

THE CORPORATION OF THE TOWNSHIP OF MANITOUWADGE

BYLAW NO. 2023-23

Being a Bylaw to Adopt a Council Vacancy Policy.

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, c.25 (Municipal Act, 2001) as amended, provides that powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues; and,

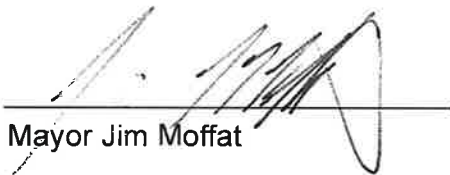
WHEREAS Section 9 of the Municipal Act, 2001, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and,

WHEREAS the Corporation of the Township of Manitouwadge considers it desirable to adopt a Council Vacancy Policy;

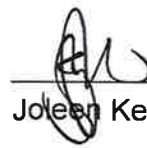
NOW THEREFORE the Council of the Corporation of the Township of Manitouwadge **enacts as follows:**

1. **THAT** Policy No. ADM2023-01, Council Vacancy Policy, herein attached as Schedule "A" to this Bylaw and forming an integral part of this Bylaw, be adopted.
2. **THAT** this Bylaw comes into force and takes effect on the date of its final passing.

READ A FIRST AND SECOND TIME this 13th day of June, 2023 and
READ A THIRD TIME AND FINALLY ENACTED this 13th day of June, 2023.



Mayor Jim Moffat



Joleen Keough, Clerk



**The Corporation of the Township
of Manitouwadge
Council Vacancy Policy
Policy No. ADM2023-01
Original: June 13, 2023**

1.0 PURPOSE

- 1.1 This policy is intended to establish an open, accountable and transparent process for filling a vacancy on Township Council in accordance with the Municipal Act, 2001 and the Municipal Elections Act, 1996.

2.0 SCOPE

- 2.1 In accordance with the Municipal Act, 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.
- 2.2 This policy will provide for a clear, accountable, and transparent process for filling vacancies on Council.

3.0 DEFINITIONS

- 3.1 "Act" means the Municipal Act, 2001, S.O. 2001, c.25, as amended.
- 3.2 "Appointment" means the process of Council appointing an individual, by majority vote, who is qualified to hold office under the Act to fill a vacancy on Council for the remainder of the Term of Office.
- 3.3 "By-Election" means an election, other than a regular election, to fill a vacancy on Council, conducted in accordance with the Municipal Elections Act, 1996.
- 3.4 "Candidate" means an individual seeking to fill a vacancy on Council, who is qualified to hold office under the Act and who has completed and submitted all documentation as required by the Act and this policy.
- 3.5 "Clerk" means the Clerk, or their designate, of the Corporation of the Township of Manitouwadge as appointed by Council.
- 3.6 "Council" means the Council of the Corporation of the Township of Manitouwadge.
- 3.7 "Eligible Elector" means an individual who is entitled to be an elector in the Township of Manitouwadge in accordance with Section 17(2) of the Municipal Elections Act, 1996, and is not prohibited from voting in accordance with Section 17(3) of the Municipal Elections Act, 1996.



**The Corporation of the Township
of Manitouwadge
Council Vacancy Policy
Policy No. ADM2023-01
Original: June 13, 2023**

- 3.8 “Employee” means an individual who is employed by the Township of Manitouwadge.
- 3.9 “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 candidate(s) name(s) being drawn by the Clerk.
- 3.10 “Regular Election Year” means the year established for a regular election in accordance with the Municipal Elections Act, 1996.
- 3.11 “Term of Office” means the period of time a Member is to hold office for which they are elected/appointed in accordance with the Municipal Elections Act, 1996.
- 3.12 “Township” means the Corporation of the Township of Manitouwadge.
- 3.13 “Vacancy” means when a seat on Council is vacant in accordance with 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, if a vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill a vacancy on Council.
- 4.3 Within 60 days after the day a declaration of vacancy is made by Council according to Section 262 of the Act, Council shall determine whether to fill the vacancy by by-election or by appointment in accordance with the Act, subject to:
- a) the limitation on filling a vacancy only by appointment if the vacancy occurs after March 31 in the year of a regular election set out in Section 65(2) of the Municipal Elections Act; and
 - b) the restriction on filling a vacancy that occurs within 90 days of voting day of a regular election in Section 263(5)(3) of the Act.
- 4.4 In making its determination, Council will consider the costs and timelines associated with filling a vacancy by appointment or by by-election.



