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| **POLICY TITLE** | Council Vacancy |
| **CATEGORY** | Governance |
| **POLICY NUMBER** | A09 GOV 006 |
| **DEPARTMENT** | Corporate Services |
| **POLICY AUTHOR** | City Clerk |
| **POLICY TYPE** | City Policy |
| **APPROVED BY** | Council |
| **EFFECTIVE DATE** | 11/19/2019 |
| **REVIEW DATE** | 11/19/2024 |

## POLICY STATEMENT

The City of Cambridge is committed to being a transparent government. This policy assists in formalizing a defined and transparent process for a Council Vacancy.

## PURPOSE

The following policy shall be used to determine if a vacant Council seat will be filled by By-election or Appointment, and to outline the process when appointing a Municipal Council Member, a Candidate or an Eligible Elector to fill a vacancy on Municipal Council.

## DEFINITIONS

"Act" means 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 policy.

"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 designate, for the City of Cambridge and as defined in the *Municipal Act,* 1990, as amended.

"Eligible Elector" has the same meaning as subsection 17(2) of the *Municipal Elections Act,* 1996, namely a person:

(a) who is a resident of the City of Cambridge, or an owner or tenant of land in the City 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 placing them in a container with one (1) Candidate name being drawn by the Clerk.

"Procedural By-law" means By-law 18-15, as amended.

"Vacancy" means a seat on Council that is vacant in accordance with Section 259 of the *Municipal Act,* 1990, and vacant has a corresponding meaning.

## AUTHORITY

*Municipal Elections Act,* 1996, as amended

*Municipal Act,* 2001, as amended

Procedural By-law 18-15, as amended

## SCOPE

This policy shall apply to Municipal Council when a vacancy is declared by Council, and shall apply to the Municipal Clerk, or designate, when fulfilling the duties and requirements when a vacancy is to be filled.

## POLICY

### 1.0    PROCESS

In accordance with the *Municipal Act,* 2001, when the seat of a Member of Council becomes vacant the Municipal Council is required to declare the seat vacant and determine if the seat will be filled by By-election or Appointment.

A vacancy can occur on Council in several different ways, including death or resignation of a Member, or when a Member becomes disqualified from holding office.

In accordance with Section 263 (1) of the *Municipal Act,* 2001, the Municipality shall:

(a) Require a By-election to be held to fill the vacancy in accordance with the Act; or

(b) Fill the vacancy by appointing a person who has consent to accept the office if appointed.

## 2.0    BY-ELECTION

2.1    In accordance with Section 263 (5) of the *Municipal Act,* 2001, Council shall pass a by-law calling for a by-election within 60 days of declaring a vacancy of Council.

2.2    All other procedures regarding a by-election shall be administered by the Clerk in accordance with Section 65 of the *Municipal Act,* 2001.

## 3.0    APPOINTMENT REQUIREMENTS

3.1    In accordance with Section 263(5)(1)(i) of the *Municipal Act,* 2001, if a vacancy is to be filled by appointment, the vacancy shall be filled within 60 days of declaring the vacancy. Council shall declare by resolution a preferred appointment process at the meeting where the vacancy is declared or at its next regular meeting.

3.2    If a vacancy occurs for the Office of the Mayor, and is to be filled by appointment, Council may choose to fill the vacancy by appointing:

(a) A current member of Municipal Council; or

(b) Any qualified individual as outlined in Section 256 of the *Municipal Act*, 2001.

3.3    If a vacancy occurs for a Councillor, and is to be filled by appointment, Council may choose to fill the vacancy by appointing any qualified individual as outlined in Section 256 of the *Municipal Act*, 2001.

3.4    Municipal Council may decide by resolution on or before the Council Appointment meeting, how the Appointment process shall be conducted when a Municipal Council vacancy occurs.

Council may:

(a) Choose to appoint the Council Candidate who received the most number of votes in the previous municipal election; or

(b) Choose to appoint an Eligible Elector to fill the vacancy without a formal selection process; or

(c) Choose to appoint an Eligible Elector to fill the vacancy through an established formal selection process.

## 4.0     NOTICE TO FILL VACANCY – SELECTION PROCESS

4.1     The Clerk shall post a Council Vacancy on the Municipal website and in the local newspaper for up to two (2) consecutive weeks after the vacancy is officially declared.

## 5.0     APPOINTMENT PROCESS

5.1     Any individuals wishing to be considered for appointment to fill the Council vacancy shall complete an appointment application form approved by the Clerk and will submit the form to the Clerk, in person, by the date and time established.

5.2     Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification and qualifying address to the satisfaction of the Municipal Clerk.

In order to be qualified to hold office as a Municipal Councillor, a person must be:

(a) 18 years of age or older;

(b) A Canadian Citizen;

(c) A resident of the City of Cambridge, or an owner or tenant of land in the Municipality, or the spouse of such an owner or tenant; and

(d) Not prohibited from voting under any other Act or from holding municipal office.

5.3     Prior to the Council appointment meeting, the Clerk shall certify a list of Candidates/Eligible Electors who are eligible for appointment, which shall include the Candidates' names and give notice as to the date and time for the Council Appointment meeting.

5.4     Any Council documentation related to candidates will be published in alphabetical order by surname.

5.5     A vote to fill a vacancy on Municipal Council by appointment will occur at an open Council meeting.

5.6     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.

5.7　At the meeting, the Chair will make a short statement for the purpose of the meeting and the general order of the proceedings to be followed.

5.8　The Clerk will provide to the Chair a list of the names of qualified applications 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."

