals filing the above forms will be required to provide identification showing their name and a qualifying address to the satisfaction of the Clerk.

Once submitted, the forms will be made available to the public in the same way as a nomination form for a candidate in a municipal election. They will be circulated to members of Council and copies will be placed on the Township website.

Applicants may also submit a personal statement of qualification for consideration of Council. Personal statements will be typewritten in a 12-point (or greater) font on letter size (8 1/2" x 11") paper, shall not exceed one page in length and will include the applicant's name and address.

Statements that do not meet these requirements will not be included in any Council meeting agenda or be provided to Council by the Clerk. The Clerk's office will advise applicants of the deadline for the submission of personal statements.

It is the applicant(s) sole responsibility to meet any deadline or otherwise comply with any requirements of this procedure.

The Clerk will create a list of all applicants, hereinafter referred to as candidates and publish once the submission deadline has passed and the candidates have been Certified.

Special Council Meeting

The list of candidates will be considered at an open Council meeting. The meeting will be a special Council meeting called for that purpose.

Notwithstanding the requirements 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, while respecting the standard agenda of a regular Council meeting if applicable.

Copies of all application documents will be included with the agenda package for the meeting and will be made available as part of the public agenda.

At the scheduled 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 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) Council shall review the list of candidates and their statements of qualifications.
- d) Each of the candidates shall be afforded the opportunity to address Council for a period of not more than ten (10) minutes. The order of speaking shall be determined by lot. The names drawn shall address Council in the order they are drawn from the container. Candidates not presenting shall be sequestered in a separate area until it is that persons' turn to speak.
- e) Once each candidate has completed speaking, each Council member may ask a maximum of two (2) questions per candidate. No scoring system shall be used in considering the answers to the questions. It is not necessary for any candidate to participate in answering any or all of the questions.
- f) Upon reviewing the candidates and statements of qualification, Council will proceed to vote as follows:
 - i) Council will vote by way of public vote, and all candidates will be invited to witness the voting and the remainder of the meeting. Members of Council shall verbally cast their vote.
 - ii) Candidate names shall be displayed in alphabetical order for Council and the public to view.
 - iii) Members of Council shall vote for one candidate only.
 - iv) The Clerk shall call upon the member of Council to verbally cast vote in random order, Council members names shall be drawn by lot.
 - v) The Clerk or designate shall tabulate the results.

- vi) If the candidate receiving the greatest number of votes cast does not receive more than one half of the votes of all voting Members of Council, the candidate who received the fewest number of votes shall be excluded from further consideration. Candidates receiving zero votes shall be excluded.

The vote will be taken again by the Clerk and, if necessary, more than once, excluding in each successive vote the candidate who received the fewest number of votes. This process 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.

- vii) If a tie exists between two or more candidates for the fewest number of votes received, the Clerk shall put all the candidates' names tied for the fewest number of votes in a container and pull one such candidate from the container to be excluded from the subsequent voting.
- viii) Where the votes cast are equal for all candidates and if there are three or more candidates remaining, the Clerk shall put qualifying candidates' names into the container and pull one such candidate from the container to be excluded from the subsequent voting.
- ix) Where the votes cast are equal for all candidates and if only two candidates remain, the Clerk will break the tie by pulling the name of the successful candidate from the container. The Candidate whose name is pulled by the Clerk will be declared elected.
- x) 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 or the candidate selected through section f.ix.
- xi) A By-law confirming the appointment of the successful candidate shall be enacted by Council immediately after the conclusion of the voting, and the new member shall take their Declaration of Office before taking their seat on Council.

General Voting Rules

Each piece of paper used by the Clerk to draw names of candidates (by lot) in accordance with the requirements of this Procedure will be created by the Clerk and will be equal in size and type and will contain the name of one member only, last name appearing first followed by first name.

Only the Clerk or their delegate may handle the pieces of paper or the container referenced in this procedure.

The minutes of the Council meeting shall include a full disclosure of all voting results.

Forms to be completed and filed with the Clerk by each Candidate:

1. Schedule 1, Council Vacancy Application Form
2. Schedule 2, Declaration of Qualifications – Council Form
3. Schedule 3, Freedom of Information Release Form