



## BY-LAW

NO. 2024 – 124

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### Being a By-law to Adopt a Council Vacancy Policy for The Corporation of the Municipality of Kincardine

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**Whereas** pursuant to the said Municipal Act, Sections 8 and 9 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

**Whereas** the Municipal Act, S.O. 2001, c.25, states when the office of a Member of Council becomes vacant, Council is required to declare the office vacant and determine if the seat will be filled by by-election or appointment. A vacancy can occur in several different ways, including the death or resignation of a Member or when a Member becomes disqualified from holding office; and

**Whereas** Section 270 (1) of the Municipal Act 2001, S.O. 2001, c. 25, as amended, requires a municipality to adopt and maintain a policy with respect to the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public; and

**Whereas** the Council of the Corporation of the Municipality of Kincardine desires to adopt a Council Vacancy Policy; now therefore be it

**Resolved** that the Council of The Corporation of the Municipality of Kincardine **Enacts** as follows:

1. That the Council Vacancy Policy for The Municipality of Kincardine, attached hereto as Schedule 'A' and forming part of this By-law be adopted.
2. That this By-law shall come into full force and effect upon its final passing.
3. That all other Policies passed by By-law and Resolution inconsistent with this By-law, be repealed.
4. That By-law may be cited as the "Council Vacancy Policy By-law".

**Read a First, Second and Third Time and Finally passed** this 11<sup>th</sup> day of September, 2024.

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Mayor

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Clerk

## Schedule 'A'

**Policy No.:** COUNCIL.06

**Section:** Your Government and People

**Policy Title:** Council Vacancy Policy

**Adopted Date:** September 11, 2024

**By-law No.:** 2024 - 124

**Revision Date:**

### 1. Purpose

The purpose of this Policy is to provide for an accountable and transparent process for filling any Vacancy that occurs on Council.

In accordance with the Municipal Act, S.O. 2001, c.25, when the office of a Member of Council becomes vacant, Council is required to declare the office vacant and determine if the seat will be filled by by-election or appointment. A vacancy can occur in several different ways, including the death or resignation of a Member or when a Member becomes disqualified from holding office.

### 2. Scope

This Policy applies to any Vacancy on Council during the term of Council.

### 3. Definitions

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

**Appointment** means the process of Council appointing a qualified elector to fill a vacancy for the remainder of the current Council term.

**By-election** means an election held to fill any vacancy, conducted in accordance with the provisions of Section 65 of the Municipal Elections Act, 1996, as amended.

**Clerk** means the Manager of Legislative Services/Clerk of the Municipality of Kincardine, or their designate(s).

**Council** means the Council of The Corporation of the Municipality of Kincardine.

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

- (a) who is resident of the Municipality of Kincardine, 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.

**MEA** means the Municipal Elections Act, 1996.

**Municipality** means The Corporation of the Municipality of Kincardine.

**Regular Election Year** means the year established for a regular municipal election in accordance with the Municipal Elections Act, 1996, as amended.

**Vacancy** means when an office on Council is vacant in accordance with Section 259 of the Act, and "Vacant" has a corresponding meaning.

### 4. Responsibility

- 4.1. The Clerk is responsible for the administration and interpretation of this Policy, including advising Council on its application.
- 4.2. Council is responsible for the enactment of this Policy as well as complying with this Policy.

- 4.3. The Clerk is authorized to make such administrative changes to this Policy as appropriate to keep the Policy current. Any revision to the intent of the Policy shall be presented to Council for approval.
- 4.4. The documents attached to this Policy as Appendices may be updated under the direction of the Clerk.

## 5. Policy Objective

- 5.1. The Municipality of Kincardine is committed to an open, accountable, and transparent government.
- 5.2. The Policy shall be used to determine if a vacant Council office 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.

## 6. Declaring a Vacancy

- 6.1. In accordance with Section 262 (1) of the Act, Council shall declare a vacancy:
  - a. In the case of a death of a Member of Council, at one of the next two meetings of Council; or
  - b. In any other case, at its next meeting.

