

The Corporation Of The Municipality Of Hastings Highlands

Bylaw 2021-029

A Bylaw to Adopt a Council Vacancy Policy

Whereas the Council of the Corporation of the Municipality of Hastings Highlands deems it desirable to pass Bylaw 2021-029 adopting a policy when the seat of a Member of Council becomes vacant.

And Whereas the *Municipal Act*, 2001, 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*, S.O., 1996, c 32.

Now Therefore the Council of the Corporation of the Municipality of Hastings Highlands enacts as follows:

1. That Council hereby approves the policy "Council Vacancy" as Schedule "A" to this Bylaw.
2. That Bylaw 2016-079 is hereby repealed.
3. That effective on the date of passage of this bylaw it shall become enacted.

Read a first time on the 21st day of April, 2021.

Read a second time, Enacted and Passed on this 5th day of May 2021.


Tracy Hagar, Acting Mayor


Suzanne Huschilt, Municipal Clerk



SCHEDULE "A" to BYLAW 2021-029

Municipality of Hastings Highlands- Corporate Policies and Procedures			
DEPARTMENT: Council/Clerk Services/Administration			POLICY #:
POLICY: Council Vacancy Policy			
DATE: May 5, 2021	REV. DATE:	COVERAGE: Members of Council and Public	PAGE #: 11

1.0 PURPOSE:

- 1.1 The Municipality of Hastings Highlands is committed to an open, accountable and transparent government.
- 1.2 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.

2.0 SCOPE:

- 2.1 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 (eligible elector) 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*, S.O., 1996, c.32.
- 2.2 The Municipal Clerk, or designate, 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 procedure as may be required from time to time.

3.0 DEFINITIONS:

In these procedures;

“Act” means the *Municipal Elections Act*, 1996, S.O., 1996, c.32, Sched., as amended.

“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 as required by this procedure.

“Chair” means the Member of Council presiding at the Council meeting to appoint an individual to fill a Council vacancy.

“Clerk” means the Municipal Clerk, or their designate.

“Council” means the Council of The Municipality of Hastings Highlands.

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

- (a) Who is a resident of the Municipality of Hastings Highlands, or an owner or tenant of land in the Municipality 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 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.

“Municipality” means The Corporation of the Municipality of Hastings Highlands.

“Municipal Elections Act” means the *Municipal Elections Act*, S.O., 1996, c.32, as amended.

“Nominee” means that individual seeking to fill a vacancy on Council who meets the eligibility requirements and who have completed the requisite documentation as outlined in this policy.

“Procedure Bylaw” means the Bylaw adopted by Council for governing the proceedings of its Council, the conduct of its Members and the calling of Meetings.

“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*.

4.0 GENERAL:

- 4.1 Council is required to declare a seat vacant in accordance with the *Act*.
- 4.2 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.
- 4.3 Within 60 days after the day a declaration of vacancy is made by Council according to Section 262 of the *Act*, Council shall determine whether to fill the vacancy by By-election or by appointment in accordance with the *Act*, subject to:
- 4.3.1 the limitation on filling a vacancy only by appointment 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
 - 4.3.2 the restriction on filling a vacancy that occurs within 90 days of voting day of a regular election in Section 263(5)(b) of the *Act*.
- 4.4 In making its determination, Council will consider the costs and timelines associated with filling a vacancy by appointment or by By-election.

5.0 ELIGIBILITY REQUIREMENTS:

- 5.1 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.
- 5.2 If an employee of the Municipality of Hastings Highlands seeks appointment to Council they must be an Eligible Elector. The employee shall give Council written notice, in advance, of their intention to take unpaid leave, in accordance with the *Act*. If the employee is appointed to office, they will be deemed to have resigned from their position with the Municipality immediately before making the Declaration of Office.

6.0 APPOINTMENT PROCEDURE FOR FILLING A VACANCY BY APPOINTMENT

OF A PREVIOUS ELECTION CANDIDATE: Council to choose either Appointment Procedure 6.0 or 7.0
(or 9.0 if applicable)

- 6.1 Within 60 days of declaring a seat vacant, Council shall appoint a new member by Bylaw.
- 6.2 Council may fill the vacancy by appointing the Candidate who ran for the position that is vacant from the most current Election who received the most votes but was not elected.
- 6.3 The Candidate shall reaffirm they meet the eligibility requirements of office as outlined in the *Act* and the *Municipal Elections Act*.
- 6.4 If the individual is no longer qualified to hold office, the appointment shall be to the next Candidate who ran for the position that is vacant from the most current Municipal Election who

received the second most votes but was not elected, and so on.

