



**THE CORPORATION OF THE TOWNSHIP OF MCGARRY  
BY-LAW 2024-62  
BEING A BY-LAW TO ADOPT THE COUNCIL  
VACANCY APPOINTMENT POLICY**

**WHEREAS** pursuant to section 263 of 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.

**AND WHEREAS** the Council of the Corporation of the Township of McGarry deems it desirable to pass a by-law to adopt a policy to govern the process where Council intends to appoint a person to fill a seat of a member of council that has been declared vacant.

**NOW THEREFORE** the Council of the Corporation of the Township of McGarry enacts as follows:

1. **THAT** Council hereby approves the "Council Vacancy Appointment Policy" attached as Schedule "A" to this Bylaw.
2. **THAT** this By-law comes into effect on the date of its passing.

**READ A FIRST AND SECOND TIME ON THIS 18<sup>TH</sup> DAY OF DECEMBER, 2024.**

**READ THIS THIRD TIME AND FINALLY PASSED THIS 18<sup>TH</sup> DAY OF DECEMBER, 2024.**

  
MAYOR

  
CLERK-TREASURER



**SCHEDULE "A"**  
**BY-LAW 2024-62**  
**COUNCIL VACANCY APPOINTMENT POLICY**

**1. PURPOSE**

The purpose of this policy is to provide for an accountable and transparent process for filling any vacancy by appointment, including the Mayor or Councillor, that occurs.

**2. APPLICABILITY AND SCOPE**

This policy shall apply to any vacancy which occurs during the term of Council.

**3. BACKGROUND**

3.1 In accordance with the Municipal Act, S.O., 2001, c.25, (the "Act") when a seat of a member of Council becomes vacant, the remaining Council is required to declare the seat vacant and to determine whether the seat will be filled by holding a By-Election or by Appointment. A vacancy occurs on the death or resignation of a member or if a member becomes disqualified from holding office during the term.

3.2 In order to ensure an accountable and transparent process for filling any vacancy, Council has directed that a policy be adopted to provide a clear understanding of the decision-making process when a vacancy occurs.

**4. POLICY STATEMENTS**

The Township of McGarry is committed to an open, accountable and transparent Government. Council, when exercising its responsibility under the Act to fill a vacancy shall observe the following principles:

4.1 Council will, at the meeting immediately following becoming aware of a vacancy, declare the seat vacant in accordance with Section 262(1) of the Act and shall adopt a resolution to fill the vacancy by appointment, the process for which is detailed in paragraph (8) eight hereof.

4.2 Within 60 days following the declaration of the vacant seat, council shall, pursuant to Section 263(5)(ii) of the Act, adopt a By-Law to appoint an eligible candidate, selected through the process herein, to fill the vacancy for the remainder of the council term.

## 5. DEFINITIONS

In this policy the following terms shall have the meaning ascribed to them:

- 5.1 **“Act”** means the Municipal Act, S.O. 2001, c.25, as amended.
- 5.2 **“Appointment”** means the appointment of a qualified individual who is a Candidate as defined herein, by majority vote of Council, to fill a vacancy on Council for the remainder of the current Council term.
- 5.3 **“Candidate”** means an individual who has submitted a written request to be considered for appointment to fill a vacancy in the office of Councillor as of the date of this policy being enacted, having met the eligibility requirements of the Municipal Elections Act, 1996.
- 5.4 **“Chair”** means the member of Council presiding at the Council meeting to appoint an individual to fill a Council vacancy.
- 5.5 **“Clerk”** means the Clerk-Treasurer or the designate of the Township of McGarry as appointed by Council.
- 5.6 **“Council”** means the Council of the Township of McGarry.
- 5.7 **“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 Township of McGarry, 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.
- 5.8 **“Lot”** means a method of determination the name of each Candidate shall be placed on equal size pieces of paper of the same colour and folded in half. The folded pieces of paper for each Candidate shall be placed in a container whereupon the Clerk or the Clerk’s designate will draw one piece of paper. The name of the Candidate on the piece of paper drawn by the Clerk or Clerk’s designate shall be the selected Candidate.
- 5.9 **“Municipality”** means The Corporation of the Township of McGarry.
- 5.10 **“Municipal Elections Act”** means the Municipal Elections Act, S.O., 1996, c. 32, as amended.
- 5.11 **“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.

- 5.12 **“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.
- 5.13 **“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.
- 5.14 **“Vacancy”** means when a seat on Council has become vacant in a manner described in section 259 of the Act.

