

Council Vacancy Policy			
Effective Date	July 28, 2021	Policy Type	Governance GO-008 Resolution No. 205-2021
Responsibility	Clerk	Cross-Reference	
Approver	Council	Appendices	Procedure – Application for Appointment Process
Review Schedule	4 Years		

1. Policy Statement

The Town of Cochrane is committed to open, accountable and transparent government.

2. Purpose

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

3. Policy Objectives

To provide for an accountable and transparent process for the filling of Council vacancies which occur during a term of office.

4. Scope

This procedure applies to any Council office declared vacant on Town Council during the term of Council.

5. Definitions

“Act” means the Municipal Act, S.O. 2001, c. 25 as amended.

“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.

“By-Election” means an election, other than a regular election, held to fill a vacancy on Council and that is conducted in accordance with the Municipal Elections Act, 1996, as amended.

“Candidate” means an individual seeking to be appointed to fill a vacancy in the office of Mayor or Councillor, having met the eligibility requirements and who has completed the requisite documentation as required by this policy.

“Clerk” means the Clerk or his/her designate of the Town of Cochrane as appointed by Council.

“Council” means the Council of the Town of Cochrane.

“Eligible Elector” has the same meaning as defined by the Act, namely a person:

- a. Who is a resident of the Town of Cochrane, or an owner or tenant of land in the Town or a spouse of such owner or tenant;
- b. Who is Canadian Citizen;
- c. Who is at least 18 years old; and
- d. Who is not prohibited from voting under any other Act or from holding municipal office.

“Lot” means a method of determination by placing the names of the nominees/candidates on equal size pieces of paper and placed in a container with one name being drawn by the Clerk, or his/her designate.

“Municipal Elections Act” means the Municipal Elections Act, S.O. 1996, c.32, as amended.

“Nominee” means those individuals seeking to fill a vacancy on Council who meet the eligibility requirements and who have completed the requisite documentation as outlined in this policy.

“Regular Election Year” means the year established for a regular municipal election in accordance with the Municipal Elections Act, 1996, as amended.

“Term of Office” means the period of time a Member is elected to hold office for which he/she is elected in accordance with the Municipal Elections Act, 1996, as amended.

“Vacancy” means when a seat on Council has become vacant in a manner described by the Act.

6. Guiding Principles- General

1. Council is required to declare a seat vacant in accordance with Section 262(1) the Act.
2. Council shall determine whether to fill the vacancy, within 60 days after the day a declaration of vacancy is made, in accordance with Section 263 of *the Act*, by either:
 - a) Appointing a person who has consented to accept the office if appointed; or
 - b) Passing a By-law requiring a By-election to be held to fill the vacancy.

The Exceptions to S. 263 are:

- a) Section 65(2) of the Municipal Elections Act states that no By-election shall be held to fill an office if the vacancy occurs after March 31 in the year of a regular election; and
 - b) Section 263(5)(b) if a vacancy occurs within 90 days before Voting Day of a regular election, the municipality is not required to fill the vacancy.
3. The Procedure for filling a vacancy by appointment is contained in Appendix “A” and:
 - a) The vote to appoint an individual to the vacancy shall occur during an open meeting of Town Council.
 - b) Voting shall be conducted using paper ballots.
 4. Any individual filling a vacancy must meet the eligibility requirements of office as outlined in the Act and Municipal Elections Act as an eligible elector.

Any employee of the Town of Cochrane wishing to fill a vacancy on Council shall provide advance written notice of their intention to take unpaid leave. If the employee is appointed to office, they will be deemed to have resigned their position with the Town before making the declaration of office.

A. Filling a Vacancy by Appointment

1. Office of the Mayor

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

- a) A current member of Council in accordance with the Act; or
- b) The candidate who ran for the position that is vacant from the previous election who received the next greatest amount of votes but was not elected; or
- c) An open call for individuals for consideration by Council through a public appointment process (see Schedule "A").