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

6.6 The successful Candidate shall be appointed and complete the Declaration of Office as per Section 232(1) of the *Municipal Act*, 2001 at the next Council meeting.

7.0 APPOINTMENT PROCEDURE FOR FILLING A VACANCY BY CALL FOR NOMINEES: (Council to choose either Appointment Procedure 6.0, 7.0 (or 9.0 if applicable))

7.1 Within 60 days of declaring a seat vacant, Council shall appoint a new member by Bylaw.

7.2 The Clerk shall post a Council Vacancy notice (Appendix A) on the Municipal website and in the local newspaper for a minimum of Two (2) consecutive weeks following Council's intention to appoint an individual to fill a vacancy by appointment for a call for nominees. 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 Application Form (Appendix B) and a Council Vacancy Declaration of Qualification Form (Appendix C) approved by the Clerk, and will submit the forms to the Clerk in person 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 of Council. Personal statements will be typewritten in a 12-point font on letter size (8 1/2" 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 shall 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.

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 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*.

7.7 The Clerk will create a list of all Candidates and publicly post said list on the Municipality's website.

7.8 Notwithstanding the requirement of the Procedure Bylaw, 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:

7.8.1 A certified list of all Candidates listed in alphabetical order by last name.

7.8.2 Any personal statement of qualification for consideration of Council.

8.0 COUNCIL MEETING – INTERVIEWS AND SELECTION:

- 8.1 A vote to fill a vacancy on Council by appointment will occur at an open Council Meeting. The meeting may be a Regular Council Meeting or a Special Council Meeting called for that purpose.
- 8.2 Notwithstanding the requirement of the Procedural Bylaw, 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:
- 8.2.1 A certified list of all Candidates listed in alphabetical order by last name.
 - 8.2.2 Any personal statement of qualification for consideration of Council.
(If applicable).
- 8.3 At the meeting, the following will take place:
- 8.3.1 The Chair will make a short statement for the purpose of the meeting and the general order of proceedings to be followed.
 - 8.3.2 The Clerk will provide to the Chair a list of the names of qualified Applicants 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 Council vacancy, be considered for appointment to fill such vacancy.”
- 8.4 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.
- 8.5 Each of the Candidates will 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 Lot. The Clerk will place the names of all Candidates in a container and randomly draw the names.
- 8.6 Each member of Council will be permitted two (2) questions to each Candidate. Candidates shall be limited to a maximum of two (2) minutes per question.
- 8.7 Upon hearing all the submissions of the Candidates, Council will proceed to vote as follows:
- 8.7.1 Members of Council will vote by way of public vote as required by the *Municipal Act, 2001*. Candidate names will be displayed on a flip board or screen to be visual in alphabetical order, in the Council Chambers by the Clerk.
 - 8.7.2 Members of Council will vote for one Candidate only.

- 8.7.3 The Clerk will place the names of all Members of Council in a container and randomly draw their names to vote.
- 8.7.4 Members of Council will verbally and in writing cast their vote for one (1) Candidate. All ballots shall be of identical size, paper quality and colour shall be pre-printed with the member's name and signature by the council member and returned directly to the Clerk or designate, unless the meeting is held electronically. In that case, members can deliver their ballots to the municipal office or drop-box, as directed by the Clerk.
- 8.7.5 The Clerk will read aloud the member's name and selected candidate and announce the tabulated results.
- 8.7.5.1 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 member.
- 8.7.6 Where the votes cast are equal for all remaining Candidates and if:
- 8.7.6.1 There are three or more Candidates remaining, the Clerk will by Lot select one such Candidate to be excluded from the subsequent voting.
- 8.7.6.2 If only two (2) Candidates remain, the tie will be broken by selecting a Candidate by Lot, as conducted by the Clerk.
- 8.7.7 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 through the process detailed in section 8.7.5.1 - 8.7.6.2
- 8.7.8 The appointment of the Candidate will be made by Bylaw. A Bylaw confirming the appointment will be enacted by Council at the next Council meeting.
- 8.7.9 The Clerk will administer the Declaration of Office required by subsection 232(1) of the *Municipal Act*, 2001, at the meeting where the Bylaw referred to in section 8.7.8 of this policy is enacted by Council, or as directed by Council.

