



TOWNSHIP OF

Hornepayne

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| POLICY TITLE: | Council Vacancy Policy |
| POLICY NO.: | GOV.002 |
| DEPARTMENT: | Office of the CAO; Office of the Clerk |
| EFFECTIVE DATE: | October 08, 2025 |
| ENACTED BY: | By-Law No. 2167-25 |

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1. Policy Statement

The Corporation of the Township of Hornepayne is committed to open, accountable, and transparent government.

2. Policy Purpose

In accordance with the Municipal Act, 2001, 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 holding a by- election.

The purpose of this policy is to establish an accountable and transparent process for filling Council vacancies that occur during a term of office.

3. Definitions

- a. "**Act**" refers to the Municipal Act, 2001, S.O. 2001, c.25, as amended.
- b. "**Appointment**" refers to the process of Council appointing an individual, by majority vote, who is qualified to hold office under the Act to fill a vacancy on Council for the remainder of the Term of Office.
- c. "**By-Election**" refers to an election, other than a regular election, to fill a vacancy on Council, conducted in accordance with the Municipal Elections Act, 1996.
- d. "**Candidate**" refers to an individual seeking to fill a vacancy on Council, who is qualified to hold office under the Act and who has completed and submitted all documentation as required by the Act and this policy.
- e. "**Clerk**" refers to the Clerk, or their designate, of the Corporation of the Township of Hornepayne as appointed by Council.
- f. "**Council**" refers to the Council of the Corporation of the Township of Hornepayne.
- g. "**Eligible Elector**" refers to an individual who is entitled to be an elector in the Township of Hornepayne in accordance with Section 17(2) of the Municipal Elections Act, and is not prohibited from voting in accordance with Section 17(3) of the Municipal Elections Act.
- h. "**Employee**" refers to an individual who is employed by the Township of Hornepayne.
- i. "**Municipal Elections Act**" refers to the Municipal Elections Act, S.O., 1996, c. 32, as amended.

- j. **"Nominee"** refers to an individual seeking to fill a vacancy on Council who meets the eligibility requirements and who has completed the requisite documentation as outlined in this procedure.
- k. **"Procedure By-Law"** refers to the By-Law adopted by Council for governing the proceedings of its Council, the conduct of its members and the calling of meetings.
- l. **"Regular Election Year"** refers to the year established for a regular election in accordance with the Municipal Elections Act.
- m. **"Term of Office"** refers to the period of time a member is to hold office for which they are elected/appointed in accordance with the Municipal Elections Act.
- n. **"Township"** refers to the Corporation of the Township of Hornepayne.
- o. **"Vacancy"** refers to when a seat on Council is vacant in accordance with Section 259 of the Act.

4. General

- a. Council is required to declare a seat vacant in accordance with the Act.
- b. Within 60 days after the day a declaration of vacancy is made by Council according to Section 262 of the Act, Council shall determine whether to fill the vacancy by by-election or by appointment in accordance with the Act, subject to:
 - i. the limitation on filling a vacancy only by appointment if the vacancy occurs after March 31 in the year of a regular election set out in Section 65(2) of the Municipal Elections Act; and
 - ii. the restriction on filling a vacancy that occurs within 90 days of voting day of a regular election in Section 263(5)(3) of the Act.
- c. Section 264 of the Act provides that the person appointed or elected to fill a vacancy shall hold the office for the remainder of the term of the person they replaced.
- d. In making its determination, Council will consider the costs and timelines associated with filling a vacancy by appointment or by by-election.
- e. Council shall pass a resolution directing that the vacancy be filled by one of the procedures identified in this policy.
- f. Within 60 days of declaring a seat vacant, Council shall appoint a new member by By-Law.

4.1. Eligibility Requirements

- a. 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.
- b. If an employee of the Township seeks appointment to Council, the employee shall give Council written notice, in advance, of their intention to take unpaid leave for the duration of time until the position has been filled or they withdraw their nomination/application. If the employee is appointed to office, they will be deemed to have resigned from their position with the Township immediately before making the declaration of office.

5. Filling a Vacancy by Appointment

5.1. Appointment of Sitting Council Member to Officer of the Mayor

- a. If the vacancy is in the office of the Mayor, Council may choose to fill the vacancy by appointing a current member of Council who is a qualified individual as outlined in Section 256 of the Act.
- b. The appointment of a current member of Council to fill a vacancy in any other office on Council shall take place at a regular meeting of Council, or a special meeting of Council called for such purposes, within 60 days of declaring a vacancy.
- c. Only a member of Council elected for the term in which the appointment is taking place will be considered eligible for appointment.
- d. The vote to appoint a sitting Council member to the position of Mayor shall occur at a special Council meeting which is open to the public.
- e. Any member of Council wishing to be considered for appointment to the vacancy of Mayor shall advise the Clerk in writing a minimum of seven (7) days prior to the special meeting of Council.
- f. If there are no members of Council who advise the Clerk that they wish to be considered, Council may fill the vacancy by Appointment from previous election candidates as set out in section 5.2. of this policy.
- g. If there are no previous election candidates as set out in section 5.2. of this policy, Council may fill the vacancy by public appointment process as set out in section 6 of this policy, or by by-election as set out in section 5.3. of this policy.

