



## CORPORATE POLICIES AND PROCEDURES MANUAL

Policy Title:	Council Vacancy Policy	Policy No:	GOV-
Section:	General Government	Resolution:	2025-
Policy Lead:	Clerk	Effective Date:	
Application:	Clerk's Department and Council	Last Review Date:	-
Approved by:	Council	Previous Resolution:	-

### 1.0 PURPOSE

The purpose of this policy is to provide for an accountable and transparent process for the filling of any Council member vacancies that occur during a term of office and to set out the procedures to be followed.

### 2.0 POLICY STATEMENT

In accordance with the Municipal Act, S.O. 2001, c.25, as amended, when the seat of a member of Council becomes vacant during the term of office, Council may fill a vacancy by appointing a person (eligible elector) 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, as amended. In any case, within 60 days of declaring a seat vacant, Council shall appoint a new member by By-law.

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 Municipal Act).

The Municipal Clerk, or designate, shall be responsible for interpreting and, where appropriate, facilitating the appointment application process. The Clerk has the authority to make minor amendments to this procedure as may be required from time to time.

### 3.0 DEFINITIONS

For the purposes of this Policy:

- a) "Act" means the Municipal Act, S.O. 2001, c.25, as amended.
- b) "Appointment" means the appointment of a qualified individual, by majority vote of Council, to fill a vacancy on Council for the remainder of the current Council term.
- c) "By-election" means an election held to fill any vacancy in accordance with the provisions of Section 65 of the Municipal Elections Act, 1996, as amended.

- d) "Candidate" means an individual seeking to be appointed to fill a vacancy in the office of Councillor, having met the eligibility requirements and who has completed the requisite documentation as required by this procedure.
- e) "Chair" means the member of Council presiding at the Council meeting to appoint an individual to fill a Council vacancy.
- f) "Clerk" means the Clerk or the designate of the Municipality of East Ferris as appointed by Council.
- g) "Council" means the Council of the Municipality of East Ferris.
- h) "Eligible Elector" has the same meaning as subsection 17(2) of the Municipal Elections Act, namely a person:
  - a. Who is a resident of the Municipality of East Ferris, or an owner or tenant of land in the municipality or the spouse of such an owner or tenant;
  - b. Who is a Canadian Citizen;
  - c. Who is at least 18 years of age; and
  - d. Who is not prohibited from voting under any other Act or from holding municipal office.
- i) "Lot" means a method of determination by placing the names of the Candidates on equal size pieces of paper and placed in a container with one Candidate name being drawn by the Clerk.
- j) "Municipality" means The Corporation of the Municipality of East Ferris.
- k) "Municipal Elections Act" means the Municipal Elections Act, S.O., 1996, c. 32, as amended.
- l) "Nominee" means 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.
- m) "Procedure By-law" means the By-law adopted by Council for governing the proceedings of its Council, the conduct of its Members and the calling of Meetings.
- n) "Regular Election Year" means the year established for a regular municipal election in accordance with the Municipal Elections Act.
- o) "Term of Office" means the period of time a Candidate is elected to hold office for which they are elected in accordance with the Municipal Elections Act.

- p) “Vacancy” means when a seat on Council has become vacant in a manner described in section 259 of the Act.

#### **4.0 GENERAL**

- 4.1 Council is required to declare a seat vacant in accordance with the Act.
- 4.2 In accordance with the Act, the following rules apply to filling vacancies:

Section 263(5) states:

1. Within 60 days after the day a declaration of vacancy is made with respect to the vacancy under section 262 of the Act, the municipality shall,
    - i. appoint a person to fill the vacancy under subsection (1) or (4), or
    - ii. pass a by-law requiring a by-election be held to fill the vacancy under subsection (1).
  2. Despite paragraph 1, if a court declares an office to be vacant, the council shall act under subsection (1) or (4) within 60 days after the day the court makes its declaration.
  3. Despite subsections (1) to (4), if a vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the vacancy. 2001, c. 25, s. 263 (5).
- 4.3 Section 264 of the Municipal Act, 2001, 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.
- 4.4 In making its determination, Council will consider the costs and timelines associated with filling a vacancy by appointment or by by-election.