## **6. APPLICATION PROCEDURE**

- 6.1 Immediately following the declaration of vacancy and resolution detailed in Section 4.1, the Clerk shall post a Council Vacancy Notice (Appendix A) on the municipality’s website ([www.mcgarry.ca](http://www.mcgarry.ca)) and in a local newspaper having a circulation sufficient to meet the timelines stipulated in the Notice for a minimum of two (2) consecutive weeks following Council’s decision to fill a vacancy appointment. The notice shall indicate Council’s intention to appoint an individual to fill a vacancy and shall outline the nomination process.
- 6.2. Interested persons will be required to complete a Council Vacancy Application Form (Appendix B), a Declaration of Qualifications (Appendix C), a Candidate Release Form (Appendix D), obtained from the Municipal Clerk), provide personal identification showing their name and qualifying address within the Township of McGarry, and may be required to provide a written response to specific questions as may be determined by Council.
- 6.3 Applicants are referred to hereinafter as Candidates.
- 6.4 Candidate(s) may submit, to the Clerk, a personal statement of qualification for consideration of Council. Personal statements shall be typewritten on 8 ½” X 11” paper not exceeding two pages in length and will include the Candidate name and address. Statements that do not comply shall not be included in the Council meeting agenda or provided to Council by the Clerk. Candidates will be advised of the deadline for submission of a personal statement.
- 6.5 Once submitted, the forms will be made available to the public in the same way as a nomination form for a Candidate in a municipal election or by-election and may be included on a Council Agenda published on the municipal website;
- 6.6. A deadline will be established for filing the Council Vacancy Application Form, a Declaration of Qualifications and a Candidate Release Form, as determined by Council in consultation with the Clerk;
- 6.7 Individuals who have submitted the necessary forms may appear before Council at a date and time so determined by the Council, and the Clerk will advise all applicants of the established date and time;

- 6.8 The Clerk will create a list of all Candidates and publicly post said list on the Municipality's website and at the Municipal Office. This list will be updated as applications are received, once deemed complete by the Clerk;
- 6.9. Notwithstanding the requirement of the Municipality's Procedural By-law, the agenda for the meeting shall be set by the Clerk to allow for the orderly proceeding of selecting a Candidate and the agenda shall include the following:
- a. A certified list of all Candidates listed in alphabetical order, by last name;
  - b. Any personal statement of qualification for consideration of Council;
- 6.10 Copies of all application documents will be included with the agenda package for the Appointment Meeting and will be made available as part of the public agenda posted on the Municipality's website. The Agenda shall be published to Members of Council and to the public in the same manner as a Regular or Special Council agenda.

## **7. FILLING A VACANCY FOR THE POSITION OF MAYOR**

- 7.1 Any member of Council wishing to be considered for the appointment to a vacancy for the Mayor's position may do so. He or she shall advise the Clerk, in writing, and shall file the necessary documentation outlined in paragraph 6.2 and 6.4, above, within the stipulated timelines set out in the Council Vacancy Notice.
- 7.2 A vote to fill a vacancy of Mayor by appointment shall occur at an open Council Meeting in accordance with section 8 of this By-Law;
- 7.3 Should the Council Member be successful; the then vacant seat of the Councillor shall be filled in accordance with the provisions of this Policy.
- 7.4 If no member of Council put their name forward to fill the vacancy of the Mayor, any Eligible Elector may submit their name to fill the vacancy in accordance with the provisions of this Policy.

## **8. PROCEDURE AT APPOINTMENT MEETING OF COUNCIL**

- 8.1 At the Appointment Meeting which may be at a Regular or Special Meeting of Council, the Chair shall make a brief statement to outline the purpose of the meeting and the order of proceedings
- 8.2 The Clerk will provide a list of Candidates who have completed the Council Vacancy Application Form, the Declaration of Qualifications, and the Candidate Information Release Form and the Chair will call for a motion to consider the Candidates to fill the vacancy, as follows:

