

**The Corporation Of The Township of South Algonquin**  
**By-Law 2022-703**  
**A By-Law to Adopt a Council Vacancy Policy**

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**Whereas** the Council of the Corporation of the Township of South Algonquin deems it desirable to pass a By-Law adopting a policy when the seat of a Member of Council becomes vacant.

**And Whereas** the *Municipal Act*, 2001, 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.

**Now Therefore the Council of the Corporation of the Township of South Algonquin enacts as follows:**

1. That Council hereby approves the policy “Council Vacancy” as Schedule “A” to this By-Law.
2. That all previous By-Laws related to the matters herein described are hereby repealed.
3. That effective on the date of passage of this By-Law it shall become enacted.

Read a first time on the 4<sup>th</sup> day of May, 2022.

Read a second and third time and passed on this 4<sup>th</sup> day of May 2022.

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**Mayor Jane A.E. Dumas**

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**CAO/Clerk-Treasurer Bryan Martin**

POLICY MANUAL	POLICY NO.
Township of South Algonquin	EFFECTIVE DATE: May 4, 2022 Revised:
<b>SUBJECT: Council Vacancy Policy</b>	DEPARTMENT:

### **Purpose:**

The purpose of this policy is to provide an accountable and transparent policy to fill Council vacancies.

### **Applications:**

This policy applies to any vacancy on Council during its term.

The office of a member of council of a municipality becomes vacant if the member,

- a. becomes disqualified from holding the office of a member of council under sections 256, 257 or 258;
- b. fails to make the declaration of office before the deadline in section 232;
- c. is absent from the meetings of council for three successive months without being authorized to do so by a resolution of council;
- d. resigns from his or her office and the resignation is effective under section 260;
- e. is appointed or elected to fill any vacancy in any other office on the same council;
- f. has his or her office declared vacant in any judicial proceeding;
- g. forfeits his or her office under this or any other Act; or
- h. dies, whether before or after accepting office and making the prescribed declaration.

*(1.1) Clause (1) (c) does not apply to vacate the office of a member of council of a municipality who is absent for 20 consecutive weeks or less if the absence is a result of the member's pregnancy, the birth of the member's child or the adoption of a child by the member.*

## **Definitions:**

In this policy:

"Act" means the *Municipal Act 2001* as amended.

"Appointment" means the process of Council appointing a qualified individual to fill a vacancy for the remainder of the current Council term.

"By-election" means an election held to fill any vacancy, conducted in accordance with the provisions of section 65 of the *Municipal Elections Act 1996* as amended.

"Clerk" means the Clerk appointed by Council under the *Act*, or his or her delegate.

"Council" means The Township of South Algonquin Council.

"Regular election year" means the year established for a regular municipal election in accordance with the *Municipal Elections Act 1996* as amended.

"Vacancy" means when a seat on Council is vacant in accordance with section 259 of the *Act*, and "vacant" has a corresponding meaning.

## **Policy:**

When the office of a member of a Council becomes vacant, s. 262(1) of the *Act* requires that Council declare the office to be vacant at its next meeting. (If a vacancy occurs as a result of the death of a member, however, the declaration may be made at either of its next two meetings).

A vacancy may be filled by appointing a person who has consented to accept the office or by by-election. (s.263(1) of the *Act*).

Within 60 days after the declaration of vacancy the municipality shall,

- i. appoint a person to fill the vacancy under subsection; or
- ii. pass a by-law requiring a by-election be held to fill the vacancy.

If a vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the vacancy. (s 263(5)of the *Act*)

## **By-election Process**

The following process shall be followed when a vacancy is to be filled by by-election:

Council declares the seat vacant as stated above.

Within sixty days of declaring the seat vacant Council passes a by-law calling for a by-election.

The Clerk fixes Nomination Day in accordance with section 65(4)(1) of the *Municipal Elections Act 1996* (not less than 30 days and not more than 60 days after the by-law is passed).

In accordance with section 65(4)(3) of the *Municipal Elections Act, 1996* Voting Day for a by-election shall be 45 days after Nomination Day.