## 7. Calling a By-Election

- 7.1. **By-law for calling a By-election:** In accordance with Section 263 (5) of the Act, Council shall pass a by-law calling for a by-election within sixty (60) days of declaring a vacancy. To afford the Clerk sufficient time to prepare for a by-election, a by-law calling for a by-election shall be placed on a Council agenda no earlier than the 50<sup>th</sup> day after a Vacancy is declared.
- 7.2. **Nomination Day:** In accordance with Section 65(4)(1)(i) of the MEA, the Clerks shall fix Nomination Day to be a day not more than 60 days after Council passed a by-law calling for a by-election.
- 7.3. **Voting Day:** In accordance with Section 65(4)(3) of the MEA, Voting Day for a by-election shall be 45 days after Nomination Day.

## 8. Appointment Process

- 8.1. In accordance with Section 263(5)(1)(i) of the Act, if a Vacancy is to be filled by Appointment the vacancy shall be filled within 60 days of declaring the vacancy.
- 8.2. **Vacancy in the office of Mayor/Deputy Mayor:** If a vacancy in the office of the Mayor or Deputy Mayor is to be filled by Appointment, Council may choose to fill the vacancy by appointing:
  - a. a current Member of Council;
  - b. an unsuccessful candidate for the same office in the most recent regular election; or
  - c. any other qualified elector.
- 8.3. **Vacancy in the office of Councillor-at-Large or Ward Councillor:** If a vacancy in the office of Councillor-at-Large is to be filled by appointment, Council may choose to fill the vacancy by appointing:
  - a. an unsuccessful candidate in the most recent regular election; or
  - b. any other qualified elector.

- 8.4. **Appointment of current Members of Council to fill a Vacancy:** if Council chooses to fill a vacancy in accordance with sections 8.2 (a) of this Policy, the appointment process shall generally be in accordance with the “Procedure to Appoint a Member of Council to fill a Vacancy” attached as Appendix “A” to this Policy.
- 8.5. **Appointment of a previous candidate to fill a Vacancy:** If Council chooses to fill a vacancy in accordance with either 8.2 (b) or 8.3 (a) of this Policy, the appointment process shall generally be in accordance with the “Procedure to Appoint a Previous Candidate to fill a Vacancy” attached as Appendix “B” to this Policy.
- 8.6. **Appointment of a qualified elector to fill a Vacancy:** If Council chooses to fill a vacancy in accordance with either 8.2 (c) or 8.3 (b) of this Policy, the appointment process shall generally be in accordance with the “Procedure to Appoint a Qualified Elector to fill a Vacancy” attached as Appendix “C” to this Policy.
- 8.7. Nothing in this Policy shall be interpreted as denying Council its authority to do anything permitted or required under the Act.

## 9. Related Documents/Legislation

- a. Municipal Act, S.O. 2001, c. 25, as amended.
- b. Municipal Elections Act, 1996, as amended.

**Appendix “A”**

**Procedure to Appoint a Member of Council to fill a Vacancy.**

The following procedure will be used when appointing a current Member of Council to fill a vacancy.

**A. Definitions**

**Chair** means the Member of Council presiding at the Council Appointment Meeting.

**Clerk** means the Manager of Legislative Services/Clerk of the Municipality of Kincardine, or their designate(s).

**Container** means any box prepared by the Clerk to be used in the drawing of the name of individual nominees as required in these procedures.

**Council Appointment Meeting** means the regular or Special Council Meeting where Council will appoint someone to fill a vacancy.

**Nominee(s)** means an individual(s) whose name appears on the Slate of Nominees.

**Slate of Nominees** means a list of all the individuals, who have been nominated in accordance with this procedure, for appointment to fill a vacancy.

**B. General**

1. The appointment of a current Member of Council to fill a vacancy in the office of Mayor or Deputy Mayor shall take place at a Council Appointment Meeting called within 60 days of declaring the office vacant.
2. Only a Member of Council elected for the term in which the appointment is taking place will be considered eligible for appointment.
3. At the Council Appointment Meeting, the Chair will advise that Council has declared an office vacant in accordance with the Act and resolved to fill the vacancy by appointment of another Member of Council. They will then provide a general overview of the process.