5.9　Each of the Candidates will be afforded the opportunity to address Council. If there are more than five (5) Candidates, they are afforded up to five (5) minutes to address Council. If there are less than five (5) Candidates, they are afforded up to ten (10) minutes to address Council.

The order of speaking will be determined randomly by Lot.

5.10　Each member of Council is permitted two (2) questions to each Candidate.

## 6.0　ACCLAMATION

6.1　If the Official List of Candidate(s) includes only one (1) candidate, the Clerk will declare the candidate elected by a by-law which will be prepared and submitted to Council for enactment.

## 7.0　VOTING PROCEDURE (see Appendix A for examples)

7.1　If the official list of Candidate(s) includes more than one (1) candidate, voting will be conducted as follows:

(a) Members of Council will select who their Candidate preference is on the ballot;

(b) The Clerk will read out who each individual Member of Council voted for

(c) Each member of Council may vote for one (1) candidate only in each round and all members of Council present shall vote during the appointment and selection process.

7.2　Where a round of voting does not result in a Candidate receiving more than one-half (1/2) of the votes of the Members of Council present:

(a) In any round, one (1) vote shall be considered the lowest number of possible votes. Where Candidates receive zero (0) votes, they will automatically be excluded from the Official List of Candidates in the next round of voting.

(b) The Candidate with the fewest number of votes will be automatically excluded from the Official List of Candidates in the next round of voting.

(c) All Members of Council will then vote for the remaining candidate(s). This process will be repeated until one (1) Candidate receives more than one-half (1/2) of the votes of the Members of Council present.

7.2 Selection/Elimination by Lot

(a) If the Candidate who received the highest number of votes did not receive more than one-half (1/2) of the votes of all voting members of Council, and removing the Candidates who received the fewest number of votes would result in only the Candidate with the highest number of votes remaining, then the Clerk will select by Lot one of the Candidates with the fewest number of votes to be removed from the subsequent rounds of voting. Otherwise, only the Candidate with the highest number of votes would remain and they would not have received more than one-half (1/2) of the votes.

(b) Similarly, if there are three (3) or more Candidates remaining and all of them receive an equal number of votes, the City of Clerk will select by Lot on of the Candidates to be removed from the subsequent rounds of voting.

(c) If only two (2) Candidates remain and receive an equal number of votes, the tie will be broken by the Clerk selecting the successful Candidate by Lot

## POLICY COMMUNICATION

The policy will be available on our internal and external policy websites.

## RELATED PROCEDURES

There are no related procedures.

## RELATED DOCUMENTS/LEGISLATION

*Municipal Elections Act,* 1996, as amended

*Municipal Act,* 2001, as amended

City of Cambridge Procedural By-law 18-15, as amended

**Appendix A: Voting Procedure Scenario Examples**

**Definition:** "Lot" means a method of determination by placing the names of the Candidates on equal size pieces of paper and placing them in a container with one (1) Candidate name being drawn by the Clerk.

Example: With eight (8) Members of Council voting, a candidate would require a minimum of five (5) votes in order to be appointed.

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**Scenario A:**

Candidate A - 3
Candidate B - 2
Candidate C - 2
Candidate D - 1
Candidate E - 0

In this scenario, no majority vote was achieved so another round of voting will occur. Candidate E is automatically eliminated because they received zero (0) votes. Candidate D is also eliminated because they received the fewest votes of those that actually received votes. The next round of voting will include Candidates A, B and C.

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**Scenario B:**

Candidate A - 4
Candidate B - 3
Candidate C - 1

In this scenario, no majority vote was achieved so another round of voting will occur. Candidate C is eliminated because they received the fewest votes. The next round of voting will include Candidates A and B.

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**Scenario C:**

Candidate A - 5
Candidate B - 3

In this scenario, Candidate A has received more than one-half of the votes and is therefore the successful appointee.

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**Scenario D:**

Candidate A - 3
Candidate B - 3
Candidate C - 1
Candidate D - 1

In this scenario, no majority vote was achieved so another round of voting will occur. Candidates C and D are tied with the fewest number of votes, and they are both eliminated because doing so still results in two (2) or more Candidates remaining. The next round of voting will include Candidates A and B.

### Scenario E:

Candidate A - 2
Candidate B - 2
Candidate C - 2
Candidate D - 2

In this scenario, no majority vote was achieved so another round of voting will occur. As all Candidates are tied with the fewest number of votes, the City Clerk shall, by lot, select one (1) Candidate to be **eliminated** from the next round of voting. The next round of voting will include the three (3) remaining Candidates.

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### Scenario F:

Candidate A - 4
Candidate B - 2
Candidate C - 2

In this scenario, no majority vote was achieved so another round of voting will occur. Candidates B and C are tied with the fewest number of votes, but they cannot both be eliminated because doing so would result in only one Candidate remaining without having received the majority vote. As a result, the City Clerk shall, by lot, select one Candidate from B and C to be **eliminated** from the next round of voting. The next round of voting will include Candidate A and the Candidate who **was not** selected by lot.

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### Scenario G:

Candidate A - 4
Candidate B - 4
Candidate C - 0
Candidate D - 0

In this scenario, no majority vote was achieved. Candidates C and D are automatically eliminated because they received zero (0) votes. Candidates A and B are the only remaining Candidates and are tied with the same number of votes. As a result, the City Clerk shall, by lot, select one Candidate from A and B to be **declared the successful appointee.** This selection by lot process would also be followed in a scenario where only two Candidates remain and they received an equal number of votes.