A current member of Council is eligible to run in a by-election. He or she is required to take an unpaid leave of absence beginning as of the day they are nominated and ending on voting day. This is consistent with section 30 (1) of the *Municipal Elections Act, 1996* which outlines the process for employees of the municipality to be a candidate. If the member is elected to the vacant office he or she shall be deemed to have resigned from their initial office immediately before making their declaration of office.

## **Appointment Process**

The following process shall be followed when a vacancy is to be filled by appointment. Council declares the seat vacant as stated above.

Within sixty days of declaring the seat vacant Council shall make an appointment to fill the vacancy.

### **Vacancy in the office of Mayor**

If a vacancy in the office of Mayor is to be filled by appointment, Council may choose to fill the vacancy by appointing:

- a. A current member of Council;
- b. An unsuccessful candidate for the same office in the most recent regular election; or
- c. Any other qualified individual.

## Vacancy in the office of Ward Councillor

If a vacancy in the office of ward councillor is to be filled by appointment, Council may choose to fill the vacancy by appointing:

- a. An unsuccessful candidate for the same ward in the most recent regular election;  
or
- b. Any other qualified individual.

Appendix “A” sets out the procedure to be followed when a vacancy is to be filled by appointment of current members of Council to fill a vacancy in the office of Mayor.

Appendix “B” sets out the procedure to be followed when a vacancy is to be filled by appointment of a previous candidate to fill a vacancy (Mayor or Ward Councillor).

Appendix “C” sets out the procedure to be followed when a vacancy is to be filled by appointment of any other qualified individual (Mayor or Ward Councillor).

Nothing in this policy shall be interpreted as denying Council its authority to do anything permitted or required under the *Act* (Mayor or Ward Councillor).

## **Appendix “A” – Procedure to Appoint a Member of Council to fill a Vacancy in the office of Mayor**

The following procedure will be used when appointing a current member of Council to fill a vacancy in the office of Mayor:

### **Definitions**

In this procedure:

“Chair” means the member of Council presiding at the Council Appointment Meeting.

“Container” means any container to be used by the Clerk in the drawing of names of individual nominees.

“Council Appointment Meeting” means the regular or special Council meeting where Council will appoint someone to fill a vacancy.

“Slate of Nominees” means a list of all the individual candidates who have been nominated in accordance with this procedure and “nominee” shall mean an individual whose name appears on the slate of nominees.

### **General**

1. The appointment of a current member of Council to fill a vacancy in the office of Mayor shall take place at a regular meeting of Council or at a special meeting of Council called for such a purpose within 60 days of declaring a vacancy.
2. Only a member of Council elected for the term in which the appointment is taking place will be considered eligible for appointment.
3. At the Council Appointment Meeting the Chair will advise that Council has declared the mayor’s seat vacant in accordance with the *Municipal Act 2001* and resolved to fill the vacancy by appointment of another member of Council. The Chair will then provide an overview of how the appointment process will be conducted.

### **Nomination Process**

4. A member of Council does not need to be present at a Council Appointment Meeting to be nominated. A member of Council who will be absent from a Council Appointment Meeting who wishes to be nominated shall submit to the Clerk, a minimum of two days prior to the Council Appointment Meeting, a signed letter consenting to their nomination. If the letter has not been provided to the Clerk the member of Council will not be permitted to be nominated. Members of Council absent from the meeting but duly nominated will not be permitted to provide written submissions to the meeting, appoint a representative to speak on their behalf, withdraw their nomination, or participate remotely. The Clerk will provide a copy of

any letter(s) consenting to nomination received to the Chair who will read aloud the names.

5. The Chair will request that any member of Council interested in being nominated to indicate their interest by raising their hand.
6. The Chair will call three times for additional expressions of interest. Hearing none, the Chair will request a motion to close the nominations.
7. Once the nominations are closed, the Chair will read aloud all of the names of members of Council who have indicated their interest. The Chair will request a motion to adopt the names as a slate of nominees.
8. Nominees will be offered a maximum of five minutes each, with no extension, to speak prior to the first round of voting. The order of speakers will be drawn by the Clerk from a container holding the names of all nominees.