**The Corporation of the Township
of Manitouwadge
Council Vacancy Policy
Policy No. ADM2023-01
Original: June 13, 2023**

- 4.5 Council shall pass a resolution directing that the vacancy be filled by one of the procedures identified in this policy.

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 as an eligible elector.
- 5.2 If an employee of the Township seeks appointment to Council, the employee shall give Council written notice, in advance, of their intention to take unpaid leave for the duration of time until the position has been filled or they withdraw their nomination/application. If the employee is appointed to office, they will be deemed to have resigned from their position with the Township immediately before making the declaration of office.

6.0 POLICY

6.1 A) Filling a Vacancy by Appointment of Previous Election Candidate

- 6.1.1 Within 60 days of declaring a seat vacant, Council shall appoint a new Member by Bylaw.
- 6.1.2 Council may fill the vacancy by appointing the Candidate, who ran for the position that is vacant from the last regular election and who received the most votes but was not elected.
- 6.1.3 The Candidate shall reaffirm they meet the eligibility requirements of office as outlined in the Act and the Municipal Elections Act.
- 6.1.4 If they no longer qualify to hold office, the appointment shall be to the next Candidate who ran for the position that is vacant from the last regular election who received the second most votes but was not elected, and so on.
- 6.1.5 A vote to fill a vacancy on Council by appointment shall occur at an open Special Council meeting.
- 6.1.6 The successful candidate shall formally be appointed by Bylaw and complete the Oath of Office.



**The Corporation of the Township
of Manitouwadge
Council Vacancy Policy
Policy No. ADM2023-01
Original: June 13, 2023**

6.2 B) Filling a Vacancy by Open Call for Applications for Appointment

- 6.2.1 Within 60 days of declaring a seat vacant, Council shall appoint a new Member by Bylaw.
- 6.2.2 The Clerk shall post a Council Vacancy notice (Schedule A) on the Township's website, social media, in the Municipal Office and will be distributed to the area store's requesting the posting, for a minimum of two (2) consecutive weeks following Council's decision to fill a vacancy by appointment. The notice shall indicate Council's intention to appoint an individual to fill a vacancy and shall outline the nomination process.
- 6.2.3 Any individual wishing to be considered for appointment to fill the Council vacancy will complete and sign the Council Vacancy Appointment Application Form (Schedule B) and a Declaration of Qualification Form (Schedule C) approved by the Clerk.
- 6.2.4 Applications can be filed with the Clerk starting at 9:00 a.m. on the next business day following Council's decision to proceed with an appointment process. Candidates are required to complete all forms and file them with the Clerk in-person by the established deadline.
- 6.2.5 Candidates may submit a personal statement of qualification, to a maximum of two (2) pages in length, with the application, for consideration of Council.
- 6.2.6 Any individual wishing to be considered for appointment to fill the Council vacancy will be required to provide identification to prove their identity and qualifying address to the satisfaction of the Clerk.
- 6.2.7 It is the Candidate's sole responsibility to meet any deadline or otherwise comply with any requirement of this policy, the Act or the Municipal Elections Act.
- 6.2.8 The Clerk will create a list of all eligible candidates that have submitted an application in accordance with the process. All applications and supporting documents shall be considered public documents and will be made available for public viewing in the same manner as a Nomination Form for a candidate in a regular municipal election and shall be available for viewing at the Municipal Office.
- 6.2.9 Copies of all application documents will be included with the agenda package for the Special Council meeting and will be made available as part of the public agenda posted on the Township's website.



