

Policy No. 118-2023 - APPOINTMENT PROCEDURE FOR FILLING A VACANCY ON COUNCIL

Area: Council

Effective Date: October 23, 2023

**Subject: Appointment Procedure for Filling Vacancy on Council
By Call for Nominees**

Revision Date:

1. Purpose:

To provide for an accountable and transparent process for filling a vacancy on Council by appointment.

This procedure shall be administered by the Clerk or designate.

2. Definitions:

“Act”: means the *Municipal Act*, S.O. 2001, c.25, as amended.

“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 Council term.

“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 or their designate of the Corporation of the Town of Goderich, as appointed by Council.

“Council” means the Council of the Corporation of the Town of Goderich.

“Eligible Elector” has the same meaning as defined by the *Act*, namely a person:

- Who is a resident of the Town of Goderich, or an owner or tenant of land in the municipality or a spouse of such 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 nominees/candidates on equal size pieces of paper and placed in a container with one or more names being drawn by the Clerk, or their designate.

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

“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.

“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 by the *Act*.

3. Appointment Procedure

- 3.1. Within 60 days of declaring a seat vacant, Council shall appoint a new member by Resolution. 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.
- 3.2. Following the declaration by the Council of the Town of Goderich that a Council seat is vacant and is to be filled by appointment, 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.
- 3.3. Any individual filling the vacancy must be an Eligible Elector under the *Municipal Elections Act* as outlined in Section 3.4.
- 3.4. To be qualified to hold office on Municipal Council, a person must be:
 - A resident of the Town of Goderich or an owner or tenant of land within the municipality or the spouse of such owner or tenant;
 - A Canadian citizen;
 - At least 18 years of age;
 - Not prohibited from voting under section 17(3) of the *Municipal Elections Act*; and
 - Not disqualified under the *Municipal Act, 2001*, or any other Act from holding the office.

4. Notice

The Clerk shall post a Council Vacancy notice on the municipal website, social media and in the local newspaper for a minimum of two (2) consecutive weeks following Council's decision to fill a vacancy by appointment. The notice will indicate Council's intention to appoint an individual to fill a vacancy and shall outline the nomination process. If no individuals have submitted an application for Council's consideration to fill the Vacancy after the close of the initial intake period, then the Clerk or designate shall re-advertise. If no applications have been received after the Notice has been advertised a second time, then Council shall proceed to nominate a qualified individual to fill the vacancy.

5. Application

- 5.1. It is the Candidate(s) sole responsibility to meet any deadline or otherwise comply with any requirement of this procedure, the *Act*, or the *Municipal Elections Act*.
- 5.2. Any individual wishing to be considered for appointment to fill the Council vacancy will complete and sign the Nomination Form and a Declaration of Qualification Form (Appendix A) and the Notice of Collection/Consent to Release Personal Information form (Appendix B) approved by the Clerk and will submit the forms to the Clerk in person by the date and time established by the Clerk.
- 5.3. Candidate(s) may submit, to the Clerk, with their completed Nomination Form and Declaration of Qualification Form, 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 and 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.
- 5.4. Individuals filing the forms included in Appendix A and Appendix B will be required to provide government issued identification to prove their identity and qualifying address to the satisfaction of the Clerk.
- 5.5. The Clerk will create a list of all Qualified Candidates and publicly post the Candidate Listing on the municipal website. The Listing will be updated as eligible applications are received. All application packages including a personal statement, 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 at Townhall, 57 West Street, Goderich, Ontario.

5.6. Withdrawal of an application will be accepted up to the application deadline. (Appendix C).

6. Council Meeting or Special Council Meeting

6.1. 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 certified list of all Candidates listed in alphabetical order by last name.
- Any personal statement of qualification for consideration of Council.

6.2. At the meeting, the following shall take place:

- The Mayor or designate will make a short statement about the purpose of the meeting and the general order of proceedings will be as follows.
- The Clerk will provide to the Mayor or designate a list of the names of those individuals who have indicated, in writing, their interest in being appointed to the vacancy and the Mayor or designate will call for a motion from Council in the following form: "that the following individuals be considered for appointment to fill the vacancy of [position]." If the list of Candidates includes only one (1) Candidate, the Clerk will declare that Candidate elected and a resolution confirming the appointment will be passed by Council. The Declaration of Oath will take place at the next Council meeting.
- Candidates will be provided with a questionnaire in advance of the meeting, to be provided to Council prior to the meeting for inclusion in the Council Agenda package.
- Each of the nominees shall be afforded the opportunity to address Council for a period of not more than five (5) minutes. The order of speaking will be determined by Lot.
- 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.