### **Acclamation Process**

9. If the slate of nominees includes only one nominee the Clerk will declare that nominee elected and a resolution or by-law will be prepared and submitted to Council for enactment.

### **Voting Process**

10. If the slate of nominees includes more than one nominee rounds of voting will be conducted as follows:
  - a. The Clerk will provide members of Council a voting card on which to indicate their choice of nominee in writing.
  - b. The Clerk will read out the names of all the nominees alphabetically by surname.
  - c. Each member of Council is entitled to vote for one nominee in each round of voting.
  - d. The Clerk will ask members of Council to vote by displaying their voting card with choice of nominee clearly written on it, Members of Council will display the card at the same time and in a manner that is clearly visible to the Clerk and to the public.
  - e. Once a voting card has been displayed by a member of Council no changes shall be permitted.

- f. The Clerk will record the votes and announce how each member of Council has voted and the results at the end of each round of voting.
11. If, at the end of any round of voting, a nominee receives the votes of more than one-half of the members of Council present, the Clerk will declare the nominee to be elected and a resolution or by-law will be prepared and submitted to Council for enactment.
12. Rounds of voting shall continue until a nominee has received more than one-half of the votes of the members of Council present or until a tie is broken in accordance with this procedure.
13. Where a round of voting does not result in a nominee receiving more than one-half of the votes of the members of Council present:
  - a. The nominee with the fewest number of votes will be automatically excluded from the slate of nominees in the next round of voting.
  - b. In any round of voting one vote shall be considered the lowest number of possible votes. Where a nominee receives zero votes they will be automatically excluded from the slate of nominees in the next round of voting.
  - c. If a tie occurs between two or more nominees for the fewest number of votes received, the Clerk will draw all but one nominee's name from a container to continue in the subsequent round of voting. The name of the nominee not pulled by the Clerk will be excluded from the slate of nominees in the next round of voting.
  - d. The Clerk will conduct another round of voting with a revised slate of nominees.
  - e. Where after rounds of voting the votes cast are equal for all the nominees:
    - i. If there are three or more nominees remaining the Clerk will draw all but one nominee's name from the container to continue in the slate of nominees. (The nominee not pulled by the Clerk is eliminated.)
    - ii. If only two nominees remain, the Clerk will break the tie by pulling the name of the successful nominee from the container. The nominee whose name is pulled by the Clerk will be declared elected and a resolution or by-law will be prepared and submitted to Council for enactment.
  - f. Each of the pieces of paper used by the Clerk to draw the names of nominees will be created by the Clerk and will be equal in size and type and will contain the name of one nominee only.



- g. Only the Clerk or the Clerk's designate may handle the pieces of paper or container referenced in this procedure.

## **Appendix “B” – Procedure to Appoint a Former Candidate to fill a Vacancy (Mayor or Ward Councillor)**

The following procedure will be used when appointing a former candidate fill a vacancy:

### **Definitions**

In this procedure:

“Candidate” means any person who was nominated in the most recent regular municipal election for election to the office that has been declared vacant, provided that the nomination was certified by the Clerk in accordance with the *Municipal Elections Act, 1996* and further provided that they are still qualified under the Act or the *Municipal Elections Act, 1996*.

“Chair” means the member of Council presiding at the Council Appointment Meeting.

“Container” means any container to be used by the Clerk in the drawing of names of individual nominees.

“Council Appointment Meeting” means the regular or special Council meeting where Council will appoint someone to fill a vacancy.

### **General**

1. Council may decide by resolution to fill a vacancy by appointment of a former candidate.
2. To be considered for appointment, a candidate must meet all of the requirements to hold the vacant office and must not be otherwise disqualified from holding that office.
3. It is the candidate’s sole responsibility to meet any deadline or otherwise comply with any requirement established by Council or the Clerk as part of the appointment process.