#### **5.0 ELIGIBILITY REQUIREMENTS**

- 5.1 Any individual filling a vacancy must meet the eligibility requirements of office as outlined in the Act and the Municipal Elections Act and as noted below:
- 18 years of age or older;
  - a Canadian citizen;
  - a resident of the Municipality of East Ferris, or an owner or tenant of land in the Municipality or the spouse of such an owner or tenant; and
  - not prohibited from voting under any other Act or from holding municipal office.
- 5.2 If an employee of the Municipality of East Ferris seeks appointment to Council, the employee shall give Council written notice, in advance, of his or her intention to take

unpaid leave. If the employee is appointed to office, they will be deemed to have resigned from their position with the Municipality immediately before making the declaration of office.

## **6.0 OPTION #1 FILLING A VACANCY BY DIRECT APPOINTMENT**

### **6.1 a) Direct Appointment by Nomination of a Current Member of Council**

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.

Only a current member of Council elected for the term in which the appointment is taking place will be considered eligible for appointment.

At a Regular or Special Meeting of Council, the Chair may call for nominations from the floor. The Chair will request that any Member of Council interested in being nominated to indicate their interest by raising their hand. Anyone being considered for nomination must be present in Council Chambers.

Individuals seeking appointment to the position of Mayor who are current members of Council (nominees) shall declare a pecuniary interest and shall not vote.

If there is only one nominee, the Clerk shall declare and confirm the nominee to be appointed to the office and a Resolution shall be passed.

#### **If there are multiple nominees, at the meeting the following shall take place:**

1. Each of the nominees shall be afforded the opportunity to address Council for a period of not more than five minutes. The order of speaking will be determined by lot.
2. Each Member of Council not being considered for the appointment will be allowed no more than two questions to each candidate.
3. Upon hearing all the submissions of the nominees, Council will proceed to vote as follows:
  - i. Members of Council will vote by way of public vote;
  - ii. If the candidate receiving the greatest number of votes cast does not receive more than one-half the votes of all voting Members of Council, the candidate or candidates who received the fewest number of votes shall be excluded from consideration. The vote will be taken again by the Clerk and, if necessary, more than once, excluding in each successive vote the candidate or candidates who received the fewest number of votes. This shall be repeated until the candidate receiving the greatest number of votes

has also received more than one-half of the votes of the voting Members of Council;

iii. Where the votes cast are equal for all the candidates:

1. If there are three or more candidates remaining, the Clerk shall by lot select one such candidate to be excluded from the subsequent voting;
2. If only two candidates remain, the tie shall be broken and the vacancy shall be filled by the candidate selected by lot, as conducted by the Clerk.

4. Upon conclusion of the voting and drawing of lots, the Clerk will declare the successful candidate.

The required By-law will then come forward to the next Council meeting for approval.

At that meeting, the Clerk will administer the Declaration of Office required by subsection 232 of the Act, at the meeting where the By-law referred to in this section of this procedure is enacted by Council or as directed by Council.

#### **6.1 b) Direct Appointment of Election Candidate**

Council may fill the vacancy by appointing the Candidate who ran for the position that is vacant from the most current Election who received the most votes but was not elected.

The Candidate shall reaffirm that they meet the eligibility requirements of office as outlined in the Act and the Municipal Elections Act.

If the individual is no longer qualified to hold office, the appointment shall be to the next Candidate who ran for the position that is vacant from the most current Municipal Election who received the second most votes but was not elected, and so on.

- 6.2 A vote to fill a vacancy on Council by appointment shall occur at an Open Council Meeting.
- 6.3 The appointment of the Candidate shall be made by By-law. A By-law confirming the appointment shall be enacted by Council at its next meeting.
- 6.4 The Clerk will administer the Declaration of Office required by subsection 232 of the Act, at the meeting where the By-law referred to in section 6.4 of this procedure is enacted by Council or as directed by Council.

