

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON APRIL 3, 2018
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT:	RESTRICTED ACTS OF COUNCIL AFTER NOMINATION DAY AND VOTING DAY

RECOMMENDATION

That, on the recommendation of the City Clerk, this report with respect to restricted acts of Council after Nomination Day and Voting Day, in accordance with section 275 of the *Municipal Act, 2001*, as amended, BE RECEIVED for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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None.

BACKGROUND

Provincial Legislation

On June 9, 2016 the *Municipal Elections Modernization Act, 2016* (MEMA) received Royal Assent. One component of the changes contained in the MEMA relates to the Nomination Period for candidates. Specifically, Nomination Day (the deadline to file as a candidate) is now July 27, 2018 for the 2018 Municipal Election, as compared to September 12 in the case of the 2014 Municipal Election. This represents an almost seven week extension to the period during which a Council could have its acts restricted, for a total period of approximately 4 months.

The *Modernizing Ontario's Municipal Legislation Act* has amended the start date for a new term of Council to November 15 following a Municipal Election to shorten the period during which Council may have its acts restricted. However, for the 2018 Municipal Election there is a transition rule under section 1.1 of the Act which keeps December 1 as the start date for the 2018 Council term, with November 15 to be the start date for the 2022 Council term.

Section 275 of the *Municipal Act, 2001*, as amended, provides that:

(1) The council of a local municipality shall not take any action described in subsection (3) after the first day during the election for a new council on which it can be determined that one of the following applies to the new council that will take office following the election:

1. If the new council will have the same number of members as the outgoing council, the new council will include less than three-quarters of the members of the outgoing council.
2. If the new council will have more members than the outgoing council, the new council will include less than three-quarters of the members of the outgoing council or, if the new council will include at least three-quarters of the members of the outgoing council, three-quarters of the members of the outgoing council will not constitute, at a minimum, a majority of the members of the new council.
3. If the new council will have fewer members than the outgoing council, less than three-quarters of the members of the new council will have been members of the outgoing council or, if at least three-quarters of the members of the new council will have been members of the outgoing council, three-quarters of the members of the new council will not constitute, at a minimum, a majority of the members of the outgoing council. 2001, c. 25, s. 275 (1).

Subsection (3) provides that the actions referred to in subsection (1) are,

- (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. 2001, c. 25, s. 275 (3); 2006, c. 32, Sched. A, s. 114 (1).

Section 275 goes on further to say:

Exception

(4) Clauses (3) (c) and (d) 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. 2001, c. 25, s. 275 (4).

Emergencies

(4.1) Nothing in this section prevents a municipality taking any action in the event of an emergency. 2006, c. 32, Sched. A, s. 114 (2).

Delegated authority unaffected

(6) Nothing in this section prevents any person or body exercising any authority of a municipality that is delegated to the person or body prior to nomination day for the election of the new council. 2006, c. 32, Sched. A, s. 114 (3).

Conclusion

Given that the incoming Municipal Council will have the same number of members (i.e. fifteen) as the outgoing Municipal Council, at least twelve (12) of the candidates nominated on Nomination Day would need to be members of the outgoing Municipal Council, in order for no Council acts to be restricted after Nomination Day (July 27, 2018). The City Clerk will review the list of candidates on Nomination Day to determine if the necessary threshold has been met.

The City Clerk will then have to review the Council's status when Voting Day results are available, to determine if at least twelve (12) of the Council-elect are members of the outgoing Municipal Council, in order for no Council acts to be restricted after Voting Day (October 22, 2018).

If, as a result of Nomination Day or Voting Day information, the City Clerk determines that Municipal Council is restricted from carrying out certain acts, the Municipal Council and Civic Administration will be notified accordingly.

Given the extended period for which Council acts could be restricted, should the required thresholds not be met, the Civic Administration will be reporting, under separate cover, with suggestions for ensuring business continuity during that period.

RECOMMENDED BY:
CATHY SAUNDERS CITY CLERK