2. Office of Councillor

If a vacancy in the Office of Councillor is to be filled by appointment, Council may choose to fill the vacancy by either:

- a) The Candidate who ran for the position that is vacant from the previous election who received the next greatest amount of votes but was not elected; or
- b) An open call for individuals for consideration by Council through a public appointment process (see Schedule "A").

B. Filling a Vacancy by By-election

If a vacancy for either Office of Mayor or Councillor is to be filled by by-election, Council shall pass a By-Law to fill the vacancy by By-election within 60 days of declaring the seat vacant:

Once the By-Law has passed, a By-election shall be held in accordance with the Municipal Elections Act and the Municipal Clerk shall conduct the By-election in accordance with the Municipal Elections Act and all applicable policies and procedures.

7. Roles and Responsibilities

Members of Council

Council is responsible for the adoption and application of this policy.

Clerk

The Town Clerk or his/her designate shall be responsible for the administration and interpretation of this policy and where appropriate administering the Council Vacancies Procedures.

The Town Clerk or his/her designate shall be responsible for conducting any by- election in accordance with the Municipal Elections Act and all applicable policy and procedure.

8. Amendments (Revision History)

Schedule "A"

Procedure – Application for Appointment Process

The Town Clerk, or designate, shall be responsible for interpreting and, where appropriate, facilitating this Appointment Application Process. For the purposes of this procedure, the term "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 name being drawn by the Clerk, or designate.

Application Procedure:

1. The process will be initiated through an Advertisement placed in a local newspaper and on the Town's municipal website, indicating Council's intent to appoint a qualified elector to fill the seat vacancy and calling for applications for a minimum of two consecutive weeks following Council's decision to fill a vacancy by appointment;
2. Such Notice shall indicate Council's intention to appoint an individual to fill a vacancy and shall outline the nomination process, similar to the example provided in Appendix A to this process;
3. Interested persons will be required to complete a Council Vacancy Application Form and a Declaration of Qualification (Appendix B), provide personal identification showing their name and qualifying address within the Town of Cochrane, and may be required to provide a written response to specific questions as may be determined by Council;
4. Applicants are referred to hereinafter as Candidates.
5. 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. 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;
7. A deadline will be established for filing the Consent of Nominee and Declaration of Qualification, as determined by Council in consultation with the Clerk;
8. 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;
9. The Clerk will create a list of all Candidates and publicly post said list on the Town's website and at the Municipal Town Hall. This list will be updated as applications are received, once deemed complete by the Clerk;

10. Notwithstanding the requirement of the Town'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;
11. 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 Town'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.

Procedure at Appointment Meeting of Council:

12. At the Appointment Meeting which may be at a Regular or Special Meeting of Council, the Head of Council shall make a brief statement to outline the purpose of the meeting and the order of proceedings;
13. The Clerk will provide a list of Candidates who have completed the Consent of Nominee and Declaration of Qualification, and the Chair will call for a motion to consider the Candidates to fill the vacancy, as follows:
 - a. "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";
14. 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 Town's website;
15. 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.
16. At the Appointment Meeting, each Candidate will be afforded an opportunity to address Council for a period not to exceed ten(10) minutes;
17. The order of speaking will be alphabetical by last name;
18. 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;
19. Upon hearing all Candidate submissions, Council will proceed to vote, by way of a public ballot vote, similar to the Ranked Voting process, in rounds of voting as follows:
 - a. Candidate names will be displayed on the Council Chamber viewing screen 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 in accordance with Section 19(m) (i)(ii) 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, save and 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 on the viewing screen;
- 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**;
- n. 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, or as provided in 19(m)(ii).

- o. A resolution confirming the appointment shall be enacted by Council 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 at the next Regular Council meeting.
- p. 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.