**C. Nomination Process**

1. A member of Council does not need to be present at a Council Appointment Meeting to be nominated. Any Member of Council that will be absent from a Council Appointment Meeting who wishes to be nominated, shall submit to the Clerk, a minimum of two (2) days prior to the Meeting, a signed letter consenting to their nomination. If the letter has not been provided to the Clerk, the Member of Council will not be permitted to be nominated.
2. The Clerk will provide a copy of any letters received to the Chair who will read aloud the names as Members of Council interested in being nominated.
3. The Chair will then request that any Member of Council present interested in being nominated to indicate their interest by raising their hand.
4. Those Members interested in being nominated will be offered a maximum of five (5) minutes each, with no extension, to speak prior to the call for nominations. The order of speakers will be drawn by the Clerk from the container with the names of all the interested Members.
5. Once the interested members have spoken, the Chair will call for nominations, subject to the following:
  - i. Only Members of Council may nominate a member.
  - ii. Each Member of Council may nominate one or more member(s).

- iii. Nominations must be done by formal motion (i.e. mover and seconder).
  - iv. Members do not need to be present to be nominated.
6. The Chair will call three times for additional nominations. Hearing none, the Chair will request a motion to close the nominations.
  7. Once the nominations are closed, the Chair will read aloud all the names of the Members of Council nominated.
  8. The Chair will request a motion to adopt the names as the Slate of Nominees.

**D. Acclamation Procedure**

1. If the Slate of Nominees includes only one (1) Nominee, the Chair will declare the Nominee elected and the Clerk will prepare resolution or by-law to submit to Council for consideration.

**E. Voting Procedure**

1. If the slate of nominees includes more than one (1) nominee, rounds of voting will be conducted as follows:
  - i. In accordance with Section 244 of the Act, no vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of not effect.
  - ii. Pieces of paper with each of the nominees' names will be created by the Clerk and placed in a container provided by the Clerk. Each of these pieces of paper will be equal in size and type and will contain the name of one nominee only.
  - iii. The Clerk will draw the name of the nominees to be voted on by Council.
  - iv. Council will vote on each Nominee drawn by the Clerk at the same time by way of a public vote by show of hands.
  - v. Each Member of Council may vote for one (1) candidate only in each round.
2. Round of voting shall continue until a Nominee has received more than one half (1/2) of the votes of the Member of Council present, or until a tie is broken in accordance with section E.3.v.b.of this procedure.
3. Where a round of voting does not result in a Nominee receiving more than one-half (1/2) of the votes of the Members of Council present.
  - i. In any round of voting, one (1) vote shall be considered the lowest number of possible votes; and
  - ii. Where nominees receive zero (0) votes, they will be automatically excluded from the Slate of Nominees in the next round of voting; and
  - iii. The nominees with the fewest number of votes will be automatically excluded from the Slate of Nominees in the next round of voting.

Example in a contest with four (4) Nominees and 8 Members of Council present, a nominee will need a minimum of 5 votes to be appointed:

Nominee A – 4 votes  
Nominee B - 3 votes  
Nominee C – 1 vote  
Nominee D – 0 votes

In the above scenario, as no majority was achieved, Nominee D is automatically eliminated with 0 votes and Nominee C is eliminated from further voting, and another round of voting will occur.

- iv. The Clerk will record the votes and announce the results verbally at the end of each round of voting.
  - v. The Clerk will ask if any nominee present wishes to withdraw their name from the contest after each round of voting.
  - vi. Equal Votes for all Nominees: Where the votes cast is equal for all the nominees:
    - a. If there are three or more nominees remaining with equal votes, the Clerk will draw the name from the container of one nominee to be excluded from the subsequent voting. In other words, the names not pulled by the Clerk will continue to be eligible nominees.
    - b. If only two (2) nominees remain, the Clerk will break the tie by pulling the name of the unsuccessful nominee. In other words, the name remaining in the container is the nominee to be declared elected by the Clerk.
4. Upon conclusion of voting, the Clerk will note the nominee receiving the votes of more than half of the number of voting members or the candidate selected through section E.3.v.b.
5. 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.
6. Council shall declare the Council office of the successful nominee vacant.