### **7.0 OPTION #2 - FILLING A VACANCY BY APPOINTMENT BY THE CALL FOR NOMINEES**

- 7.1 The Clerk shall post a Council Vacancy Notice (Appendix 1) on the Municipal website and social media and other platforms following Council's decision to fill a vacancy by appointment, for a number of weeks as determined by the Clerk. The notice shall

indicate Council's intention to appoint an individual to fill a vacancy and shall outline the application process.

- 7.2 Any individual wishing to be considered for appointment to the vacancy shall complete and sign a Council Vacancy Application Form (Appendix 2), a Declaration of Qualifications Form (Appendix 3) and Candidate Information Form (Appendix 4) approved by the Clerk and will submit the forms by the deadline established by the Clerk.
- 7.3 Candidate(s) may submit to the Clerk a personal statement of qualification for consideration of Council. Personal statements will be typewritten in a 12-point font size on letter size (8 1/2" by 11") paper and shall not exceed two (2) pages 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. The Clerk will advise the Candidate(s) of the deadline for submission of a personal statement and that it will appear on the public agenda for the Council meeting in which the candidate selection occurs.
- 7.4 Any individual wishing to be considered for appointment to fill the Council vacancy shall be required to provide identification to prove their identity and qualifying address to the satisfaction of the Clerk.
- 7.5 It is the Applicant's sole responsibility to meet any deadline or otherwise comply with any requirement of this policy, the Act or the Municipal Elections Act.

## **8.0 Council Meeting – Interviews and Selection**

- 8.1 A vote to fill a vacancy on Council by appointment shall occur at an open Council meeting. The meeting may be a Regular Council Meeting or a Special Council Meeting called for that purpose.
- 8.2 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:
  - 8.2.1 A certified list of all Candidates listed in alphabetical order by last name.
  - 8.2.2 Any personal statement of qualifications for consideration of Council.
- 8.3 At the meeting, the following will take place:
  - 8.3.1 The Chair will make a short statement of the purpose of the meeting and the general order of proceedings to be followed.
  - 8.3.2 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.”**

- 8.4 Candidates will be sequestered in an adjacent room until it is their time to answer the questions posed by Council. Once the candidate has answered the questions, they may remain in the Council Chambers.
- 8.5 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 five (5) minutes to address Council. If there are less than five (5) Candidates, they may be afforded up to ten (10) 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.
- 8.6 Each member of Council will be permitted one question(1) to each Candidate. Candidates shall be limited to a maximum of two (2) minutes per question.
- 8.7 Upon hearing all the submissions of the Candidates, Council will proceed to vote as follows:
  - 8.7.1. Members of Council will vote by way of public vote as required by the Act.
  - 8.7.2. Candidate names will be displayed in alphabetical order on a screen or in another appropriate manner to be visible.
  - 8.7.3 Members of Council shall vote for one Candidate only.
  - 8.7.4 The Clerk will place the names of all Members of Council in a container and randomly draw their names to vote.
  - 8.7.5 Members of Council shall verbally, and in writing, cast their vote for one (1) Candidate. Once the written vote is cast, the Council member will reveal their vote to the public and verbally announce it. The written ballot is the official record of the vote. All ballots shall be identical in size, paper quality and colour and shall be preprinted with the Council Member’s name and signature and shall be returned directly to the Clerk.
  - 8.7.6 The Clerk will tabulate the votes.
  - 8.7.7 Candidates receiving zero votes will be automatically eliminated from the voting process.
  - 8.7.8 If the Candidate receiving the greatest number of votes cast does not receive fifty percent plus one of all voting members of Council, the Candidate or Candidates who received the fewest number of votes shall be excluded from further consideration.

The vote will be taken again by the Clerk and, if necessary, more than once, excluding in each successive vote the Candidate or Candidates who receive the fewest number of votes. This process shall be repeated until the nominee receiving the greatest number of votes has also received more than one-half of the votes of the voting members of Council.