### **Method of Selection of Candidate to fill a Vacancy**

4. Council may decide by resolution on or before the Council Appointment Meeting how the appointment process shall be conducted. Council may:
  - a. Choose to appoint the candidate who received the most number of votes in the previous municipal election; or
  - b. Any other selection process that Council decides to enact.

### **Notice**

5. Notice of Council’s decision to appoint a candidate shall be provided as follows:
  - a. Notice of the vacancy shall be posted by the Clerk on the Township’s website and by issuance of a News Release to local media outlets
  - b. Notice will also be provided to the last known address of a candidate.

6. The Notice will identify Council's intention to appoint an eligible candidate to fill the vacancy and:
  - a. The eligibility requirements to fill the vacancy
  - b. Any requirement established by the Clerk, including, but not limited to:
    - i. Application forms or written expressions of interest
    - ii. Declarations of eligibility
    - iii. Deadline for submissions

## **Review of Applications**

7. The Clerk shall examine all expressions of interest received from candidates by the deadline to ensure the eligibility of the candidate. At a minimum, the Clerk shall ensure that the candidate has:
  - a. Complied with the requirements established by Council and/or the Clerk;
  - b. Was a certified candidate for the vacant office in the previous regular municipal election; and
  - c. Is eligible under the *Act*, the *Municipal Elections Act, 1996*, or any other legislation, to hold the office that has been declared vacant.
8. The Clerk will certify a list of all candidates who are eligible for appointment. Candidates who do not meet the eligibility requirements will be notified in writing, and their names shall be provided to Council for information purposes only.
9. The Clerk shall provide Council with the certified list of candidates eligible for appointment prior to the Council Appointment Meeting, which shall include the name of each candidate and the number of votes they received in the previous municipal election.
10. The Clerk shall provide notice to each certified candidate of the date and time of the Council Appointment Meeting.

## **Appendix “C” – Procedure to Appoint an Eligible Elector to fill a Vacancy (Mayor or Ward Councillor)**

The following procedure will be used when appointing an eligible elector to fill a vacancy:

### **Definitions**

In this procedure:

“Candidate” means an eligible elector who has submitted an application for appointment to the Clerk in accordance with this procedure and who has been certified as a candidate by the Clerk.

“Chair” means the member of Council presiding at the Council Appointment Meeting.

“Container” means any container to be used by the Clerk in the drawing of names of individual nominees.

“Council Appointment Meeting” means the regular or special Council meeting where Council will appoint someone to fill a vacancy.

“Eligible elector” means a person who is a qualified elector in accordance with the *Municipal Elections Act 1996*.

“Slate of Candidates” means a list of all of the individual candidates.

“Slate of Nominees” means a list of all the individual candidates who have been nominated in accordance with this procedure and “nominee” shall mean an individual whose name appears on the slate of nominees.

### **General**

1. The appointment of an eligible elector to fill a vacancy shall take place at a regular meeting of Council or at a special meeting of Council called for such a purpose within 60 days of declaring a vacancy.
2. To be considered for appointment, an eligible elector must meet all of the requirements to hold the vacant office and must not otherwise be disqualified from holding that office.
3. It is the sole responsibility of the eligible elector to meet any deadline or otherwise comply with any requirement established by Council or the Clerk as part of the appointment process.

## Notice Process

4. Notice of Council's decision to appoint an eligible elector shall be posted by the Clerk on the Township's website and by issuance of a News Release to local media outlets.
5. The Notice will identify Council's intention to appoint an eligible elector to fill the vacancy and:
  - a. The eligibility requirements to fill the vacancy
  - b. Any requirement established by the Clerk, including, but not limited to:
    - i. Consent of Nominee forms or written expressions of interest
    - ii. Statement of Qualification forms
    - iii. Declarations of eligibility
    - iv. Deadline for submissions

## Application Review Process

6. Interested eligible electors must complete the application requirements established by the Clerk.
7. Following the deadline for submission of applications the Clerk will certify the eligible candidates.
8. The Clerk shall provide notice to the candidates of the date and time of the Council Appointment Meeting.
9. Any Council Agenda documentation related to candidates will be published in alphabetical order by surname.
10. At the Council Appointment Meeting the Chair will advise that Council has declared the seat vacant in accordance with the *Municipal Act 2001* and resolved to fill the vacancy by appointment of an eligible elector. The Chair will then provide an overview of how the appointment process will be conducted.