#### **F. General Voting Rules**

- 1. Each piece of paper used by the Clerk to draw the names of candidates 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 only one nominee.
- 2. Only the Clerk or the Clerk's designate may handle the pieces of paper and the container referenced in this procedure.
- 3. Records will be retained per the Municipality of Kincardine's Record Retention By-law.

## Appendix B

### Procedure to Appoint a Previous Candidate to fill a Vacancy

The following procedure will be followed by Council when appointing a Previous Candidate to fill a vacancy.

#### A. Definitions

**Chair** means the Member of Council presiding at the Council Appointment Meeting.

**Clerk** means the Manager of Legislative Services/Clerk of the Municipality of Kincardine, or their designate(s).

**Container** means any box prepared by the Clerk to be used in the drawing of the name of individual nominees as required in these procedures.

**Council Appointment Meeting** means the regular or Special Council Meeting where Council will appoint someone to fill a vacancy.

**Nominee(s)** means an individual(s) whose name appears on the Slate of Nominees.

**Previous Candidate** means a candidate who ran in the last regular election and was not elected to office.

**Slate of Candidates** means a list of all the individual candidates.

**Slate of Nominees** means a list of all the individual candidates, who have been nominated in accordance with this procedure, for appointment to fill a vacancy.

#### B. General

1. Council may decide by resolution to fill a vacancy by appointment of a Previous Candidate.
2. To be considered for appointment, a Previous Candidate must meet all the requirements to hold a vacant office and must not otherwise be disqualified from holding that office.
3. 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.

#### C. Method of Selection of Candidate to Fill a Vacancy

1. Council may decide by resolution, how the appointment process shall be conducted. Council may:
  - i. Choose to appoint the Previous Candidate which received the greatest number of votes in the previous election; or
  - ii. Fill the vacancy in any way that is in compliance with the legislation.

#### D. Notice Process

1. Notice of Council's decision to appoint a Previous Candidate shall be provided as follows:
  - i. Notice of the vacancy shall be posted by the Clerk on the Municipal Website and in local newspaper(s); and,
  - ii. Notice will also be provided to the last known address of the Previous Candidate(s).
2. The notices will identify Council's intention to appoint an eligible Previous Candidate to fill the vacancy, and
  - i. The eligibility requirements to fill the vacancy;
  - ii. Any requirement established by the Clerk, including but not limited to:

- a. Application forms or written expression of interest;
- b. Statement of qualifications form;
- c. Declarations of eligibility; and
- d. Deadline for submissions.

#### **E. Application Process**

1. A Previous Candidate consenting to be considered for appointment to fill the vacancy shall complete and sign the prescribed Council Vacancy Application Form, a Council Vacancy Declaration of Qualification, and a written expression of interest.
2. Forms shall be submitted in person at the Municipal Administration Centre during the Application period as determined by the Clerk.
3. All applicants must provide the Clerk with government issued identification and proof of eligibility within the municipality when filing a nomination.
4. The surname on the application and the surname on the identification must be the same. Some flexibility will be given subject to the approval of the Clerk.
5. An unofficial list of persons who have submitted forms will be prepared and updated as soon as practicable after receipt of the required forms. This list will be posted on the Municipality of Kincardine's website ([www.kincardine.ca](http://www.kincardine.ca)).