The exception to this will be when two Candidates with the lowest votes are tied. In this case, the vote will be taken again by the Clerk to include the tied Candidates. If the results remain the same and the Candidates remain tied, the tie shall be broken by selecting a Candidate by Lot to proceed, as conducted by the Clerk. The vote will be taken again by the Clerk for the remaining Candidates.

8.7.9 Where the votes cast are equal for all the Candidates and if:

1. There are three or more Candidates remaining, the Clerk shall by Lot select one such Candidate to be excluded from the subsequent voting;
2. Only two (2) Candidates remain, the tie shall be broken by selecting the successful candidate by Lot, as conducted by the Clerk.

8.7.10 Upon conclusion of the voting, the Clerk will note the Candidate receiving the votes of fifty percent plus one of all voting members of Council or the Candidate selected through the process detailed in section 8.7.8 or 8.7.9 (2).

8.7.11 The appointment of the successful Candidate shall be made by by-law. A By-law confirming the appointment shall be enacted by Council at its next meeting or Council shall direct the Clerk how to proceed further.

### **9.0 OPTION #3 - FILLING A VACANCY BY A BY-ELECTION:**

- 9.1 In accordance with Section 263(5) of the Act, and within 60 days of declaring a seat vacant, Council shall pass a By-law to fill the vacancy by By-election.
- 9.2 A By-election shall be held in accordance with the Municipal Elections Act.
- 9.3 The Clerk or designate shall be responsible for conducting any By-election in accordance with the Municipal Elections Act and all applicable policies and procedures.

### **10.0 RESPONSIBILITIES:**

- 10.1 The Clerk shall be responsible for interpreting and where appropriate administering the Council Vacancy Policy and applicable procedures.
- 10.2 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.



RELATED DOCUMENTS:

**Appendix 1 - Council Vacancy Public Notice Template**

**Appendix 2 - Council Vacancy Application Form**

**Appendix 3 - Council Vacancy Declaration of Qualifications**

**Appendix 4 – Candidate Information Release Form**



## **Appendix 1**

### **Public Notice Council Vacancy**

**TAKE NOTICE** that a vacancy exists on the Municipality of East Ferris Council for one (1) Councillor. Council has determined to fill this vacancy by appointment through a Call for Nominees in accordance with the Municipality of East Ferris' Council Vacancy Policy.

The Term of this position is from the date of Council appointment for the balance of the current Council term.

A candidate for Municipal office must be a qualified municipal elector as set out in the Municipal Elections Act, 1996 and fulfill all of the following requirements:

- ☐ Resides in or be the owner or tenant of land in Municipality of East Ferris, or the spouse of such owner or tenant;
- ☐ Is a Canadian citizen;
- ☐ Is at least 18 years old; and,
- ☐ Is not prohibited from voting under Section 17(3) of the Municipal Elections Act, 1996 or otherwise by law.

Any qualified individual may submit with identification, in person only to the Clerk or designate, the following forms: Council Vacancy Application, Declaration of Qualification, Candidate Information Release, Declaration of Confidentiality and the Endorsement of Nomination – Form 2. Nominations will be accepted by the Clerk's Office, 25 Taillefer Road, Corbeil, during regular business hours until 2:00 PM on \_\_\_\_\_.

**An appointment must be scheduled with the Clerk or designate for this purpose.**

Candidates may also submit to the Clerk, a personal statement of qualification for consideration of Council. Personal statements must be typewritten in a 12-point font on letter size (8 1/2 x 11") paper, shall not exceed two (2) pages in length and shall 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 less than five (5) minutes and not more than ten (10) minutes and will be asked questions by Council at an open Special Meeting of Council to be held during business hours on \_\_\_\_\_ at a time to be determined by the

Clerk upon the close of nominations. The new Councillor will be appointed by By-law and sworn in upon conclusion of the voting at that Special Meeting of Council.

The newly appointed Councillor will assume their seat at the Council Dais at the \_\_\_\_\_ Regular Meeting of Council.