9.0 FILLING A VACANCY BY APPOINTMENT FOR THE POSITION OF MAYOR OR DEPUTY MAYOR:

- 9.1 Within 60 days of declaring a seat vacant, Council shall appoint a new member by Bylaw.
- 9.2 Council may fill the vacancy by:

- 9.2.1 appointing any Member of Council wishing to be considered for appointment; or
- 9.2.2 "Filling a Vacancy by Appointment of a Previous Election Candidate" in accordance with section 6.0 of this policy; or
- 9.2.3 "Filling a Vacancy by Call for Nominees" in accordance with section 7.0 of this policy.

9.3 Any Member of Council wishing to be considered for appointment to the vacancy shall advise the Clerk in writing by the time and date set out by the Clerk.

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

9.5 The vacant seat of Councillor shall be filled in accordance with the provisions of this policy.

10.0 FILLING A VACANCY BY A BY-ELECTION:

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

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

10.3 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.

11.0 RESPONSIBILITIES:

11.1 The Clerk or designate shall be responsible for interpreting and where appropriate administering the Council Vacancy Policy and applicable procedures.

APPENDIX A - Council Vacancy Notice Template



PUBLIC NOTICE

MUNICIPALITY OF HASTINGS HIGHLANDS MUNICIPAL COUNCIL VACANCY

TAKE NOTICE that a vacancy exists on the Municipality of Hastings Highlands Council for one (1) Councillor (or Mayor or Deputy Mayor) Position. Council has determined to fill this vacancy by appointment through a Call for Nominees in accordance with the Municipality of Hastings Highlands Council Vacancy Policy.

The Term of this position is from the date of Council appointment (DATE) for the balance of the Council term until the Inaugural Meeting of 2022.

A candidate for municipal office must be a qualified municipal elector as set out in the *Municipal Elections Act*, 1996. Qualified electors must be:

- 18 years of age or older;
- a Canadian citizen;
- a resident of the Municipality of Hastings Highlands, or an owner or tenant of land in the Municipality or the spouse of such an owner or tenant; and
- not prohibited from voting under any other Act of disqualified from holding municipal office.

Interested Nominees must complete a Council Vacancy Application Form and a Declaration of Qualification through with the Clerk's Office. ***Nominations will be accepted by the Clerk's Office during regular business hours until (DATE) at 2:00 p.m.*** Please telephone or email to schedule an appointment as office may be closed due to Covid-19.

Candidate(s) may also 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 1/2" 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 shall not be included in any Council meeting agenda or provided to Council by the Clerk.

Certified registered Candidate(s) will be afforded the opportunity to address Council for a period of not more than ten(10) minutes and will be asked questions by Council in an open Public Meeting to be held on (DATE) at (TIME) in Council Chambers.

For further information or to complete a Council Vacancy Application Form and a Declaration of Qualification, please contact:

Suzanne Huschilt, Municipal Clerk
33011 Highway 62, Maynooth
613-338-2811 ext 277 clerk@hastingshighlands.ca

APPENDIX B

Council Vacancy Application Form



Hastings Highlands

MUNICIPALITY OF HASTINGS HIGHLANDS

Note

- An Application Form may only be filed in person or by an agent; may not be faxed or e-mailed.
- It is the responsibility of the person being nominated to file a complete and accurate nomination paper.

Instructions

- Please print or type information (except signatures).

Nominee's Name as it is to appear on all correspondence (subject to agreement of the municipal clerk)			
Last Name		Given Name(s)	
Nominee's full qualifying address within municipality			
Suite/Unit No.	Street No.	Street Name	
City/Town		Province	Postal Code
Mailing Address <input type="checkbox"/> Same as qualifying address			
Suite/Unit No.	Street No.	Street Name	
City/Town		Province	Postal Code
Telephone No. (incl. area code)		Fax No.	Email Address
Business	Home		

Declaration of Qualification

I, _____, the nominee mentioned in this application form, declare that I am presently legally qualified, or would be presently legally qualified if I were not a member of the Legislative Assembly of Ontario or the Senate or House of Commons of Canada, to be elected and to hold the office for which I am nominated and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me

at the _____
of _____
in the _____ of _____
this _____ day of _____, 20_____.