5.2. Direct Appointment of Previous Election Candidate

- a. Council may fill the vacancy by appointing the Candidate, who ran for the position that is vacant from the last regular election, and who received the most votes but was not elected, and who is eligible, agreeable and able to fill the vacancy
- b. The Candidate shall reaffirm they meet the eligibility requirements of office as outlined in the Act and the Municipal Elections Act.
- c. If they no longer qualify to hold office, the appointment shall be to the next Candidate who ran for the position that is vacant from the last regular election who received the second most votes but was not elected, and so on.

5.3. Filling a Vacancy by Appointment by the Call for Nominees

- a. The Clerk shall post a Council Vacancy notice (Schedule A) on the Township's website, social media, in the Municipal Office and will be distributed to the area store's requesting the posting. The notice shall indicate Council's intention to appoint an individual to fill a vacancy and shall outline the nomination process.
- b. Any individual wishing to be considered for appointment to fill the Council vacancy will complete and sign the Council Vacancy Appointment Application Form (Schedule B) and a Declaration of Qualification Form (Schedule C) approved by the Clerk.
- c. Candidates are required to complete all forms and file them with the Clerk in-person by the established deadline.
- d. Candidates may submit a personal statement of qualification, to a maximum of five hundred (500) words in length, with the application, for consideration of Council.
- e. Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification to prove their identity and qualifying address to the satisfaction of the Clerk.
- f. It is the Candidate's sole responsibility to meet any deadline or otherwise comply with any requirement of this policy, the Act or the Municipal Elections Act.
- g. The Clerk will create a list of all eligible candidates that have submitted an application in accordance with the process, which will be posted and updated on the Township website. All applications and supporting documents shall be considered public documents and will be made available for public viewing in the same manner as a Nomination Form for a candidate in a regular municipal election and shall be available for viewing at the Municipal Office.

- h. Copies of all application documents will be included with the agenda package for the special Council meeting and will be made available as part of the public agenda posted on the Township's website.
- i. A Candidate who wishes to withdraw their application may do so in-person (in writing) to the Clerk. The deadline to withdraw shall be any time up to 10:00 a.m. on the Friday before the date of the special Council meeting to fill the vacancy.

5.4. Council Meeting – Interviews and Selection

- a. A vote to fill Council vacancy by appointment shall occur at an open Council meeting.
- b. Notwithstanding the requirement of the Procedure 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:
 - i. A certified list of all Candidates listed in alphabetical order by last name.
 - ii. Any personal statement of qualifications for consideration of Council.
- c. At the meeting, the following will take place:
 - i. The Chair will make a short statement of the purpose of the meeting and the general order of proceedings to be followed.
 - ii. Individuals seeking appointment to the position of Mayor who are also current members of Council (nominees) shall declare a pecuniary interest.
 - iii. The Clerk will provide to the Chair a list of the names of qualified Candidates and the Chair shall 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 vacancy, be considered for appointment to fill such vacancy."
- d. Candidates will be sequestered in a supervised designated area until it is their time to answer the questions posed by Council. They must return to the designated area immediately after, to ensure fairness if further questions are required in the event of a tie vote.

- e. Each of the Candidates shall be provided the opportunity to address Council. If there are more than five (5) Candidates, they may be afforded up to three (3) minutes to address Council. If there are less than five (5) Candidates, they may be afforded up to five (5) minutes to address Council. The timing will be at the Clerk's discretion once all applications are received. The order of speaking will be determined by alphabetical order by last name.
- f. All Candidates shall be asked the same eight (8) questions, which will be pre-determined by the Clerk, based on input from Council. Responses from the Candidates shall be limited to a maximum of two (2) minutes per question.

5.5. Voting

Upon hearing all Candidate submissions, Council will proceed to vote, by way of public ballot vote, in rounds of voting as follows:

- a. Members of Council will vote by way of public ballot;
- b. The Clerk will provide each member of Council with a ballot, with the Council member's name pre-printed on the ballot;
- c. The Clerk will ask the members of Council to cast their vote by writing the full name of one (1) Candidate on the ballot. The member of Council shall then sign the ballot.
- d. The Clerk will collect all marked and signed ballots, verbally announce each vote, and tabulate and announce the results.
- e. If on the first ballot, a Candidate received greater than 50% of the of the votes from the members of Council present, then Council shall appoint them to fill the vacancy.
- f. Candidates receiving zero votes will be automatically eliminated from the voting process.
- g. If the Candidate who received the greatest number of votes cast did not receive a majority of votes, the Candidates with the least number of votes will be excluded from consideration and the vote will be taken again as outlined above. The process will be repeated until a Candidate has received a majority of votes from members of Council;
- h. In the event of a tie vote, each Candidate will be required to answer an additional two (2) questions, pre-determined by the Clerk based on input from Council, with a limit of two (2) minutes to answer each question, and the vote will be retaken for the remaining Candidates as outlined above.