6.3. Upon hearing all submissions of the Candidates, Council will proceed to vote as follows:

- Each Member of Council will be provided with a ballot by the Clerk with their name on it listing all Candidates in random order through a randomizer tool (i.e., www.random.org).
- Each Member of Council will cast their vote on the ballot and sign their name.
- Members of Council will cast their vote for one (1) Candidate only.
- The Clerk will collect the ballots, place the ballots of all Members of Council in a container and randomly draw the completed ballots.
- When a ballot is drawn, the Clerk will publicly announce the name of the Member of Council voting and the Candidate voted for.
- Should the ballot be spoiled or incomplete the Clerk will publicly announce, and the ballot will be rejected.
- The Clerk will tabulate and announce the results.

- 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 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.
 - In any round of voting one (1) vote shall be considered the lowest number of possible votes. Where nominees receive zero (0) votes, they will be automatically excluded from the nominees in the next round of voting.
 - Where the voters cast are equal for all remaining Candidates, another round of voting will occur, and if another tie occurs, it will be broken by selecting Candidates by Lot to proceed to the next round of voting, as conducted by the Clerk.
 - i. If there are more than two Candidates in the tie, the Clerk will draw names by Lot until there is one Candidate remaining in the container.
 - ii. The names that were drawn will move onto the next round of voting.
 - iii. The name remaining in the container is automatically excluded.
- 6.4. Should there be a tie between the remaining final two Candidates, another round of voting shall occur, and if another tie occurs, it will be broken by selecting a Candidate by Lot as conducted by the Clerk. The Candidate selected at this point will be declared the successful Candidate.
- 6.5. 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 the Candidate selected.
- 6.6. The appointment of the Candidate will be made by Resolution.
- 6.7. The Clerk will administer the Declaration of Office required by subsection 232(1) of the *Act*, at the next meeting of Council.
- 6.8. The minutes of the Council meeting shall include a full disclosure of all voting results.
- 6.9. Withdrawal of an application will be accepted up to the Application deadline.

Instructions

It is the responsibility of the person being nominated to file a complete and accurate nomination paper. Please print or type information (except signatures).

Nomination paper of a person to be a candidate at an election to be held in the following municipality

| | |
|-----------------------------|------------------------------|
| Nominated for the Office of | Ward Name or Number (if any) |
|-----------------------------|------------------------------|

| | |
|---|---------------|
| Nominee's name as it is to appear on the ballot paper (subject to agreement of the municipal clerk) | |
| Last Name or Single Name | Given Name(s) |

| | | |
|---|---------------|-------------|
| Nominee's full qualifying address within municipality | | |
| Suite/Unit Number | Street Number | Street Name |
| Municipality | Province | Postal Code |

| | | |
|-------------------|---|-------------|
| Mailing Address | <input type="checkbox"/> Same as qualifying address | |
| Suite/Unit Number | Street Number | Street Name |
| Municipality | Province | Postal Code |

| | | |
|--|---------------|-------------|
| If nominated for school board, full address of residence within its jurisdiction | | |
| Suite/Unit Number | Street Number | Street Name |
| Municipality | Province | Postal Code |

| | | |
|---------------|------------------|--------------------|
| Email Address | Telephone Number | Telephone Number 2 |
|---------------|------------------|--------------------|

Declaration of Qualification

I, _____, 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.

Signature of Nominee

Date (yyyy/mm/dd)

| | | | |
|----------------------------|---------------|--|---------------------------------|
| Date Received (yyyy/mm/dd) | Time Received | Initial of Nominee or Agent (if filed in person) | Signature of Clerk or Designate |
|----------------------------|---------------|--|---------------------------------|

Certification by Clerk or Designate

I, the undersigned clerk of this municipality, do hereby certify that I have examined the nomination paper 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 Certified (yyyy/mm/dd) |
|-----------|-----------------------------|

Appendix 'B'

FORM 3 - NOTICE OF COLLECTION / CONSENT TO RELEASE PERSONAL INFORMATION

Municipal Freedom of Information and Protection of Privacy Act

Personal information on the Nomination Paper is collected under the authority of the Municipal Elections Act and will be used to assist the Clerk in the administration of the 2023 Council Vacancy Appointment by Call for Nominees. Questions regarding this collection should be directed to the Clerk, 57 West Street, Goderich 519-524-8344.

I, _____, a nominated candidate for the office of Councillor.

I acknowledge that the Nomination Form filed by me contains personal information, and I hereby authorize the Clerk to disclose it to the general public.

This _____ day of _____, 2023

Signature of Candidate

Signature of the Clerk, or designate.

Appendix 'C'

FORM 5 - WITHDRAWAL OF NOMINATION

Municipal Elections Act, 1996 (s. 36)

A person who has been nominated may withdraw his or her nomination by filing a written withdrawal in the Clerk's office by 2 PM on XXXXXXXX.

The Candidate is required to appear in person with identification.

I, _____, hereby withdraw my name as a candidate
(Name of Candidate)

for the office of Councillor.

Date

Signature of Candidate

This withdrawal delivered to me at _____ this _____ day of _____, 2023
(time)

Municipal Clerk or designate.