#### **F. Review of Applications**

1. The Clerk shall examine all forms received from the Previous Candidates by the deadline to ensure the eligibility of the candidate. At a minimum, the Clerk shall ensure that the candidate has:
  - i. Complied with any requirements established by Council or the Clerk;
  - ii. Was a certified Candidate in the previous regular municipal election; and
  - iii. Is eligible under the Municipal Act, the Municipal Elections Act, 1996, or any other legislation, to hold the office that has been declared vacant.
2. The Clerk will certify a list of all Previous Candidates who are eligible for appointment. Candidates that do not meet the eligibility requirements will be notified in writing, and their names shall be provided to Council for information purposes only.
3. The Clerk shall provide Council with a Certified List of Previous Candidates eligible for appointment, prior to the Council appointment meeting which shall include the Candidates name, and the number of votes received by the Candidates in the previous regular municipal election.
4. The Clerk shall provide notice to the certified list of candidates of the date and time for the Council Appointment Meeting. Candidates are solely responsible for attending any Council Appointment Meeting which will not be rescheduled due to a Candidates conflict.
5. Any Council agenda documentation related to Candidates will be published in alphabetical order by surname.

6. An official list of certified Candidates will be posted on the Municipal website once applications have been certified and the application period has expired.
7. A certified Candidate may withdraw their application by filing a written withdrawal on the prescribed form in the Clerk's Office before a date set by the Clerk. The candidate shall appear in person with identification in order to withdraw the application.

**G. Freedom of Information Release Form**

1. All application forms and expressions of interest are collected under the authority of the Municipal Elections Act, 1996 and will be included in the Council Agenda, as well as being made available for public inspection in the office of the Clerk until the next regular election.
2. The entire Council proceedings related to the Council Vacancy will be dealt with in open session of Council.
3. A Freedom of Information (FOI) Release form is required to be filled out by applicants.

**H. Nomination Process**

1. At the Council Appointment meeting, the Chair will outline the following:
  - i. Council has declared a seat vacant in accordance with the Act and resolved to fill the vacancy by the appointment of a Previous Candidate.
  - ii. A general overview of how the appointment process will be conducted.
2. The Clerk will read out the names of all the Previous Candidates certified to be eligible (alphabetically by surname). These names constitute the official Slate of Candidates eligible for nomination.
3. Each of the Candidates on the Slate of Candidates will be offered ten (10) minutes each to speak prior to the nominations. The order of speakers will be drawn from the container by the Clerk.
4. Candidates not presenting shall be sequestered in a separate area until it is that persons' turn to speak.
5. Once a Candidate has finished 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 mandatory for Council to ask any questions or for any candidate to participate in answering any or all of the questions.
6. Once all of the candidates have spoken, the Chair will call for nominations, subject to the following:
  - i. Only Members of Council may nominate an individual candidate from the Slate of Candidates.
  - ii. Each Member of Council may nominate one or more candidate(s).
  - iii. Nominations must be done by formal motion (i.e. a mover and seconder are required).
  - iv. Candidates do not need to be present to be nominated.
7. The Chair will call three times for further nominations. Hearing none, the Chair will request a motion to close the nominations.
8. Once the nominations are closed, the Chair will read aloud all the names of the Candidates who have been nominated.

9. The Chair will request a motion to adopt the names as the Slate of Nominees.

#### **I. Acclamation Procedure**

1. If the Slate of Nominees includes only one (1) Nominee, the Chair will declare the Nominee elected and the Clerk will prepare motion or by-law to submit to Council for consideration.

#### **J. Voting Procedure**

1. If the Slate of Nominees includes more than one (1) Nominee, rounds of voting will be conducted as follows:
  - i. In accordance with Section 244 of the Act, no vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of not effect.
  - ii. Pieces of paper with each of the Nominees names will be created by the Clerk and placed in a container provided by the Clerk. Each of these pieces of paper will be equal in size and type and will contain the name of one nominee only.
  - iii. The Clerk will draw the name of the Nominees to be voted on by Council.
  - iv. Council will vote on each Nominee drawn by the Clerk at the same time by way of a public vote by show of hands.
  - v. Each Member of Council may vote for one (1) Nominee only in each round.
  - vi. The Clerk shall tabulate the results.
2. Round of voting shall continue until a Nominee has received more than one half (1/2) of the votes of the Member of Council present, or until a tie is broken in accordance with section J.3.v.b of this procedure.
3. Where a round of voting does not result in a Nominee receiving more than one-half (1/2) of the votes of the Member of Council present.
  - i. In any round of voting, one (1) vote shall be considered the lowest number of possible votes; and
  - ii. Where Nominees receive zero (0) votes, they will be automatically excluded from the Slate of Nominees in the next round of voting; and
  - iii. The Nominees with the fewest number of votes will be automatically excluded from the Slate of Nominees in the next round of voting.