- i. Upon conclusion of the voting, the Clerk will declare the Candidate receiving the votes of more than one-half of the number of voting Members of Council as the successful Candidate.
- j. Council shall pass a resolution appointing the successful Candidate as follows:

"THAT [Candidate] be appointed as [Office] for the Township of Hornepayne for the remainder of the [Term of Office] Term of Council".

- k. The appointment of the Candidate will be enacted by By-Law.
- l. The Clerk will administer the Declaration of Office required by subsection 232(1) of the Act at the meeting where the By-Law referred to in subsection 5.5.k. is enacted by Council, or as directed by Council.

6. Filling a Vacancy by By-Election

If a Vacancy for either the Mayor or Council is to be filled by by-election:

- a. Council shall first consider filling the vacancy by the Appointment options outlined in section 5 of this policy.
- b. If the vacancy cannot be filled by an Appointment, Council shall then:
 - i. Pass a By-Law requiring that a by-election be held within 60 days of the declaration of vacancy, under section 262 of the Act; and
 - ii. Hold a by-election in accordance with the Municipal Elections Act.
- c. The Clerk shall be responsible for conducting any by-election in accordance with the Municipal Elections Act and all applicable policies and procedures.

7. Policy Administration and Review

- a. Notwithstanding this policy, or where a situation occurs that is not otherwise accounted for in these procedures, and in accordance with legislation, Council may, by resolution, waive the requirements of this policy by a two-thirds majority vote.
- b. This policy shall be reviewed at minimum once per Term of Council.
- c. The Clerk shall be responsible for interpreting and where appropriate administering the Council Vacancy Policy and applicable procedures.
- d. The Clerk has the authority to make minor technical amendments to this procedure as may be required from time to time to ensure compliance with legislation.

8. Policy Adoption and Review

| Date of Adoption by Council | By-Law or Resolution No. | Date of Most Recent Review by Council | Changes Made Yes/No |
|--|-------------------------------------|--|--------------------------------|
| October 8, 2025 | By-Law No. 2167-25 | October 8, 2025 | Repeals By- Law No. 1542 |

The Corporation of the Township of Hornepayne
Schedule “A” – Public Notice of Council Vacancy

TAKE NOTICE that a vacancy exists on the Township of Hornepayne Council for [Council Position]. Council has determined that it wishes to fill this vacancy by appointment through a Call for Applications for Appointment in accordance with the Township of Hornepayne Council Vacancy Policy.

The term of this position is from the date of Council appointment [Date] for the balance of the term of Council being November 14, [20XX].

- A candidate for municipal office must be a qualified municipal elector as set out in the Municipal Elections Act, 1996. Qualified electors must be:
- 18 years of age or older;
- a Canadian citizen;
- a resident of the Township of Hornepayne, or an owner or tenant of land in the Township or the spouse of such an owner or tenant; and
- not prohibited from voting under any other Act or disqualified from holding municipal office.

Qualified Persons interested in being appointed must complete a Council Vacancy Application Form and a Declaration of Qualification through with the Clerk’s Office. Applications will be accepted by the Clerk’s Office during regular business hours until [Date] at 2:00 p.m., at the address shown below.

Candidate(s) may also submit, to the Clerk, a personal statement of qualification for consideration of Council. Personal statements shall not exceed five hundred (500) words 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.

Certified registered candidates will be afforded the opportunity to address Council for a period of not more than five (5) minutes and will be asked questions by Council in an open Public Meeting to be held on [Date] at 6:00 p.m. in Council Chambers.

For further information or to complete a Council Vacancy Application Form and a Declaration of Qualification, please contact:

Clerk
Township of Hornepayne
68 Front Street, Hornepayne, ON, P0M 1Z0
T: (807) 868-2020 ext: 202
E: clerk@hornepayne.ca