***Explanation of Voting:**

Example: In a contest with four (Candidates) and six (6) Members of Council present, a Candidate would need a minimum of four (4) votes to be Appointed:

Round One:

Candidate A – 3 votes
Candidate B – 2 votes
Candidate C – 1 vote
Candidate D – 0 votes

In this scenario, as no majority vote was achieved, Candidate D is eliminated from further voting and another round of voting will occur.

Round Two:

Candidate A – 3 votes
Candidate B – 2 votes
Candidate C – 1 vote

In this scenario, Candidate C is eliminated and a further voting round will occur.

Round Three – Scenario “A”: **Candidate A is the Successful Appointee**

Candidate A – 4 votes
Candidate C – 2 votes

Round Three – Scenario “B”: **Clerk Proceeds with i(ii), Determination by Lot****

Candidate A – 3 votes
Candidate B – 3 votes

**The process of determination by lot in the event of a tied vote is provided for in the Municipal Elections Act, 1996, Subsection 63(10). Although it specifically relates to recount procedures, it is an accepted practice throughout Ontario in this type of voting process.

APPENDIX A

PUBLIC NOTICE – COUNCIL VACANCY

TAKE NOTICE that a vacancy exists on the Town of Cochrane Council for one (1) (Councillor) and that Council has determined to fill this vacancy by appointment in accordance with Resolution No. (insert)

The term of this position is from the date of Council appointment to November (insert date and year).

A Special Council Meeting to appoint a successful candidate will be held on (insert date).

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:

- Eighteen (18) years of age or older; and
- A Canadian citizen; and
- A resident of the Town of Cochrane, 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 holding municipal office; and

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.

Any qualified individual may submit, in person with identification, an application form, a declaration of qualification form in a sealed envelope by 2:00 p.m. on (insert date) to:

Office of the Clerk
171 Fourth Avenue
Cochrane, ON
POL 1C0

Inquiries regarding this matter may be directed to alice.mercier@cochraneontario.com or 705-272-4361, ext. 231.

Council Vacancy Application Forms are available online at www.cochraneontario.com or at the municipal address above.

**APPENDIX B
COUNCIL VACANCY APPLICATION FORM**

Please complete this form in its entirety and submit in person (no fax or email) with identification (Passport or Driver's Licence) by **(insert date)** to:

The Corporation of the Town of Cochrane
Attention: Alice Mercier, Clerk
171 Fourth Avenue, Cochrane, ON P0L 1C0
Email: alice.mercier@cochraneontario.com

Council Vacancy Application Form	
Name:	
Qualifying Address:	
E-mail Address:	
Telephone (home):	
Telephone (work):	

Eligibility Requirements	Yes	No
Canadian Citizen		
Minimum 18 years of age		
Eligible elector in the Town of Cochrane (owner or tenant or spouse of such owner or tenant)		
Not prohibited from voting otherwise by-law		

Explain why you would like to serve on Council (if extra space required, please attach)

DECLARATION OF QUALIFICATION

I, _____, an applicant mentioned in this application form, declare that I am presently legally qualified, or would be presently legally qualified if I were not a member of the Legislative Assembly of Ontario or the Senate or House of Commons of Canada, to be appointed and to hold the office to which I have applied for appointment and I make this solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath.

DECLARED before me at the Town of Cochrane, in the District of Cochrane, this _____ day of _____, 2021

Signature of Applicant

Signature of Clerk or Commissioner

Received By

Date

CERTIFICATE

I, the undersigned Clerk of this municipality, do hereby certify that I have examined the application form of the aforesaid applicant filed with me and am satisfied that the nominee is qualified for appointment to municipal office.

Signature of Clerk or Designate

Date Certified

Personal Information collected on this form is pursuant to the *Municipal Act* and is collected in accordance with the *Municipal Freedom of Information and Protection of Privacy Act* and will be used for the purpose of determining a nominee's eligibility for appointment to municipal office. This application form will be attached to a Special Council Appointment Meeting agenda and posted on the Township website. Questions can be directed to the Clerk.