

Subject: Council Policies - Vacancy and Leave of Absence

To: Council

From: Legislative Services Department

Report Number: 2025-52

Meeting Date: May 13, 2025

Recommendation:

That Legislative Services Department Report 2025-52 be received;

That the Council Vacancy Policy attached hereto as Appendix A, be approved; and

That the Leave of Absence by Member of Council Policy attached hereto as Appendix B, be approved.

Purpose:

The purpose of this report is to recommend to Council policies that will establish processes for when a vacancy on Council or the office of Regional Councillor occurs or when a Member of Council goes on a Leave of Absence.

Background:

Pursuant to section 259(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*:

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

(a) becomes disqualified from holding the office of a member of council under section 256, 257 or 258;

(b) fails to make the declaration of office before the deadline in section 232;

(c) is absent from the meetings of council for three successive months without being authorized to do so by a resolution of council;

(d) resigns from his or her office and the resignation is effective under section 260;

- (e) is appointed or elected to fill any vacancy in any other office on the same council;
- (f) has his or her office declared vacant in any judicial proceeding;
- (g) forfeits his or her office under this or any other Act; or
- (h) dies, whether before or after accepting office and making the prescribed declarations. 2001, c. 25, s. 259 (1).”

There have been circumstances in the past where Members of Council have gone on a leave of absence. During these instances, there hasn't been an established process in place that outlines how these leaves of absence should be addressed. The proposed policy provides for procedures with respect to leaves of absence that fall within the three-month period and those that extend beyond that time period. The policy also addresses mandatory leaves of absence which would occur if a Member of Council became a candidate in a municipal by-election, provincial election or federal election.

While there hasn't been a vacancy on Council for quite some time, staff believe it would be beneficial to establish a set of processes for if this scenario does occur in the future. Additionally, there is an anticipated vacancy in the office of the Regional Councillor as a result of Fred Davies being elected as a Member of Parliament for Niagara South. The proposed Council Vacancy Policy establishes a transparent set of procedures for if a vacancy on Council occurs or if the City is requested to provide a recommendation for filling a vacancy on Regional Council.

Discussion:

This report and the accompanying policies have been prepared in coordination with the City's Legal team to address potential scenarios for when a Member of Council wishes to go on a Leave of Absence or if a vacancy on Council transpires. The Council Vacancy Policy would apply to any office declared vacant on the City of Port Colborne's Council during the term of Council. It would also apply when requested to provide a recommendation for filling vacancies on Regional Council.

Niagara Region's Council is set to declare former Councillor Davies' seat as vacant at its meeting on May 22, 2025. The Council Vacancy policy will assist Council in the process of providing a recommendation for filling this vacancy on Regional Council. A report with respect to the method of filling this vacancy will be brought forward for Council's consideration on May 27, 2025.

The Leave of Absence by a Member of Council Policy is to be applied to any Member of Council who goes on a Leave of Absence from Council meetings for medical (health), vacation, employment or personal reasons.

Internal Consultations:

Staff have received advice and guidance from the City's Legal team during the preparation of these policies. They have been prepared using best practices used across various other municipalities in the Niagara Region.

Financial Implications:

The Leave of Absence by Member of Council Policy establishes processes with respect to remuneration for informal, formal and mandatory leaves of absences. Apart from that, there are no immediate financial implications associated with this report.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Welcoming, Livable, Healthy Community
 - Economic Prosperity
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Conclusion:

The proposed policies provide for an accountable and transparent process for the filling of any Council (or Regional Councillor) vacancies that occur during a term of office and when a Member of Council goes on a Leave of Absence. Staff recommend that Council approve the proposed policies so that processes can be established to address these scenarios in the future.

Appendices:

- a. Council Vacancy Policy
- b. Leave of Absence by Member of Council Policy

Respectfully submitted,

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Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.