Example in a contest with four (4) Nominees and 8 Members of Council present, a nominee will need a minimum of 5 votes to be appointed:

Nominee A – 4 votes  
Nominee B - 3 votes  
Nominee C – 1 vote  
Nominee D – 0 votes

In the above scenario, as no majority was achieved, Nominee D is automatically eliminated with 0 votes and Nominee C is eliminated from further voting, and another round of voting will occur.

- iv. The Clerk will record the votes and announce the results verbally at the end of each round of voting.
- v. The Clerk will ask if any nominee present wishes to withdraw their name from the contest after each round of voting.
- vi. Equal Votes for all Nominees: Where the votes cast is equal for all the nominees:

- a. If there are three or more Nominees remaining, the Clerk will draw the name of one Nominee from the container to be excluded from the subsequent voting. In other words, the names not pulled by the Clerk will continue to be eligible Nominees.
  - b. If only two (2) Nominees remain, the Clerk will break the tie by pulling the name of the unsuccessful Nominee. In other words, the name remaining in the container is the Nominee to be declared elected by the Clerk.
4. Upon conclusion of voting, the Clerk will note the Nominee receiving the votes of more than half of the number of voting members or the Nominee selected through section J.3.v.b.
5. 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.

#### **K. General Voting Rules**

1. Each piece of paper used by the Clerk to draw the names of candidates or nominees 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 only one candidate.
2. Only the Clerk or the Clerk's designate may handle the pieces of paper and the container referenced in this procedure.
3. Records will be retained per the Municipality of Kincardine's Record Retention By-law.

## Appendix C

### Procedure to Appoint an Eligible Elector to fill a Vacancy

The following procedure will be followed by Council when appointing an Eligible Elector to fill a vacancy.

#### A. Definitions

**Candidate** means an Eligible Elector who has submitted an application for appointment to the Clerk, in accordance with this procedure, and who has been certified as a candidate by the Clerk.

**Chair** means the Member of Council presiding at the Council Appointment Meeting.

**Clerk** means the Manager of Legislative Services/Clerk of the Municipality of Kincardine, and their designate(s).

**Container** means any box prepared by the Clerk to be used in the drawing of the name of individual nominees as required in these procedures.

**Council Appointment Meeting** means the regular or Special Council Meeting where Council will appoint someone to fill a vacancy.

**Eligible Elector** means a person who is a qualified elector in accordance with the Municipal Elections Act, 1996.

**Nominee(s)** means an individual(s) whose name appears on the Slate of Nominees.

**Slate of Candidates** means a list of all the individual candidates.

**Slate of Nominees** means a list of all the individual candidates, who have been nominated in accordance with this procedure, for appointment to fill a vacancy.

#### B. General

1. Council is required to declare the office vacant in accordance with the Act and may resolve to fill the vacancy by the appointment of an eligible elector.
2. Council, in consultation with the Clerk, will fix the date of a meeting when this decision will be made – the Council appointment meeting.
3. To be considered for appointment, an eligible elector must meet all the requirements to hold a vacant office in the Municipal Elections Act and must not otherwise be disqualified from holding that office.
4. It is the eligible elector's sole responsibility to meet any deadline or otherwise comply with any requirement established by the Council, the Clerk, the Municipal Elections Act or the Municipal Act as part of the appointment process.

