



**Subject:** Restricted Acts after Nomination Day

**Report Number:** CS 22-15

Department: Corporate Services Department

Submitted by: Director of Corporate Services

Meeting Type: Council Meeting

Meeting Date: Monday, June 27, 2022

## **RECOMMENDATION**

That Council receives the Restricted Acts after Nomination Day report as information.

## **BACKGROUND**

This report is to advise Council of the provisions of Section 275 of the Municipal Act, 2001, c. 25 as amended. This section defines what is commonly referred to as the “Lame Duck” period and restricts actions of Council in an election year.

Section 275 of the Municipal Act, 2001, c.25 as amended, sets out the restricted acts that a Council shall not take after Nomination Day (August 19, 2022) and after Voting Day (October 24, 2022) if the Council is in a lame duck position.

A municipal council can be in a lame duck situation if it is determined there is the potential or certainty that less than three-quarters (75%) of the existing council members will not be returning to office. The Town of Tillsonburg has a 7-member Council. When we apply the 75% calculation the result is 5.25 which is rounded up to 6 members.

Lame duck position can occur twice during the municipal election process:

1. Between August 19, 2022 and October 24, 2022 – if less than 6 of the 7 (75%) existing members are not running for Council, the restrictions set out in the Act will apply.
2. Between October 24, 2022 and November 14, 2022 (last day of current term of Council term) – if less than 6 of the 7 (75%) of the incumbent Councillors are returning to Council, the restrictions set out in the Act will apply.

## Restrictions

If a Council is in a lame duck position, the Council shall not take any of the following actions:

- a) The appointment or removal from office 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 these clauses do not apply if the disposition or liability was included in the most recent budget adopted by the Council before Nomination Day in the election)

The Municipal Act does allow for the delegation of this authority and the Town of Tillsonburg has incorporated Lame Duck provisions in the delegation by-law.

## DISCUSSION

Here is the excerpt of the Delegation of Powers and Duties By-Law 2020-091, as amended:

### *8.3. Restricted Acts after Nomination Day*

*8.3.1. In the event that Council becomes "lame duck" and restricted by the provisions of Section 275 of the Municipal Act, 2001 in an election year, the following duties shall hereby be delegated to the CAO:*

*8.3.1.1. the appointment or removal from office of any officer of the municipality, except officers whose appointment is required by the Municipal Act (i.e. Clerk or Treasurer);*

*8.3.1.2. the hiring or dismissal of any employee of the municipality;*

*8.3.1.3. the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal, if the disposition was not included in the most recent budget; and*

*8.3.1.4. making any expenditure or incurring any other liability*

*which exceeds \$50,000, if the liability was not included in the most recent budget.*

*8.3.2. Section 275 (6) provides that nothing in the Act "prevents any person or body exercising any authority of a municipality that is delegated to the person or body prior to nomination day".*

## **CONSULTATION**

N/A

## **FINANCIAL IMPACT/FUNDING SOURCE**

N/A

## **CORPORATE GOALS**

How does this report support the corporate goals identified in the Community Strategic Plan?

- ☐ Lifestyle and amenities
- ☒ Customer service, communication and engagement
- ☐ Business attraction, retention and expansion
- ☐ Community growth
- ☐ Connectivity and transportation
- ☐ Not Applicable

Does this report relate to a specific strategic direction or project identified in the Community Strategic Plan? Please indicate section number and/or any priority projects identified in the plan.

**Goal** - The Town of Tillsonburg will strive for excellence and accountability in government, providing effective and efficient services, information and opportunities to shape municipal initiatives.

**Strategic Direction** - Develop a communications strategy to increase awareness of Council decisions and municipal programs, projects and services.

**Priority Project** - Not applicable

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**ATTACHMENTS** – none