

## **Declaring the Office of Councillor, Ward 15 - Don Valley West Vacant and Filling the Vacancy**

**Date:** June 19, 2024

**To:** City Council

**From:** City Clerk

**Wards:** 15

### **SUMMARY**

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Together, the City of Toronto Act, 2006 and the Municipal Elections Act, 1996 prescribe rules and impose deadlines with respect to filling a vacancy in the office of a member of City Council.

This report identifies Council's two options for filling the vacancy in the office of Councillor for Ward 15 - Don Valley West resulting from the passing of Councillor Jaye Robinson.

City Council must declare this office vacant at its next meeting on June 26 - 28, 2024. Then, within 60 days of the office being declared vacant, Council must either fill the vacancy by appointment or pass a by-law requiring that a by-election be held.

The person appointed or elected to fill the vacancy will hold office for the remainder of the term, which ends on November 14, 2026.

### **RECOMMENDATIONS**

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The City Clerk recommends that:

1. City Council declare a vacancy in the office of Councillor, Ward 15 - Don Valley West;
2. City Council adopt one of the following two options to fill the vacancy:

#### **Option A – Appointment**

- a. Fill the vacancy by appointing a person qualified to hold office in the City of Toronto at a special meeting to be held on July 23, 2024 at 9:30a.m. in the Council Chamber, in accordance with the following:

1. The City Clerk shall advertise the vacancy inviting any interested and qualified applicants to seek appointment to City Council;
2. Interested persons shall complete a Consent of Nominee and Declaration of Qualification and provide personal identification showing their name and qualifying address within the City of Toronto;
3. The deadline for submitting the required forms to the City Clerk shall be July 15, 2024 at 4:30 p.m.;
4. The City Clerk shall submit a report with the list of applicants for publication on the agenda of the July 23, 2024 City Council meeting;
5. Each applicant shall be provided the opportunity to address City Council for up to 5 minutes;
6. The order in which applicants address City Council shall be determined by lot drawn by the City Clerk when City Council begins its debate on the item;
7. Members of City Council shall be entitled to ask one question of each candidate;
8. City Council shall vote on the appointment by ballot in accordance with the Council Procedures; and
9. City Council shall enact a by-law confirming the appointment of the successful candidate to the office for the remainder of the term of the present Council.

OR

### **Option B – By-election**

b. Fill the vacancy by requiring a by-election be held for Ward 15 - Don Valley West, as outlined in the draft bill in Appendix A, and:

1. Approve an in-year budget adjustment to increase the 2024 Operating Budget for the City Clerk's Office by \$550,000 gross and \$0 net, fully funded from the Election Reserve Fund (XR1017) to reflect the funds required to conduct the by-election.

## **FINANCIAL IMPACT**

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If Council chooses to fill the vacancy by appointment, minimal costs for advertising, printing and supplies can be absorbed in the 2024 Operating Budget for the City Clerk's Office.

If Council chooses to fill the vacancy through a by-election, the cost of administering the by-election would be approximately \$550,000, exclusive of the City's contribution rebate program costs. The City Clerk will also implement a contribution rebate program for by-election candidates, for which rebate payments are estimated to cost approximately \$200,000.

Funding for a Ward 15 - Don Valley West by-election would be fully recovered from the Election Reserve Fund (XR1017) with net zero impact to the 2024 Operating Budget for the City Clerk's Office. There is sufficient funding in the Election Reserve Fund for this by-election cost.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

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City Council, at its meeting on February 7, 2023, amended Municipal Code Chapter 53, Elections, to re-introduce the requirement that candidates participating in the contribution rebate program submit copies of all campaign invoices with their audited financial statement, to take effect for future by-elections and general elections.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.EX2.5>

City Council, at its meeting on October 1, 2021, amended Municipal Code Chapter 53, Elections, to authorize a mail-in voting program for the City's municipal and school board elections and by-elections and to provide for the payment of rebates to individuals who make contributions to candidates for office on City Council in the City's municipal elections and by-elections.

<https://secure.toronto.ca/council/agenda-item.do?item=2021.EX26.1>

## **COMMENTS**

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### **Issue Background**

Section 207 of the City of Toronto Act, 2006 provides that when the office of a member of Council becomes vacant as a result of the death of a member, Council shall declare the seat vacant at either of its next two meetings.