#### C. Notice Process

1. Notice of Council's decision to appoint an Eligible Elector shall be provided as follows:
  - i. Notice of the vacancy shall be posted by the Clerk on the Municipal Website and in local newspaper(s).
2. The notices will identify Council's intention to appoint an Eligible Elector to fill the vacancy, and:
  - i. The eligibility requirement to fill the vacancy;
  - ii. Any requirement established by the Clerk, including but not limited to:
    - a. Application forms and/or written expression of interest;
    - b. Statement of qualifications form;

- c. Declarations of eligibility;
- d. FOI Release Form; and
- e. Deadline for submissions.

**D. Application Process**

1. Any Eligible Elector wishing to be considered for appointment to fill the vacancy shall complete and sign the prescribed Council Vacancy Application Form and a Council Vacancy Declaration of Qualification.
2. Forms shall be submitted in person at the Municipal Administration Centre during the Application period as determined by the Clerk.
3. All applicants must provide the Clerk with government issued identification and proof of eligibility within the municipality when filing a nomination.
4. The surname on the application and the surname on the identification must be the same. Some flexibility will be given subject to the approval of the Clerk.
5. Applicants shall also submit to the Clerk by the closing time of the nominations period an expression of interest, including the applicants background information, relevant qualifications and why the person is interested in the vacant office. Expressions of Interest will be typewritten on letter size (8 ½ x 11) paper, shall not exceed two (2) pages in length (one sided), and will include the applicants name and address.
6. Expressions of Interest that do not meet the requirement as set out in section D 5 shall not be included in any Council meeting agenda or provided to Council by the Clerk.
7. An unofficial list of persons who have submitted forms will be prepared and updated as soon as practicable after receipt of the required forms. This list will be posted on the Municipality of Kincardine's website ([www.kincardine.ca](http://www.kincardine.ca)).

**E. Freedom of Information Release Form**

1. All application forms and expressions of interest are collected under the authority of the Municipal Elections Act, 1996 and will be included in the Council Agenda, as well as being made available for public inspection in the office of the Clerk until the next regular election.
2. The entire Council proceedings related to the Council Vacancy will be dealt with in open session of Council.
3. A Freedom of Information (FOI) Release form is required to be filled out by applicants.

**F. Review of Applications**

1. The Clerk shall examine all the application forms received from the applicants by the deadline to ensure the eligibility of the applicant. At a minimum, the Clerk shall ensure that the applicant has:
  - i. Complied with any requirements established by Council or the Clerk;
  - ii. Is eligible under the Municipal Act, the Municipal Elections Act, or any other legislation, to hold the office that has been declared vacant.
2. The Clerk will certify a list of all Candidates who are eligible for appointment. Applicants that do not meet the eligibility requirements will

be notified in writing, and their names shall be provided to Council for information purposes only.

3. The Clerk shall provide notice to the certified list of Candidates of the date and time for the Council Appointment meeting. Candidates are solely responsible for attending any Council Appointment meeting which will not be rescheduled due to a Candidates conflict.
4. Any Council agenda documentation related to Candidates will be published in alphabetical order by surname.
5. An official list of certified Candidates will be posted on the Municipal website once applications have been certified and the application period has expired.
6. A certified Candidate may withdraw their application by filing a written withdrawal on the prescribed form in the Clerk's Office before a date set by the Clerk. The candidate shall appear in person with identification in order to withdraw the application.

