

## **Declaring the Office of Councillor, Ward 25 - Scarborough Rouge Park Vacant and Filling the Vacancy**

**Date:** May 12, 2025

**To:** City Council

**From:** City Clerk

**Wards:** All

### **SUMMARY**

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On May 8, 2025, Jennifer McKelvie (Councillor, Ward 25 - Scarborough - Rouge Park) notified the City Clerk in writing of her resignation from her position as a member of City Council effective May 9, 2025.

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.

In accordance with the legislated requirements, the purpose of this report is to declare the office of Councillor, Ward 25 vacant and advise City Council of its two options for filling the vacancy (i.e. by appointment or by-election).

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 25 - Scarborough - Rouge Park.

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 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. The City Clerk is authorized to establish the deadline for submitting the required forms to the City Clerk;
3. 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;
4. The City Clerk shall submit a report with the list of applicants for publication on the agenda of a special City Council meeting to be called by the Mayor;
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 25 - Scarborough - Rouge Park, as outlined in the draft bill in Appendix A, and:

1. Approve an in-year budget adjustment to increase the 2025 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, there will be minimal costs for advertising, printing and supplies, which can be absorbed in the 2025 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 will be approximately \$550,000, exclusive of the City's contribution rebate program costs, and will require a budget adjustment to the 2025 Operating Budget for the City Clerk's Office. 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.

These costs for the Ward 25 - Scarborough - Rouge Park by-election will be fully funded from the Election Reserve Fund (XR1017). There is sufficient funding from the Election Reserve Fund for this by-election cost. The Election Reserve Fund is replenished regularly to ensure that elections can be funded whenever they are called.

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

Subsection 204(1)(d) of the City of Toronto Act, 2006 ("COTA") provides that the office of a member of Council becomes vacant if the member resigns their position by written notice filed with the City Clerk. On May 8, 2025, Jennifer McKelvie notified the City Clerk in writing that her resignation from the office of Councillor, Ward 25 Scarborough - Rouge Park would take effect at the end of the day on May 9, 2025.

Section 207 of COTA provides that if the office of a member of City Council becomes vacant, City Council shall at its next meeting declare the office to be vacant.

Section 208 (3) of COTA prescribes that when a vacancy on Council occurs, within 60 days of the office being declared vacant, Council must either fill the vacancy by appointment or pass a bylaw requiring a by-election.

The person appointed or elected to fill the vacancy in the office of Councillor, Ward 25 Scarborough - Rouge Park will hold office for the remainder of the term, ending November 14, 2026.

### Option A - Filling the Vacancy by Appointment

Section 208 of the City of Toronto Act provides that Council may fill the vacancy by appointing a qualified 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; and
- not prohibited from holding municipal office or from voting under any Act.

As COTA does not specify the process that Council must follow to fill a vacancy by appointment, Council could adopt the process set out in Recommendation 2a. This is the same process that was followed for the most recent appointments in 2022 for 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 City Council meeting to be called by the Mayor.

### Alternative Appointment Options

As the process for appointment is not outlined in legislation, Council could choose to vary from the standard process outlined above. For example, Council is not required to

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publicly seek nominations for appointment. Council can directly appoint a qualified candidate, or Council can require that candidates be nominated by a Member of Council to be considered for appointment. In any case, the City Clerk would still need to verify any candidates' eligibility for appointment before Council consideration.

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

Section 208 of the City of Toronto Act, 2006 alternatively provides that Council may fill a vacancy by passing a by-law requiring a by-election.

The timing of any such by-election is determined by the City Clerk, acting independently of Council. Specifically, the Municipal Elections Act, 1996 ("MEA") authorizes the City Clerk to set the date of nomination day (i.e. the close of the nomination period) between 30 and 60 days after the passage of a by-law requiring a by-election be held to fill a vacancy. The MEA further specifies that voting day must be 45 days after nomination day.

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 various factors, including but not limited to the dates of holidays, the availability of voting places, and ensuring adequate time for by-election preparation.

Appendix A provides that the bylaw requiring a by-election to fill the vacancy in the office of Councillor, Ward 25 - Scarborough-Rouge Park be deemed to be passed and come into force on June 22, 2025 at 11:59 p.m. Eastern Standard Time. As such, if recommendation 2b (i.e. the by-election option) is approved by City Council, nominations will open on June 23, 2025 and close on nomination day between 30 and 60 days later, with the date of voting day (45 days after nomination day) being no earlier than September 8, 2025 and no later than October 6, 2025.

### **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 four by-elections. Mail-in voting will again be offered as an alternative voting option in the Ward 25 - Scarborough-Rouge Park by-election, assuming Canada Post services are available in the time period required.

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 on City Council for all elections and by-elections. A contribution rebate program will be implemented for the Ward 25 - Scarborough-Rouge Park by-election.

## **CONTACT**

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Kelly McCarthy, Deputy City Clerk, City Clerk's Office, Secretariat  
416-392-8676, [Kelly.McCarthy@toronto.ca](mailto:Kelly.McCarthy@toronto.ca)

Tobias Novogrodsky, Deputy City Clerk, City Clerk's Office, Toronto Elections  
416-392-8019, [Tobias.Novogrodsky@toronto.ca](mailto:Tobias.Novogrodsky@toronto.ca)

## **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 25, Scarborough - Rouge Park.

## **Appendix A**

### **Draft By-law to require a by-election for the Office of Councillor, Ward 25 - Scarborough-Rouge Park**

Whereas the Office of Councillor, Ward 25 - Scarborough-Rouge Park 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 25 - Scarborough - Rouge Park.
2. This by-law shall be deemed to be passed and come into force on June 22, 2025, at 11:59 p.m. Eastern Standard Time.

Enacted and passed on May 22, 2025.

Frances Nunziata,  
Speaker

(Seal of the City)

John D. Elvidge,  
City Clerk