**"BE IT RESOLVED 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"



- 8.3 Candidates will be sequestered in an adjacent room until it is their time to answer questions posed by Council. Once a Candidate has answered the questions, they will return to a separate room until all Candidate interviews are complete.
- 8.4 At the Appointment Meeting, each Candidate will be afforded an opportunity to address Council, for a period not to exceed ten (10) minutes. The order of speaking will be alphabetical by last name.
- 8.5 Each Member of Council will be allowed no more than one question to each Candidate and responses from Candidates shall be limited to a maximum of two (2) minutes per question;
- 8.6 Upon hearing all Candidate submissions, Council will proceed to vote, by way of a public ballot Vote.
  - a. Candidate names will be displayed on the wall in the Meeting Room and shall be displayed in alphabetical order, by last name for use in a public tally of votes;
  - b. Each of the pieces of paper to be used as either ballots, or to be used by the Clerk to draw names will be equal in size and type;
  - c. Only the Clerk or Clerk's designate may handle the papers, ballots and container referenced in this procedure, except the Members being permitted to mark their ballots;
  - d. Ballots will be provided to Members of Council in the form of a voting card on which to indicate their choice of Candidate in writing; and all voting cards shall be of identical size, paper quality, and colour and shall be pre-printed with the Member's name and a place to be initialed by the Member;
  - e. The first-round ballots may contain the name of each Candidate, in alphabetical order by surname and have a box immediately preceding the surname in which the Member of Council may mark an "X" beside the name of the Candidate of their preference;
  - f. All subsequent ballots shall be in the form described in (d) above however will not contain any Candidate names in a pre-printed format;
  - g. The Clerk will ask Members of Council to vote by clearly printing the name of their preferred Candidate on the ballot, initialing the ballot for authentication purposes, folding the ballot and returning it directly to the Clerk;
  - h. Any Round One ballot marked with more than one "X", or any subsequent round ballot that is not legibly printed, or any ballot that does not contain the authentication initials of the Member of Council shall be considered a spoiled ballot and shall not be included in the tally;
  - i. The Clerk will read aloud the Member's name and selected Candidate and announce the tallies of all votes, while maintaining the tally;
  - j. 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;
  - k. 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;
  - l. The process 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;
  - m. In the event the votes cast are equal for all Candidates:
    - i. If there are three or more Candidates remaining, the Clerk shall by lot select one such Candidate to be excluded from subsequent voting;

ii. If only two Candidates remain, the tie shall be broken and vacancy shall be filled by the Candidate selected by lot, as conducted by the Clerk, wherein the first name drawn shall be declared the successful Candidate;

8.7 Upon conclusion of the voting, the Clerk will declare to be elected the Candidate receiving the votes of more than one-half of the number of voting Members.

8.8 A by-law confirming the appointment shall be enacted by Council at the next meeting to appoint the successful Candidate to the office for the remainder of the term and the Clerk will administer the Oath of Office to the successful Candidate;

8.9 The Minutes of the Appointment Meeting shall include a full disclosure of all voting results, including the name of each Member of Council and their selected Candidate in any and all voting rounds.



**APPENDIX “A”  
BY-LAW 2024-62  
PUBLIC NOTICE  
TOWNSHIP OF MCGARRY  
MUNICIPAL COUNCIL VACANCY**

**TAKE NOTICE THAT** a vacancy exists on the Township of McGarry Council for one (1) Council Position for \_\_\_\_\_ [state position ie) Mayor or Councillor . Council has determined that it wishes to fill this vacancy through ***SELECTION BY NOMINATION AND APPOINTMENT*** in accordance with the Township of McGarry Council Vacancy Policy.

The term of this position is from the date of Council appointment for the balance of the Council term until [date of election, 202\_\_.

An applicant 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 McGarry, 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 disqualified from running for or holding municipal office.

Applicants must complete and submit a Council Vacancy Application package in person to the Clerk, which shall include:

- Council Vacancy Application Form;
- Declaration of Qualification form ;
- Council Vacancy Information Release Form; and
- Personal Identification showing their name and qualifying address within the Township of McGarry,

Nominations will be accepted by the Clerk at the Municipal Office during regular business hours until [date and time]. (Electronic packages shall not be accepted, Original signatures are required.)

Applicants must also submit to the Clerk a personal statement of qualification for consideration of Council. Personal statements will be typewritten in a 12-point font on letter size (8 ½” x 11”) paper, shall not exceed two (2) pages in length, and will include the Applicant’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 Applicants will be afforded the opportunity to address Council for a period of not more than ten (10) minutes and then will be asked questions by Council in an open Special Council Meeting to be held on [date and time] pm in accordance with the policy for that Special Council Meeting.

The Council Vacancy Policy and application package are available on the Township's website at [www.mcgarry.ca](http://www.mcgarry.ca) or at the Municipal Office, 27 Webster Street, Virginiatown, ON P0K 1X0.