### **G. Nomination Process**

1. At the Council Appointment meeting, the Chair will outline the following:
  - i. Council has declared a seat vacant in accordance with the Act and resolved to fill the vacancy by the appointment of an Eligible Elector.
  - ii. A general overview of how the appointment process will be conducted.
2. The Clerk will read out the names of all the individuals certified to be eligible for nomination (alphabetically by surname). The Chair will call for a motion from Council to constitute the official Slate of Candidates eligible for nomination.
3. Candidates will be permitted participate remotely.
4. Each of the Candidates on the Slate of Candidates will be offered the opportunity to address Council for a period of not more than ten (10) minutes. The order of speakers will be drawn by the Clerk from the container.
5. Candidates not presenting shall be sequestered in a separate area until it is that persons' turn to speak.
6. Once a Candidate has finished 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 mandatory for Council to ask any questions or for any candidate to participate in answering any or all of the questions.
7. Once all of the Candidates have addressed Council, the Chair will call for nominations, subject to the following:
  - i. Only a Member of Council may nominate an individual candidate from the Slate of Candidates.
  - ii. Each Member of Council may nominate one or more candidate(s).
  - iii. Nominations must be done by formal resolution (i.e. a mover and seconder are required).
  - iv. Candidates do not need to be present to be nominated.
8. The Chair will call three times for further nominations. Hearing none, the Chair will request a motion to close the nominations.

9. Once the nominations are closed, the Chair will read aloud all the names of the Candidates who have been nominated.
10. The Chair will request a motion to adopt the names as the Slate of Nominees.

#### **H. Acclamation Procedure**

1. If the Slate of Nominees includes only one (1) Nominee, the Chair will declare the Nominee elected and the Clerk will prepare a motion or by-law to submit to Council for consideration.

#### **I. Voting Procedure**

1. If the slate of nominees includes more than one (1) nominee, rounds of voting will be conducted as follows:
  - i. In accordance with Section 244 of the Act, no vote shall be taken by ballot or by any other method of secret voting.
  - ii. Pieces of paper with each of the Nominees names will be created by the Clerk and placed in a container provided by the Clerk. Each of these pieces of paper will be equal in size and type and will contain the name of one nominee only.
  - iii. The Clerk will draw the name of the Nominees to be voted on by Council.
  - iv. Council will vote on each Nominee drawn by the Clerk at the same time by way of a public vote by show of hands.
  - v. Each Member of Council may vote for one (1) Nominee only in each round.
2. Round of voting shall continue until a Nominee has received more than one-half (1/2) of the votes of the Members of Council present, or until a tie is broken in accordance with section I.3.v.b of this procedure.
3. Where a round of voting does not result in a Nominee receiving more than one-half (1/2) of the votes of the Members of Council present:
  - i. In any round of voting, one (1) vote shall be considered the lowest number of possible votes; and
  - ii. Where nominees receive zero (0) votes, they will be automatically excluded from the Slate of Nominees in the next round of voting; and
  - iii. The nominees with the fewest number of votes will be automatically excluded from the Slate of Nominees in the next round of voting.

Example in a contest with four (4) Nominees and 8 Members of Council present, a nominee will need a minimum of 5 votes to be appointed:

Nominee A – 4 votes  
Nominee B - 3 votes  
Nominee C – 1 vote  
Nominee D – 0 votes

In the above scenario, as no majority was achieved, Nominee D is automatically eliminated with 0 votes and Nominee C is eliminated from further voting, and another round of voting will occur.
  - iv. The Clerk will record the votes and announce the results verbally at the end of each round of voting.
  - v. The Clerk will ask if any nominee present wishes to withdraw their name from the contest after each round of voting.
  - vi. **Equal Votes for all Nominees:** Where the votes case is equal for all the nominees:

- a. If there are three or more Nominees remaining, the Clerk will draw the name of one Nominee to be excluded from the subsequent voting. In other words, the names not pulled by the Clerk will continue to be eligible Nominees.
  - b. If only two (2) Nominees remain, the Clerk will break the tie by pulling the name of the unsuccessful Nominee. In other words, the name remaining in the container is the Nominee to be declared elected by the Clerk.
4. Upon conclusion of voting, the Clerk will note the Nominee receiving the votes of more than half of the number of voting members or the Nominee selected through section I 3 v b.
5. A by-law confirming the appointment of the successful Nominee 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.

#### **J. General Voting Rules**

1. Each piece of paper used by the Clerk to draw the names of candidates or nominees 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 only one individual.
2. Only the Clerk or the Clerk's designate may handle the pieces of paper and the container referenced in this procedure.
3. Records will be retained per the Municipality of Kincardine's Record Retention By-law.