The Information for Candidates booklet along with the required Council Vacancy Application, Declaration of Qualification, Candidate Information Release, Declaration of Confidentiality and the Endorsement of Nomination - Form 2 are available from the Clerk's Office at 25 Taillefer Road, Corbeil, ON P0H 1K0 or online at [eastferris.ca](http://eastferris.ca).

Prior to submitting an application, interested individuals should refer to the Municipal Act, 2001 and the Municipal Elections Act, 1996 for further details relating to the required qualifications.

Inquiries regarding the Council Vacancy process may be directed to:

Kim Rose, Clerk  
705-752-2740 , Ext 225 or [kim.rose@eastferris.ca](mailto:kim.rose@eastferris.ca)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

<b>NOTE</b> <ul style="list-style-type: none"> <li>• A Council Vacancy Application may only be filed in person; it may <u>not</u> be faxed or e-mailed</li> <li>• It is the responsibility of the person applying to file a complete and accurate application</li> </ul>	<p align="center"><b>APPENDIX 2</b></p> <p align="center"><b>Council Vacancy Application Form</b></p>	
<p align="center"><b>Council Vacancy Application of a person to be a candidate for appointment to the position of COUNCILLOR for the Municipality of East Ferris</b></p>		
Candidate Full Name:	For the Office of: <b>COUNCILLOR</b>	
Candidate's full <b>qualifying address</b> 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
<b>Declaration of Qualification and Consent</b>		
<p>I _____ the applicant mentioned in this form, declare that I am presently legally qualified to be appointed to hold the office of Councillor, 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.</p>		
<p>Declared before me at the Municipality of East Ferris the District of Nipissing</p> <p>this _____ day of _____, 20_____.</p> <p>_____</p> <p>Signature of Clerk or Commissioner, etc.</p>		<p>_____</p> <p>Signature of Applicant</p>
Date Filed (yyyy/mm/dd)	Time Filed	Signature of Clerk or Designate
<b>Certification by Clerk or Designate</b> <p>I the undersigned clerk of this municipality 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.</p>		
Signature	Date Filed (yyyy/mm/dd)	

**APPENDIX 3**  
**DECLARATION OF QUALIFICATIONS – COUNCIL**

**Form EL18(A)**

*Municipal Elections Act, 1996*

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**DECLARATION OF QUALIFICATIONS FOR THE MUNICIPALITY OF EAST FERRIS -  
COUNCIL VACANCY CANDIDATES**

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 Municipality of East Ferris or the owner or tenant of land in the Municipality of East Ferris 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 Municipality of East Ferris, or if I am an employee of the Municipality of East Ferris, 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 Municipality of East Ferris prior to 2:00 p.m. on (INSERT DATE). I understand that the Clerk of the Municipality of East Ferris 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 Provincial Crown employee within the meaning of the *Public Service of Ontario Act, 2006*, or if I am a Crown employee, I have followed and will continue to follow all the relevant provisions of Part V of such Act.

- I am not Federal employee within the meaning of the Public Service Employment Act, or if I am a Federal employee, I have followed and will continue to follow all the relevant provisions of Part 7 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 1,
    - I am not a person who is serving a sentence of imprisonment in a penal or correctional institution.
  7. I am not prohibited because of conviction of a corrupt practice described in s. 90(3) of the *Municipal Elections Act, 1996* from voting in a municipal election.
  8. I am not a person 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 during the last two regular elections prior to Monday, October 24, 2022.
  9. 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 Municipality of East Ferris

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(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, Municipality of East Ferris until the next municipal election. Questions about this collection of personal information should be directed to the Clerk, Municipality of East Ferris, 25 Taillefer Road, Corbeil, ON P0H 1K0 (705) 752-2740 ext. 225.

APPENDIX 4  
**Council Vacancy**  
**Candidate Information Release Form**

I, \_\_\_\_\_, having applied for the position of Councillor in the Municipality of East Ferris do hereby consent to the Municipality of East Ferris using the personal information contained in my submission for the purpose of providing information to the public and the posting of the recruitment information.

Dated at the Municipality of East Ferris this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Candidate