**The Corporation of the Township
of Manitouwadge
Council Vacancy Policy
Policy No. ADM2023-01
Original: June 13, 2023**

6.2.10 A Candidate who wishes to withdraw their application may do so in-person (in writing) to the Clerk. The deadline to withdraw shall be any time up to 10:00 a.m. on the Friday before the date of the Special Council meeting to fill the vacancy.

6.2.11 Notwithstanding the requirement of the Procedural Bylaw, 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:

- a) A certified list of all Candidates listed in alphabetical order by last name.
- b) Any personal statement of qualification for consideration of Council.

7.0 SPECIAL COUNCIL MEETING

7.1 The vote to appoint a Candidate shall occur at an open Special Council meeting. The meeting shall be a Special Council meeting called for the purpose of filling the vacancy only.

7.2 No verbal delegations are permitted with the exception of the qualified Candidates who are included on the Candidate list provided by the Clerk.

7.3 All qualified Candidates who have submitted an application for the vacant seat will be notified by the Clerk of the date and time of the Special Council meeting where they may address Council.

8.0 PROCEDURE AT SPECIAL COUNCIL MEETING

8.1 The Chair will make an opening statement and outline the order of business for the meeting.

8.2 The Clerk will provide the Chair a list of qualified Candidates who have completed the required documents.

8.3 Each Candidate will be provided an opportunity to address Council for up to five (5) minutes. The order of speaking will be determined by alphabetical order by last name.

8.4 Each Member of Council will be permitted one (1) question to each Candidate. Responses from the Candidates shall be limited to a maximum of two (2) minutes per question.



**The Corporation of the Township
of Manitouwadge
Council Vacancy Policy
Policy No. ADM2023-01
Original: June 13, 2023**

9.0 VOTING

- 9.1 Following Candidate submissions, Council will vote by show of hands and for only one Candidate as follows:
 - 9.1.1 Candidate's names will be called in order in which they addressed Council;
 - 9.1.2 The Clerk will call a Candidate's name;
 - 9.1.3 Members of Council will vote in support of one Candidate only by a show of hands;
 - 9.1.4 The above process will be followed for each Candidate until the list of Candidates has been exhausted;
 - 9.1.5 If the Candidate who received the greatest number of votes cast did not receive a majority of votes, the Candidates with the least number of votes will be excluded from consideration and the vote will be taken again as outlined above. The process will be repeated until a Candidate has received a majority of votes from Members of Council;
 - 9.1.6 In the event of a tie vote, each Candidate will be provided an additional opportunity to address Council for up to five (5) minutes and the vote will be retaken for the remaining Candidates as outlined above;
 - 9.1.7 In the event of a further tie vote;
 - 9.1.7.1 Where there are three or more Candidates remaining, the Clerk will, by lot, determine the name of one of the remaining Candidates to be excluded from the subsequent voting;
 - 9.1.7.2 Where only two Candidates remain, the tie will be broken by the Clerk, who will, by lot, determine the name of the successful Candidate.
- 9.2 Upon conclusion of the voting, the Clerk will declare the Candidate receiving the votes of more than one-half of the number of voting Members of Council or the Candidate selected through Section 9.1 as the successful Candidate.
- 9.3 If there is only one Candidate who indicated an interest in being considered to fill the vacancy or upon the conclusion of the voting and drawing of lots, the Clerk will declare them the successful Candidate.



**The Corporation of the Township
of Manitouwadge
Council Vacancy Policy
Policy No. ADM2023-01
Original: June 13, 2023**

9.4 Council shall pass a resolution appointing the successful Candidate as follows:

"THAT (Candidate) _____ be appointed as (Office) _____ for the Township of Manitouwadge for the remainder of the (Term of Office) _____ Term of Council".