Councillor Jaye Robinson passed away on May 16, 2024. As City Council did not declare the office of Ward 15 vacant at its meeting held on May 22 - 23, 2024, it must do so at its meeting on June 26 - 28, 2024.

Within 60 days of the office being declared vacant, Council must decide either to fill the vacancy by appointment or pass a by-law requiring that a by-election be held.

The person appointed or elected to fill the vacancy will hold office for the remainder of the term, which ends on November 14, 2026.

### **Option A - Filling the Vacancy by Appointment**

Section 208 of the City of Toronto Act provides that Council may fill a vacancy in the office of a member of City Council by appointing a person who has consented to accept the appointment.

To be qualified to hold office, a person must be:

- 18 years of age or older
- A Canadian citizen
- A resident of the City of Toronto, or an owner or tenant of land in the City or the spouse of such an owner or tenant
- Not prohibited from holding municipal office or from voting under any Act.

As the legislation does not provide the process that Council must follow to fill a vacancy by appointment, if Council chooses this option, staff recommend the adoption of the process set out in Recommendation 2a. This is the same process that was followed for the most recent appointments in 2022 for, respectively, Ward 1 - Etobicoke North, Ward 10 - Spadina-Fort York and Ward 13 - Toronto Centre.

If Council adopts this process, the City Clerk will advertise to invite applications from qualified electors for consideration by City Council at a special meeting to be held at 9:30 a.m. on July 23, 2024.

### **Option B - Filling the Vacancy by By-Election**

Alternatively, Section 208 of the City of Toronto Act also provides that Council may fill a vacancy in the office of a member of City Council by passing a by-law requiring that a by-election be held.

The timing of a by-election is determined by the City Clerk. Under the Municipal Elections Act, 1996, the City Clerk fixes nomination day (i.e. the day nominations close at the end of the nomination period) between 30 and 60 days after the by-law requiring that a by-election be held comes into effect. Voting day is required under the Act to be held 45 days after nomination day.

The draft bill provides that the by-law will be passed on July 21, 2024, which meets the 60-day requirement under the City of Toronto Act, 2006. If this by-law were adopted by City Council, the nomination period would open on July 22, 2024 and close on nomination day between 30 and 60 days later. Therefore, the earliest possible voting day would be October 4, 2024 and the latest possible voting day would be November 4, 2024.

To determine the length of the nomination period and thereby (45 days after nomination day) the date of voting day itself, the City Clerk would consider several factors, including the dates of holidays and ensuring there is adequate time for by-election preparation.

### **Mail-in Voting and Contribution Rebate Program**

In October 2021, City Council passed a by-law amending Toronto Municipal Code Chapter 53, Elections to authorize mail-in voting for subsequent Toronto municipal elections and by-elections. The City has now offered mail-in voting as an alternative voting method in one general election and three by-elections, and mail-in voting would again be offered to all electors as an alternative voting option in the Ward 15 - Don Valley West by-election, should Council decide to fill the vacancy in the Office of Ward 15 through a by-election.

City Council also passed a by-law amending Toronto Municipal Code Chapter 53, Elections to authorize a contribution rebate program that provides for the payment of rebates to individuals who make contributions to candidates for office of City Council for all elections and by-elections. A contribution rebate program would be implemented for a Ward 15 - Don Valley West by-election, should Council decide to fill the vacancy in the Office of Ward 15 through a by-election.

### **CONTACT**

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### **SIGNATURE**

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John D. Elvidge  
City Clerk

### **ATTACHMENTS**

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Appendix A – Draft Bill to Require a By-election for the Office of Councillor, Ward 15 - Don Valley West

## Appendix A

### Draft By-law to require a by-election for the Office of Councillor, Ward 15 - Don Valley West

Whereas the Office of Councillor, Ward 15 - Don Valley West has become vacant; and

Whereas section 208 of the City of Toronto Act, 2006 provides that, if the office of a Member of Council becomes vacant, Council may, by by-law, require a by-election to be held to fill the vacancy.

The Council of the City of Toronto enacts:

1. A by-election shall be held to fill the vacant Council seat for Ward 15 - Don Valley West.
2. This by-law shall be deemed to be passed and come into force on July 21, 2024 at 11:59 p.m. Eastern Daylight Time.

Enacted and passed on ,2024.

Frances Nunziata,  
Speaker

(Seal of the City)

John D. Elvidge,  
City Clerk