The Corporation of the Township of Hornepayne
Schedule “B” – Council Vacancy Application Form

| | | | |
|---|------------|-------------------------------------|---------------------------------|
| NOTE <ul style="list-style-type: none"> A Council Vacancy Application may only be filed in person; it may <u>not</u> be faxed or e-mailed. It is the responsibility of the person applying to file a complete and accurate application. Please print or type information (except signatures). | | | |
| Candidate Full Name: | | For the Office of: | |
| Candidate’s full qualifying address within the municipality | | | |
| Street Number: | | Street Name: | |
| Municipality | Province | Postal Code | |
| Candidate’s full mailing address (if different from qualifying address above) | | | |
| Street Number: | | Street Name: | |
| Municipality | Province | Postal Code | |
| Phone Number: | | Email Address: | |
| Declaration of Qualification and Consent | | | |
| I _____, the applicant mentioned in this form, declare that I am presently legally qualified to be appointed to hold the office of _____, and I consent to accept the appointment to that office, if appointed. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath. | | | |
| Declared before me at the Township of Hornepayne in the District of Algoma this _____ day of _____, 2025 _____ Signature of Clerk or Commissioner, etc. | | _____ Signature of Applicant | |
| Date Filed | Time Filed | Candidate Initial | Signature of Clerk or Designate |
| Certification by Clerk or Designate | | | |
| I, the undersigned, Clerk of the Township of Hornepayne, do hereby certify that I have examined the application of the aforesaid applicant filed with me and am satisfied that the nominee is qualified to be appointed and that the appointment complies with the Act. | | | |
| Signature | | Date Filed | |

The Corporation of the Township of Hornepayne
Schedule “C” – Declaration of Qualifications Form

I, _____, a nominated candidate for the office of:

☐

Mayor

☐

Councillor

Do Solemnly Declare That:

1. I am qualified pursuant to the *Municipal Elections Act, 1996* and the *Municipal Act, 2001* to be elected to and to hold the office of:

☐

Mayor

☐

Councillor

2. Without limiting the generality of paragraph 1, I am at least eighteen years of age, a Canadian citizen, a resident of the Township of Hornepayne or the owner or tenant of land in the Township of Hornepayne or the spouse of such owner or tenant.
3. I am not ineligible or disqualified under the *Municipal Elections Act, 1996*, the *Municipal Act, 2001*, the Municipal Conflict of Interest Act or any other Act to be elected to or hold the above-mentioned office.
4. Without limiting the generality of paragraph 3,
- I am not an employee of the Township of Hornepayne, or if I am an employee of the Township of Hornepayne, I am on an unpaid leave of absence as provided for by section 30 of the *Municipal Elections Act, 1996*.
 - I am not a judge of any court.
 - I am not a member of the Assembly as provided in the Legislative Assembly Act or of the Senate or House of Commons of Canada or, if I am such a person, I will provide proof of my resignation in a form satisfactory to the Clerk of the Township of Hornepayne prior to 2:00 p.m. on [Date]. I understand that the Clerk of the Township of Hornepayne will reject my nomination for the above-mentioned office if I fail to provide proof of resignation by this deadline.

- I am not a member of the Executive Council of Ontario or a federal Minister of the Crown.
 - I am not a Crown employee within the meaning of the *Public Service Act*, or if I am a Crown employee, I have followed and will continue to follow all the relevant provisions of Part III of such Act.
5. I am not prohibited from voting at the municipal election under subsection 17(3) of the *Municipal Elections Act, 1996*.
 6. Without limiting the generality of paragraph 5,
 - a. I am not a person who is serving a sentence of imprisonment in a penal or correctional institution.
 - b. I am not a person who was convicted of a corrupt practice described in subsection 90(3) of the *Municipal Elections Act, 1996*, during an election that occurred less than four years prior to Monday, October 27, 2014.
 7. I am not a candidate who was convicted of a corrupt practice under the *Municipal Elections Act, 1996* or of an offence under the Criminal Code (Canada), in connection with an act or omission with respect to a municipal election if the Voting Day in that election is less than six years prior to Monday, October 27, 2014.
 8. I am not disqualified from being elected to or holding office by reason of any violations of the election campaign financial requirements or violations for not filing the financial statement pursuant to the *Municipal Elections Act, 1996*. AND I make this solemn Declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Declared before me at the Township of Hornepayne

This _____ day of _____, 2025

(Signature of candidate)

(Signature of Clerk or designate)

Personal information on this form is collected under the authority of the *Municipal Elections Act (1996)* and will be used for the nomination process for office in the municipal election and will be available for public inspection in the Office of the Clerk, Township of Hornepayne until the next municipal election. Questions about this collection of personal information should be directed to the Clerk, Township of Hornepayne, 68 Front Street, Hornepayne, ON, P0M 1Z0, 807-868-2020 x202, clerk@hornepayne.ca

The Corporation of the Township of Hornepayne
Schedule “D” – Candidate Information Release Form

I, _____, having applied for the position of _____
_____, in the Township of Hornepayne, do hereby consent to the public
disclosure (including posting on the Township’s website) of the personal
information contained in my submission for the purpose of providing
information to the public.

Dated at the Township of Hornepayne this _____ day of _____,
2025.

Signature of Candidate