



**Subject: Restricted Acts of Council (Lame Duck Provisions)**

**To: Council**

**From: Development and Legislative Services Department**

Report Number: 2022-152

Meeting Date: July 12, 2022

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### **Recommendation:**

That Development and Legislative Services Department Report 2022-152 be received;  
and

That the Bylaw in Appendix A attached to Report 2022-152, being a By-law to temporarily provide the Chief Administrative Officer the ability to conduct certain business in the event Council is restricted pursuant to Section 275 of the *Municipal Act, 2001* be approved.

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### **Purpose:**

The purpose of this report is to provide Council with information provided under Section 275 of the *Municipal Act, 2001* (the *Act*), and to propose a By-law to temporarily provide the Chief Administrative Officer with the ability to conduct certain business after Nomination Day if Council actions are restricted by “lame duck” status.

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### **Background:**

Section 275 of the *Act* provides that a Council’s actions are restricted after Nomination Day (August 19, 2022) or the Election Day (October 24, 2022), if the new Council will include less than three-quarters of the members of the outgoing Council. This is commonly referred to as the “Lame Duck Provisions”

More specifically, the following provisions apply to the two different periods:

**First Period** – After Nomination Day but before Election Day. If less than 75% of the incumbent members of Council have been certified as candidates and have not been acclaimed to office, the restrictions set out in the *Act* will apply. For Port Colborne, this

would apply if less than seven members of the existing Council are nominated for the next term of Council.

**Second Period** – Election Day to November 14, 2022 (last day of the current term of Council). If the election results in less than 75% of the incumbent Council Members returning to Council, the restrictions set out in the *Act* will apply. For Port Colborne, this would apply if less than seven members of the existing Council return to serve in the next term of Council.

If Council is in a “lame duck” position, the Council is not permitted to take the following actions pursuant to Section 275(3) of the *Act*. These restrictions include:

- (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 clause “c” and “d” above do not apply if the disposition or liability was included in the most recent budget adopted by Council before Nomination Day in the election.

Section 275 of the *Act* does not prevent any person or body from exercising any authority of the municipality that has already been delegated to the person or body prior to Nomination Day. This section of the *Act* also does not prevent a municipality from taking any action in the event of an emergency.

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## Discussion:

Councils are permitted to delegate their authority listed in Section 275(3) to maintain operations during a restricted acts period. This delegation is required prior to the period coming into effect. As there is a possibility that the City is at risk for the “lame duck” status, Staff recommend that delegated authority to the Chief Administrative Officer be exercised for the responsibilities listed in Section 275(3) of the *Act*. If the restricted acts section of the *Act* does not apply, the By-law would have no effect.

In the event there becomes a need for the Chief Administrative Officer to exercise any of the authorities delegated under this section of the *Act*, an Administrative Report on the matter will be provided at the end of the restricted acts period.

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**Internal Consultations:**

The Chief Administrative Officer was consulted on this report and concurs with the recommendation.

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**Financial Implications:**

There are no financial implications associated with this report however, if the delegated authority is required during the applicable time period, there is the possibility that expenditures or other liabilities which exceed \$50,000 may be incurred.

If the delegated authority is used to terminate employment, unbudgeted expenses could be incurred.

The delegated authority may result in the sale of real or personal property owned by the City which has a value exceeding \$50,000 at the time of disposal.

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**Strategic Plan Alignment:**

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

- Governance: Communications, Engagement, and Decision-Making
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**Conclusion:**

Staff recommend the delegated authority By-law be approved, to allow certain business of the municipality to move forward in the event Council enters a “lame duck” period.

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**Appendices:**

- a. By-law

Respectfully submitted,

Nicole Rubli  
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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.