




COMMUNICATION UPDATE

TO:	Mayor and Members of Council
DATE:	August 22, 2022
SUBJECT:	Notification of Restricted Acts Period and By-Law 22-157 (City wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY & SUBMITTED BY:	Andrea Holland, City Clerk 

Information Only

Under By-Law 22-157, A By-law to Delegate Authority During any Restricted Period following Nomination Day:

9. The City Clerk shall advise Council in writing when the Restricted Period has commenced.

This update serves as notification that I have certified the list of candidates for the 2022-2026 Municipal Election and can confirm that the returning Council will have less than 75 percent of the membership of the current Council. This places Council under the Restricted Acts ("lame duck") as per the *Municipal Act 2001*, as amended, until the end of Term on November 14, 2022. The basis of this determination is under Section 275 of the Municipal Act:

Section 275 Basis for determination

- (2) If a determination under subsection (1) is made,
- (a) after nomination day but before voting day, the determination shall be based on the nominations to the new council that have been certified and any acclamations made to the new council;

The new Term of Council commences on November 15, 2022, with the Inaugural Meeting of Council scheduled for November 16, 2022.

Restricted Acts:

The following is a brief summary of the provisions as provided pursuant to Section 275 Restricted Acts Provision of the *Municipal Act*, 2001:

Restrictions if a Council is in a 'lame duck' position, the Council shall **not** take on the following actions:

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- a) The appointment or removal from office of any officer of the municipality;
- b) The hiring or dismissal of any employee of the municipality;
- c) The disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
- d) Making any expenditures or incurring any other liability which exceeds \$50,000.

Exceptions to clauses 'C' and 'D' above do not apply if the disposition or liability was included in the most recent budget adopted by the Council before Nomination Day of the 2022 Municipal Election.

Land Matters: Pursuant to Section 275(3)(c), a municipality can close a real estate transaction during the 'Lame Duck' period only if the Council passed a By-law approving the execution of the agreement of purchase and sale in advance of the 'Lame Duck' period.

Expenditures: A contract could be awarded by a 'Lame Duck' Council in excess of \$50,000 so long as the amount was included in the approved 2022 annual budget. However, the 'Lame Duck' Council would not be able to award a contract, if the amount of the tender or bid exceeds the amount included in the budget.

Emergencies: Pursuant to Section 275(4)(4.1) there is nothing that prevents a municipality from taking any action in the event of an emergency within the Municipality.

Delegated Authorities: Existing delegated authority is not impacted. This would include examples such as the City Manager's authority over administration (including hiring and termination), and procurement authority.

This further serves to provide notice that confirmation by the City Clerk that Council is under the Restricted Acts period provides the City Manager with the authority to exercise the delegated authorities outlined in By-Law 22-157, A By-law to Delegate Authority During any Restricted Period.

Respectfully Submitted,

Andrea Holland
City Clerk

APPENDICES AND SCHEDULES ATTACHED

Appendix A - By-Law 22-157, A By-law to Delegate Authority During any Restricted Period