



The Corporation of the Town of Milton

Report To:	Council
From:	Meaghen Reid, Director, Legislative & Legal Services/Town Clerk
Date:	April 11, 2022
Report No:	CORS-027-22
Subject:	Restricted Acts (Lame Duck) Delegation of Authority Provisions
Recommendation:	THAT the necessary by-law, included on the April 11, 2022 Council Meeting agenda, be considered for approval.

EXECUTIVE SUMMARY

- The purpose of this report is to provide Council with information regarding the “Restricted Acts” provisions contained in Section 275 of the Municipal Act, 2001, S.O. 2001, c. 25 (“Municipal Act, 2001”)
- Staff recommend the adoption of a by-law to temporarily provide the Town of Milton with the ability to conduct certain business in the event that Council is restricted in authority pursuant to these provisions for the 2022 Municipal Election.

REPORT

Background

Section 275 of the Municipal Act, 2001 prohibits municipal councils from undertaking certain acts after Nomination Day in a municipal election year (i.e. August 19, 2022 for the 2022 Municipal Election) and prior to a new council taking office under specific conditions.

This legislative restriction is referred to as ‘Restricted Acts’ or more commonly referred to as the ‘lame duck’ provision.

A municipal council can be in this situation during one or both of the following time periods:

- The period from Nomination Day (August 19, 2022) to Voting Day (October 24, 2022); and,
- The period from Voting Day (October 24, 2022) to the end of the term (November 14, 2022).

If, from Nomination Day to Voting Day and from Voting Day to the end of the term, it can be determined with certainty, that the new council will include less than three-quarters of



Background

the outgoing Council Members (i.e. less than 7 members), 'lame duck' applies and Council is restricted from taking certain actions until the new term of Council begins on November 15, 2022.

If the Restricted Acts provision is engaged, this Council would be subject to certain restrictions as provided in Section 275(3) of the Municipal Act, 2001, including:

- a) Appointing or removing from office of any officer of the municipality;
- b) The hiring or dismissal of any employee of the Town;
- c) Disposing 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.

Subsection 275(3)(a) requires authority in the event that an officer, such as the Town Clerk, Treasurer, the Chief Building Official and the Fire Chief of the Town is required to be appointed or removed from office.

Subsection 275(3)(b) does not apply, as the authority for the hiring or dismissal of any employee has been delegated to the Chief Administrative Officer (CAO).

Subsections 275(3)(c) and (d) only apply if the exceeding disposition or liability was not included in the most recent budget adopted by Council prior to Nomination Day or exceeds the authority provided to the CAO in the Town-Owned Land Disposition Policy. This policy includes the following provision: if less than \$150,000, the CAO may authorize the proposed Disposition of lands in accordance with the terms and conditions as set in this Policy and the delegation of authority by-law. Anything disposition of property over \$150,000 requires Council approval and would, therefore, be restricted should the Restricted Acts provision be in effect and could not be considered until the new term of council. This delegation is only required for real property, other Town asset disposal is covered in the Purchasing By-law #061- 2018.

As outlined in Section 275 (4.1) of the Municipal Act, 2001, nothing in this section prevents a municipality from taking any action in the event of an emergency.

Section 275(6) provides that even if the Restricted Acts section is engaged, it does not affect any delegation of authority which has been properly granted prior to Nomination Day. Existing delegations such as those under the CAO By-law, Delegation By-law and the Purchasing By-law, for example, are not impacted by the previously-noted restrictions.



Discussion

A by-law to delegate authority to the CAO for the “restricted acts” or “lame duck” period is recommended to safeguard against potential gaps by temporarily delegating additional authority beyond the authorities that have already been delegated by Council. This would only come into effect if the Restricted Acts section of the Municipal Act should apply to this Council.

This temporary by-law would become null and void upon the commencement of the inaugural meeting of the new Council, scheduled for November 21, 2022. Further, the by-law could require that the CAO report to Council in the first quarter of 2023 regarding any exercise of this delegated authority.

Financial Impact

The proposed By-law provides for delegated authority for the CAO to temporarily approve procurement related items that exceed the staff delegated authority limits identified in the Purchasing By-law 061-2018 and Budget Management Policy No. 113.

The exercise of this delegated authority, along with financial impacts, will be reported to Council during the first quarter of 2023.

Respectfully submitted,

Troy McHarg
Commissioner, Corporate Services

For questions, please contact: Meaghen Reid

Phone: Ext. 2132

Attachments

n/a

CAO Approval
Andrew M. Siltala
Chief Administrative Officer

Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for



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the water, food and resources. We stand as allies with the First Nations as stewards of these lands.