## Nomination Process

11. The Clerk will read aloud all of the names of certified candidates. These names constitute the official slate of candidates.
12. Each of the candidates will be offered a maximum of five minutes each, with no extension, to speak prior to the first round of voting. The order of speakers will be drawn by the Clerk from a container holding the names of all nominees.
13. The Clerk will call for nominations, subject to the following:
  - a. Only members of Council may nominate an individual candidate from the slate of candidates;

- b. Each member of Council may nominate one or more candidates;
  - c. Nominations must be made by resolution (i.e. a mover and seconder is required)
  - d. Candidates are not required to be present to be nominated; however, candidates not in attendance will not be permitted to provide written submissions, appoint a representative to speak on their behalf, withdraw their application or participate remotely.
14. The Clerk will call three times for further nominations; hearing none, the Clerk will declare nominations to be closed.
15. The candidates nominated by members of Council in accordance with this procedure will be the slate of nominees.

## **Acclamation Process**

16. If the slate of nominees includes only one nominee the Clerk will declare that nominee elected and a resolution or by-law will be prepared and submitted to Council for enactment.

## **Voting Process**

17. If the slate of nominees includes more than one nominee rounds of voting will be conducted as follows:
- a. In accordance with section 244 of the *Act*, no vote shall be taken by ballot or by any other method of secret voting.
  - b. The Clerk will provide members of Council a voting card on which to indicate their choice of nominee in writing.
  - c. The Clerk will read out the names of all the nominees alphabetically by surname.
  - d. Each member of Council is entitled to vote for one nominee in each round of voting.
  - e. The Clerk will ask members of Council to vote by displaying their voting card with choice of nominee clearly written on it. Members of Council will display the card at the same time and in a manner that is clearly visible to the Clerk and to the public.
  - f. Once a voting card has been displayed by a member of Council no changes shall be permitted.
  - g. The Clerk will record the votes and announce how each member of Council has voted and the results at the end of each round of voting.
18. If, at the end of any round of voting, a nominee receives the votes of more than one-half of the members of Council present, the Clerk will declare the nominee to be elected and a resolution or by-law will be prepared and submitted to Council for enactment.

19. Rounds of voting shall continue until a nominee has received more than one-half of the votes of the members of Council present or until a tie is broken in accordance with this procedure.
  
20. Where a round of voting does not result in a nominee receiving more than one-half of the votes of the members of Council present:
  - a. The nominee with the fewest number of votes will be automatically excluded from the slate of nominees in the next round of voting.
  - b. In any round of voting one vote shall be considered the lowest number of possible votes. Where a nominee receives zero votes they will be automatically excluded from the slate of nominees in the next round of voting.
  - c. If a tie occurs between two or more nominees for the fewest number of votes received, the Clerk will draw all but one nominee's name from a container to continue in the subsequent round of voting. The name of the nominee not pulled by the Clerk will be excluded from the slate of nominees in the next round of voting.
  - d. The Clerk will conduct another round of voting with a revised slate of nominees.
  - e. Where after rounds of voting the votes cast are equal for all the nominees:
    - i. If there are three or more nominees remaining the Clerk will draw all but one nominee's name from the container to continue in the slate of nominees. (The nominee not pulled by the Clerk is eliminated.)
    - ii. If only two nominees remain, the Clerk will break the tie by pulling the name of the successful nominee from the container. The nominee whose name is pulled by the Clerk will be declared elected and a resolution or by-law will be prepared and submitted to Council for enactment.
  - f. Each of the pieces of paper used by the Clerk to draw the names of nominees will be created by the Clerk and will be equal in size and type and will contain the name of one nominee only.
  - g. Only the Clerk or the Clerk's designate may handle the pieces of paper or container referenced in this procedure.