9.5 The appointment of the Candidate will be made by Bylaw. A Bylaw confirming the appointment will be enacted by Council.

9.6 The Clerk will administer the Declaration of Office required by Subsection 232(1) of the Municipal Act, 2001, at the meeting where the Bylaw referred to in Subsection 9.5 of these procedures is enacted by Council, or as directed by Council.

10.0 FILLING A VACANCY BY BY-ELECTION

10.1 Council shall pass a Bylaw requiring a by-election be held within 60 days of the declaration of vacancy under Section 262 of the Act.

10.2 A by-election shall be held in accordance with the Municipal Elections Act, 1996.

11.0 DISCLAIMER

11.1 Notwithstanding this policy, or where a situation occurs that is not otherwise accounted for in these procedures, and in accordance with legislation, Council may, by resolution, waive the requirements of this policy by a two-thirds majority vote.

12.0 RESPONSIBILITY

12.1 The Clerk or designate shall be responsible for interpreting and, where appropriate, administering the Council Vacancy Policy.

12.2 The Clerk or designate shall be responsible for conducting any by-election in accordance with the Municipal Elections Act, 1996, and all applicable policies and procedures.

13.0 POLICY ADMINISTRATION AND REVIEW

13.1 This policy shall be administered by the Clerk.

13.2 This policy shall be reviewed as required to ensure compliance with legislation.



**The Corporation of the Township
of Manitouwadge
Council Vacancy Policy
Policy No. ADM2023-01
Original: June 13, 2023**

SCHEDULE "B"

Council Vacancy Application Form

Nominee Information			
First Name:		Last Name:	
Qualifying Address			
Street Number:		Street Name:	
		Unit/Suite Number:	
City/Town:		Province:	Postal Code:
Mailing Address: (if different from above)			
Street Number:		Street Name:	
		Unit/Suite Number:	
City/Town:		Province:	Postal Code:
Home Phone Number:		Cell Phone Number:	
Email Address:			
Consent of Nominee			
I, _____, the person mentioned in this Consent of Nominee, 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. 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.			
_____ Signature of Candidate			
_____ Date			
Filing			
Filed Date: (yyyy-mm-dd)	Filed Time	Nominee Initial	Clerk or Designate Signature



**The Corporation of the Township
of Manitouwadge
Council Vacancy Policy
Policy No. ADM2023-01
Original: June 13, 2023**

SCHEDULE "C"

Council Vacancy Declaration of Qualification Form

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 appointed 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 Township of Manitouwadge or the owner or tenant of land in the Township of Manitouwadge or the spouse or same sex partner 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 Township of Manitouwadge, or if I am an employee of the Township of Manitouwadge, 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 Township of Manitouwadge prior to the deadline for submitting applications for appointment to fill the office of _____. I understand that the Clerk of the Township of Manitouwadge 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 Crown employee within the meaning of the Public Service Act, or if I am a Crown employee, I have followed and will continue to follow all the relevant provisions of Part III of such Act.



**The Corporation of the Township
of Manitouwadge
Council Vacancy Policy
Policy No. ADM2023-01
Original: June 13, 2023**

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 5,
 - I am not a person who is serving a sentence of imprisonment in a penal or correctional institution.
 - I am not a person who was convicted of a corrupt practice described in subsection 90(3) of the Municipal Elections Act, 1996, during an election that occurred less than four years prior to Monday, **October 24, 2022**.
7. I am not a candidate 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 if the Voting Day in that election is less than six years prior to _____.
8. 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.

Signature of Candidate

Sworn (Affirmed) before me at the

_____ of _____

in the _____ of _____

on the _____ day of _____, 20__.

Township of Manitouwadge Clerk

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, Township of Manitouwadge until the next municipal election. Questions about this collection of personal information should be directed to Clerk, Township of Manitouwadge, 1 Mississauga Drive, Manitouwadge, ON P0T 2C0 or clerk@manitouwadge.ca.