

To: David Creery, Chief Administrative Officer
From: Amy Humphries, Deputy Chief Administrative Officer/City Clerk
Re: Filling a Vacant Seat on Council - Policy Update

AIM

To amend Council Policy GA027 - Filling a Vacant Seat on Council.

BACKGROUND

Effective October 31, 2023, the City of Woodstock became a designated municipality under Part VI.1 of the *Municipal Act, 2001* - Special Powers and Duties of the Head of Council, giving Woodstock's Mayor additional powers and duties known as 'strong mayor powers.' Although the seats of other members of Council may be filled by appointment or through a by-election, municipalities that have strong mayor powers are required to fill a vacant head of council seat through a by-election, despite any municipal policies or any other sections of the *Municipal Act, 2001*.

COMMENTS

Section 284.12 of the *Municipal Act, 2001* requires that a head of council vacancy be filled through a by-election in designated municipalities. There are two exceptions to this requirement. If the head of council's seat becomes vacant after March 31 in the year of a regular election, the municipality is then required to appoint a head of council. Further, a municipality is not required to fill the position at all if a head of council's seat becomes vacant within 90 days before voting day in the year of a regular election.

It should be noted that these rules are specific to the head of council and do not impact the flexibility designated municipalities have in deciding how to fill other vacant council seats (i.e. by appointment or by-election). Further, strong mayor powers do not transfer an appointed or interim head of council, but do transfer automatically to the head of council following a by-election or the regular election.

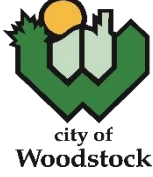
As a result of Section 284.12, Council Policy GA027 – Filling a Vacant Seat on Council requires minor revisions. Specifically, the current policy states that the position of Mayor will be filled by appointment of the Acting Mayor if a vacancy occurs on or after the first day in January of an election year. This must be updated to March 31. Policy GA027 with tracked changes is attached to this report for Council's reference. No other changes beyond those required for designated municipalities are being considered at this time.

RECOMMENDATION

That Woodstock City Council adopt Council Policy GA027 – Filling a Vacant Seat on Council as amended.

Authored by: Amy Humphries, Deputy Chief Administrative Officer/City Clerk

Approved by: David Creery, M.B.A., P. Eng., Chief Administrative Officer

 city of Woodstock	The City of Woodstock Policy Manual
Subject:	Filling a Vacant Seat on Council
Policy Number:	GA027
Revision:	010
Approved by Council:	December 9, 2021
Amended:	<u>August 15, 2024</u>

Statement of Principle

In accordance with [Section 263 of the Municipal Act, S.O. 2001, c.25](#) (“the Act”), when the seat of a member of Council becomes vacant during the term of office, Council may fill the vacancy by appointing a person who has consented to accept the office, or by requiring a by-election to be held to fill the vacancy in accordance with the *Municipal Elections Act, S.O., 1996, c.32* (“the MEA”). [In accordance with Section 284.12 of the Act, when the seat of the head of Council becomes vacant during the term of office, the vacancy shall be filled through a by-election in accordance with the MEA.](#)

Section 264 of the Act specifies that the person appointed or elected to fill a vacancy shall hold office for the remainder of the term of the person he or she replaced.

Any person filling a vacancy on Council must be an eligible elector in the City of Woodstock and meet all other eligibility requirements in accordance with the Act and the MEA.

General

Council is first required to declare the seat vacant in accordance with Section 262(1) of the Act. A person must be appointed to fill the vacancy, or a by-law must be passed requiring a by-election be held to fill the vacancy, within 60 days after the day the declaration of vacancy is made.

In accordance with section 65(2) of the MEA, no by-election shall be held to fill any office that becomes vacant after March 31 in the year of a regular election. Further, in accordance with section 263(5)(b) of the Act, if a vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the vacancy.

The vote to appoint a member to fill the vacancy shall occur at an open meeting of Council.

Council may waive the Policy for Filling a Vacant Seat on Council at any time, requiring a two-thirds majority vote to carry.

The City Clerk has the authority to make minor technical amendments to this Policy as may be required from time to time.

Process

1.0 For the position of Mayor

When the position of Mayor is declared vacant, the vacancy shall be filled by by-election.

1.1 Exception for the position of Mayor

If the position of Mayor is declared vacant ~~on or after the first day of January~~ March 31 during the year of a regular election, the Council member in the position of Acting Mayor shall be appointed to the position of Mayor.

2.0 Position of City Councillor or City/County Councillor

When the position of either City Councillor or City/County Councillor is declared vacant, the vacancy shall be filled in the manner set out in Section 2.1 through Section 3.0, inclusive.

2.1 Step one - offered to runner-up

The vacant position will be offered to the candidate that finished in the runner-up position in the last regular municipal election for the position of City Councillor or City/County Councillor, whichever is applicable.

2.1.1 Runner-up qualification requirements

For that candidate to qualify, that individual's total number of votes must be greater than 50 percent of the number of votes achieved by the candidate who finished directly before them. If the individual does not agree to fill the position or is no longer eligible to hold office, proceed to step two.

2.2 Step two - advertisement asking for applications of interest

The Clerk will place advertisements asking interested eligible individuals to apply by application process to fill the vacant City Councillor or City/County Councillor seat. The deadline for submitted applications shall be established by the Clerk.

2.2.1 Applicant names made public

The names of the eligible individuals who submit an application will be made public after the closing date of applications.

2.2.2 Review of Applications - short list

Eligible applications may be reviewed in a closed session of Council. Council may reduce the list of names for consideration by vote in an open session of Council.

2.2.3 Applicant verbal presentations

The remaining applicants will then be notified to appear at a meeting of Council. Each applicant shall make a presentation of up to seven minutes. The order of speaking will be determined alphabetically according to surname.

2.2.4 Final review

Council may meet in a closed session for a final review of the remaining applicants.

2.2.5 Vote to fill the vacancy

The vote to fill the vacancy shall occur at an open session of Council. Each member of Council shall have one vote. The City Clerk will preside over the vote.

2.2.6 Voting procedure

In conducting the vote, the Clerk shall call the names of the members of Council, in alphabetical order according to their surnames, and each such member shall, after their name is called, verbally indicate the applicant of their choice. The Clerk shall keep count of the votes received for each applicant. The Clerk shall announce the results after each vote. If after votes are cast, no applicant receives the majority of votes cast, the applicant receiving the least number of votes shall be eliminated. If the applicants with the least number of votes receive an equal number of votes, the Clerk shall place the names of these applicants, on equal size pieces of paper, in a ballot box and draw one name. The name drawn shall be eliminated. Council shall proceed to vote again until an applicant receives the majority of votes cast, at which time Council shall pass a resolution appointing that person to fill the vacancy. If there are only two applicants left and they each receive the same number of votes, the Clerk shall place the names of the two applicants, on equal size pieces of paper, in a ballot box and draw one name. The name drawn shall be selected to fill the vacancy, at which time Council shall pass a resolution appointing that person to fill the vacancy.

3.0 Step three - by-election

If step two fails to draw any eligible applications, Council shall pass a by-law requiring a by-election to be held to fill the vacancy of City Councillor or City/County Councillor, whichever is applicable, in accordance with the *Municipal Elections Act, 1996*.

Revision Date	Rev #	Particulars
August 15, 2024	01	Updates to provide for Part VI.1 of the Municipal Act, 2001 - Special Powers and Duties of the Head of Council