For further information or to complete a Council Vacancy Application package, please contact: Karine Pelletier, 27 Webster Street, Virginiatown, ON, P0K 1X0, [kpelletier@mcgarry.ca](mailto:kpelletier@mcgarry.ca). The Township of McGarry is committed to providing a barrier free workplace. If accommodation is required during the selection or interview process, it will be available upon advance request. This posting is available in an accessible format upon request.



**APPENDIX "B"**  
**BY-LAW 2024-62**  
**COUNCIL VACANCY APPLICATION FORM**

|  |  |                            |                                 |
|--|--|----------------------------|---------------------------------|
| <b>NOTE</b><br><ul style="list-style-type: none"> <li>• A Council Vacancy Application may only be filed in person; it may not be faxed or e-mailed.</li> <li>• It is the responsibility of the person applying to file a complete and accurate application.</li> <li>• Please print or type information (except signatures)</li> </ul>                           | <h2 style="margin: 0;">Council Vacancy<br/>Application Form</h2> |                            |                                 |
| <b>Council Vacancy Application of a person to be a candidate for appointment to the position of _____ for the Township of McGarry</b>  |  |                            |                                 |
| Candidate Full Name:   | For the Office of:   |                            |                                 |
| Candidate's full <b>qualifying address</b> within the municipality   |  |                            |                                 |
| Street Number:   | Street Name:   |                            |                                 |
| Municipality   | Province   | Postal Code                |                                 |
| <b>Declaration of Qualification and Consent</b>  |  |                            |                                 |
| 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 McGarry  |  | _____                      |                                 |
| this ____ day of _____, 202  |  | Signature of Applicant     |                                 |
| Date Filed (yyyy/mm/dd)  | Time Filed   | Candidate or Agent Initial | Signature of Clerk or Designate |
| <b>Certification by Clerk or Designate</b><br>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.  |  |                            |                                 |
| Signature  |  | Date File (yyyy/mm/dd)     |                                 |



**APPENDIX “C”**  
**BY-LAW 2024-62**  
**TOWNSHIP OF MCGARRY**  
**DECLARATION OF QUALIFICATIONS**  
**MUNICIPAL CANDIDATES**  
*Municipal Elections Act, 1996*

I, \_\_\_\_\_, a candidate for the Council vacancy 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 (18) years of age, a Canadian citizen, a resident of the Township of McGarry or the owner or tenant of land in the Township of McGarry or the spouse of such owner or tenant.
3. I am not ineligible, disqualified or prohibited 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 McGarry, or if I am an employee of the Township of McGarry, I am on an unpaid leave of absence as provided for by section 30 of the *Municipal Elections Act, 1996*.
  - I am not a person who is not an employee of the Township of McGarry but who is the Clerk, Treasurer, Integrity Commissioner, Auditor General, Ombudsman or registrar referred to in section 223.11 of the *Municipal Act, 2001* or an investigator referred to in subsection 239.2 (1) of Township of McGarry or a person who is not an employee of the Township of McGarry but who holds an administrative position of the Township of McGarry.

- I am not a judge of any court.
- I am not a public servant within the meaning of the *Public Service of Ontario Act, 2006*, or if I am a public servant, I have followed and will continue to follow all the relevant provisions of Part V of such *Act*.
- I am not a 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 5 of such *Act*.

5. I am not prohibited from voting at the municipal election under section 17 (3) of the *Municipal Elections Act, 1996*.

- I am not a person who is serving a sentence of imprisonment in a penal or correctional institution.
- I am not a corporation.
- I am not a person acting as executor or trustee or in any other representative capacity, except as a voting proxy in accordance with section 44.
- I am not prohibited because of a conviction of a corrupt practice described in subsection 90 (3), if voting day in the current election is less than five years after voting day in the election in respect of which I was convicted

6. 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 that relates to an election to which this Act applies and I am not a person who is ineligible to be nominated for, any office until the next two regular elections have taken place after the election to which the offence relates (Section 91 (1)).

7. I am not ineligible from being elected to or holding office by reason of any violations of the election campaign financial requirements, violations for not filing the financial statement or any other violations pursuant to the *Municipal Elections Act, 1996*. (Section 88.23)

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 McGarry.

This \_\_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
(Signature of Candidate)

\_\_\_\_\_  
(Signature of Municipal Clerk or designate)



**APPENDIX "D"**  
**BY-LAW 2024-62**  
**COUNCIL VACANCY**  
**CANDIDATE INFORMATION RELEASE FORM**

I, \_\_\_\_\_, having applied for the position of \_\_\_\_\_  
In the Township of McGarry do hereby consent to the Township of McGarry 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 Township of McGarry this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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