Signature of Clerk or Commissioner, etc.

Signature of Nominee

Date Filed (yyyy/mm/dd)	Time Filed	Nominee or Agent Initial	Signature of Clerk or Designate
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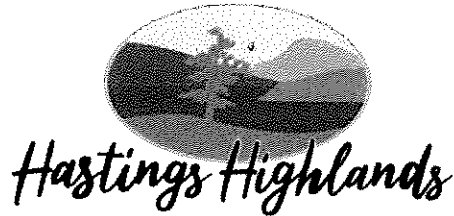
Certification by Clerk or Designate

I, the undersigned Clerk of this municipality, do hereby certify that I have examined the application form of the aforesaid nominee filed with me and am satisfied that the nominee is qualified to be nominated and that the nomination complies with the Act.

Signature

Date (yyyy/mm/dd)

APPENDIX C – Declaration



Form EL18(A)

DECLARATION OF QUALIFICATIONS – COUNCIL
Municipal Elections Act, 1996

**DECLARATION OF QUALIFICATIONS
FOR THE MUNICIPALITY OF HASTINGS HIGHLANDS COUNCIL VACANCY CANDIDATES**

I, _____, a nominated candidate for the office of
Councillor/Deputy Mayor/Mayor (circle one)

Do Solemnly Declare That:

1. I am qualified pursuant to the *Municipal Elections Act, 1996* and the *Municipal Act, 2001* to be elected to and to hold the office of Councillor/Deputy Mayor/Mayor (circle one).
2. Without limiting the generality of paragraph 1, I am at least eighteen years of age, a Canadian citizen, a resident of the Municipality of Hastings Highlands or the owner or tenant of land in the Municipality of Hastings Highlands or the spouse or same sex partner of such owner or tenant.
3. I am not ineligible or disqualified under the *Municipal Elections Act, 1996*, the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act* or any other *Act* to be elected to or hold the above-mentioned office.
4. Without limiting the generality of paragraph 3,
 - I am not an employee of the Municipality of Hastings Highlands, or if I am an employee of the Municipality of Hastings Highlands, I am on an unpaid leave of absence as provided for by section 30 of the *Municipal Elections Act, 1996*.
 - I am not a judge of any court.
 - I am not a member of the Assembly as provided in the *Legislative Assembly Act* or of the Senate or House of Commons of Canada or, if I am such a person, I will provide proof of my resignation in a form satisfactory to the Clerk of the Municipality of Hastings Highlands prior to 2:00 p.m. on (INSERT DATE). I understand that the Clerk of the Municipality of Hastings Highlands will reject my nomination for the above-mentioned office if I fail to provide proof of resignation by this deadline.
 - I am not a member of the Executive Council of Ontario or a federal Minister of the Crown.
 - I am not a Crown employee within the meaning of the *Public Service Act*, or if I am a Crown employee, I have followed and will continue to follow all the relevant provisions of

Part III of such Act.

5. I am not prohibited from voting at the municipal election under subsection 17(3) of the *Municipal Elections Act, 1996*.
6. Without limiting the generality of paragraph 5,
 - I am not a person who is serving a sentence of imprisonment in a penal or correctional institution.
 - I am not a person who was convicted of a corrupt practice described in subsection 90(3) of the *Municipal Elections Act, 1996*, during an election that occurred less than four years prior to Election Day October 22, 2018.
7. I am not a candidate who was convicted of a corrupt practice under the *Municipal Elections Act, 1996* or of an offence under the Criminal Code (Canada), in connection with an act or omission with respect to a municipal election if the Voting Day in that election is less than six years prior to Monday, October 22, 2018.
8. I am not disqualified from being elected to or holding office by reason of any violations of the election campaign financial requirements or violations for not filing the financial statement pursuant to the *Municipal Elections Act, 1996*.

And I make this solemn Declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Declared before me at the Municipality of Hastings Highlands

This _____ day of _____, 2021

(Signature of candidate)

(Signature of Clerk or designate)

The personal information on this form is collected under the authority of the *Municipal Elections Act, 1996*. This information is used to ensure candidate qualifications and will be available for public enquiries in the office of the Municipal Clerk, Municipality of Hastings Highlands until election records are destroyed. Questions about the collection can be directed to the Municipality of Hastings Highlands, 33011 Hwy 62N, Maynooth, Ontario K0L 2S0 613 338-2811