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## **COUNCIL VACANCY POLICY**

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### **1. PURPOSE**

In accordance with section 263 of the Municipal Act, S.O. 2001, c.25, when the seat of a member of Council becomes vacant during the term of office, Council may fill a vacancy by appointing a person who has consented to accept the office if appointed, or requiring that a by-election be held to fill a vacancy in accordance with the Municipal Elections Act, S.O., 1996, c.32

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. DEFINITIONS**

“Act” means the Municipal Act, S.O. 2001, c. 25 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 the Municipal Elections Act, 1996, as amended.

“Candidate” means an individual seeking to be appointed to fill a vacancy, having met the eligibility requirements and who has completed the requisite documentation as required by this policy.

“Clerk” means the Clerk or his/her designate of the Municipality of Mississippi Mills as appointed by Council.

“Council” means the Council of the Municipality of Mississippi Mills.

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

- a. Who is a resident of the Municipality of Mississippi Mills, or an owner or tenant of land in the Municipality or a spouse of such owner or tenant;

- b. Who is 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.

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

“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 he/she is 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. GENERAL**

3.1. Council is required to declare a seat vacant in accordance with Section 262(1) of the Act.

3.2. Council shall determine the method to fill the vacancy in accordance with Section 263 of the Act, by either:

- a. appointing a person who has consented to accept the office if appointed; or
  - b. passing a by-law requiring a by-election be held to fill the vacancy.
- Exceptions to Section 263 include:

Section 65 (2) of the Municipal Elections Act that no by-election shall be held to fill an office if the vacancy occurs after March 31 in the year of a regular election; and

Section 263(5)(b) if a vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the vacancy.

3.3. The following guidelines shall be taken into consideration when a vacancy is declared on or:

- a. prior to December 31 of the second year after a regular election the preferred process is that the vacancy be filled through the conduct of a by-election.
- b. The amount of time remaining in the term and the cost efficiency of filling the position by appointment shall be considered when determining how the position will be filled

- c. after January 1 of a regular election year and 90 days prior to voting day, the position shall be filled by appointment only.

3.4. The vote to select a method to fill a vacancy shall occur at an open meeting of Council.

3.5. Council may waive the Policy to Fill Council Vacancies at any time, requiring a two-thirds majority vote.

#### **4. BY-ELECTION**

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

4.2. All other procedures regarding a by-election shall be administered by the Clerk in accordance with Section 64 of the Act.

#### **5. APPOINTMENT REQUIREMENTS**

5.1. In accordance with Section 263(5)(1)(i) of the *Municipal Act*, 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 that the vacancy will be filled via an appointment process at the meeting where the vacancy is declared or at its next regular meeting.

5.2. For an appointment to the office of the Mayor or Deputy Mayor Council shall pass a resolution selecting the appointment option as described in the Appointment Procedure to Fill a Council Vacancy – Office of the Mayor or Deputy Mayor.

5.3. Appointment process shall follow the vacancy procedures attached as the following schedules:

Schedule 1 - Appointment Procedure to Fill Council Vacancy Office of the Mayor or Deputy Mayor;

Schedule 2 - Appointment Procedure to Fill Council Vacancy Office of Councillor.

## **6. ELIGIBILITY REQUIREMENTS**

- 6.1. 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.
- 6.2. If an employee of the Municipality of Mississippi Mills seeks appointment or by-election to Council, the employee shall give written notice, in advance, of his or her intention to take unpaid leave. If the employee is appointed to office, they will be deemed to have resigned from their position with the Municipality immediately before making the declaration of office.

## **7. RESPONSIBILITIES**

- 7.1. Members of Council are responsible for the adoption and application of this policy.
- 7.2. The Clerk or his/her designate shall be responsible for the administration and interpretation of this policy and where appropriate administering the Council Vacancies Procedures.
- 7.3. The Clerk or his/her designate shall be responsible for conducting any by-election in accordance with the *Municipal Elections Act* and all applicable policies and procedures.

## **8. REVIEW**

- 8.1. This policy shall be reviewed every term of Council.