

AUGUSTA TOWNSHIP



THE CORPORATION OF THE TOWNSHIP OF AUGUSTA BY-LAW NUMBER 3617-2023

A BY-LAW TO ADOPT A COUNCIL VACANCY POLICY FOR THE TOWNSHIP OF AUGUSTA

WHEREAS Section 5 of the Act provides that a municipality's power shall be exercised by By-Law;

AND WHEREAS Council wishes to establish a policy to fill declared Council vacancies,

NOW THEREFORE the Council of the Corporation of the Township of Augusta enacts as follows:

1. **THAT** Council adopts the Council Vacancy Policy.
2. **THAT** schedule A attached hereto shall form part of this By-Law.
4. **THAT** all other By-Laws inconsistent herewith are hereby repealed.
5. **THAT** this By-Law shall come into force and effect on the date of passing.

READ a first and second time this 13 day of February, 2023.

READ a third time and passed this 13 day of February, 2023.


MAYOR


CLERK

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POLICY:	Council Vacancy Policy	By-Law # 3617-2023	Date issued: February 13, 2022
Pages 7		Review Date: December 2026	Revision Date:

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 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.

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

2. SCOPE

This procedure applies to any Council office declared vacant on Township Council during the term of Council.

3. DEFINITIONS

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 Section 65 of the Municipal Elections Act, 1996, as amended.

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.

Clerk means the Clerk or their designate of The Corporation of the Township of Augusta as appointed by Council.

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

- who is a resident of the Township of Augusta, or an owner or tenant of land in the Township or the spouse of such an owner or tenant;
- who is a Canadian Citizen;
- who is at least 18 years old; and,
- 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 candidates on equal size pieces of paper and placed in a container with one candidate name being drawn by the Clerk.

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Nominee means those individuals seeking to fill a vacancy on Council who meet the eligibility requirements and who have completed the requisite documentation.

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 in section 259 of the Act.

4. GENERAL

Council is required to declare a seat vacant in accordance with the Act. 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.

Within 60 days after the day a declaration of vacancy is made by Council according to Section 263 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 (no by-election shall be held) 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)3. of the Municipal Act.

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

The vote to appoint a member to the vacancy shall occur at an open Special Meeting of Council.

The Clerk has the authority to make minor technical amendments to this procedure as may be required from time to time.

5. ELIGIBILITY REQUIREMENTS

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.

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

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6. METHOD OF FILLING VACANCIES

Council may choose to fill a vacancy with the following methods:

- a) Appointing the Candidate who ran for the position that is vacant from the previous election who received the next greatest number of votes but was not elected; or
- b) An open call for individuals for consideration by Council through a public appointment process by call for nominees; or
- c) In the event of a vacant seat for the office of Mayor or Deputy Mayor, appointing a current member of Council; or
- d) After first considering filling the vacancy by appointment, fill the position by by-election in accordance with the Municipal Elections Act after considering the costs and timelines associated with filling a vacancy by by-election.

Council shall pass a resolution directing the method to fill the vacancy.

7. PROCEDURE TO FILL VACANCIES

7.1 FILLING A VACANCY BY APPOINTMENT OF PREVIOUS ELECTION CANDIDATE

Within 60 days of vacancy, Council shall declare the seat vacant.

Council may fill the vacancy by appointing a Candidate who ran in the last regular election but was not elected. The Clerk shall reaffirm the candidate is able, agreeable and meets the eligibility requirements of office as outlined in the Act and the Municipal Elections Act.

A vote to fill a vacancy on Council by appointment shall occur at an open Special Council Meeting.

A By-Law confirming the appointment of the successful candidate for the remainder of the terms shall be enacted and the candidate shall complete the Oath of Office at the next Council meeting.

7.2 FILING A VACANCY BY CALL FOR NOMINEES

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

The Clerk shall post a Council Vacancy notice on the Township's website, social media and in the local newspaper for a minimum of three (3) consecutive weeks following Council's decision to fill a vacancy by appointment and any other notice deemed necessary by the Clerk. The notice shall indicate Council's intention to appoint an individual to fill a vacancy and shall outline the nomination process.

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

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Qualification Form provided and approved by the Clerk and will submit the forms to the Clerk in-person by the date and time established by the Clerk.

Candidate(s) may submit, to the Clerk, 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 will not be included in any Council meeting agenda or provided to Council by the Clerk. The Clerk will advise candidate(s) of the deadline for submission of a personal statement.

Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification to prove his or her identity and qualifying address to the satisfaction of the Clerk.

A candidate package will be provided by the Clerk to all interested nominees.

It is the Candidate(s) sole responsibility to meet any deadline or otherwise comply with any requirement of this policy, the Act or the Municipal Elections Act.

All applications 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 and shall be available for viewing in the Clerk's office. The Clerk will create a list of all Candidates and publicly post the Candidate Listing on the Township's website. The listing will be updated as eligible applications are received.

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.

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.
- 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, 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) 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 ten (10) minutes. The order of speaking will be determined by alphabetical order by last name.

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- 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.

In the event that there is more than one Candidate, 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) The Clerk will tabulate and announce the results.
- h) The Candidate who receives the votes of more than one half of the number of Members of Council present and voting shall fill the vacancy.
- 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 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) Where the votes cast are equal for all remaining Candidates and if:
 - There are three or more Candidates remaining, the Clerk will by Lot select one such Candidate to be excluded from the subsequent voting.
 - If only two (2) Candidates remain, the tie will be broken by selecting a Candidate by Lot, as conducted by the Clerk.

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.

The appointment of the Candidate will be made by By-Law. A By-Law confirming the appointment will be enacted by Council.

The Clerk will administer the Declaration of Office required by subsection 232(1) of the Act, at the meeting where the appointing By-Law is enacted by Council, or as directed by Council.

7.3 FILLING A VACANCY BY INTERNAL APPOINTMENT FOR THE OFFICE OF MAYOR OR DEPUTY MAYOR

Council shall declare the seat of the Mayor or Deputy Mayor to be vacant in accordance with the Municipal Act and may decide to appoint an existing member of Council to the seat.

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Upon the decision to fill the vacant seat internally, 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 provided by the Clerks office by 12:00 Noon on the Wednesday prior to the meeting.

If there are no members of Council who advise that they wish to be considered for appointment to the vacancy, Council may fill the vacancy using another method to fill the vacancy.

The vote to appoint a current Council Member to the position of Mayor or Deputy Mayor shall occur at an open Special Council Meeting. The current councillor wishing to fill the vacant seat may vote.

The appointment of the Candidate shall be made by By-Law. A By-Law confirming the appointment will be enacted by Council.

The Clerk will administer the Declaration of Office required by subsection 232(1) of the Act, at the meeting where the appointing By-Law is enacted by Council.

A Councillor vacancy created due to filling the Mayor or Deputy Mayor's seat internally shall be filled in accordance with the provisions of this Policy.

7.4 FILLING A VACANCY BY BY-ELECTION

Within 60 days of declaring a seat vacant, Council shall pass a By-Law to fill the vacancy by By-election.

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

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.

8. RESPONSIBILITIES

Council is responsible for the adoption and application of this policy.

Where appropriate, the Clerk (or designate) shall be responsible for the administration of and applicable procedures of this policy.

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

9. POLICY ADMINISTRATION AND REVIEW

This policy will be reviewed every four years or as required based on revisions to corporate practices or Provincial legislation.