

## By-law Delegating Authority to CAO During Election Period

Presented To:	City Council
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Type:	Correspondence for Information Only
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## Report Summary

This report provides information regarding Section 275 of the Municipal Act, 2001 which restricts the actions of Council in certain circumstances during an election.

## Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

This report refers to operational matters and has no direct connection to the Community Energy and Emissions Plan.

## Financial Implications

There are no financial implications associated with this report.

## Background

Municipal Councils obtain and exercise their decision making powers pursuant to the *Municipal Act, 2001* (the 'Act'). In general, Councils have broad decision making abilities regarding matters within their jurisdiction. Section 275 of Act, which is attached hereto as Schedule "A", however, provides that the actions of Councils are restricted during a municipal election in certain circumstances. Specifically, the section provides that the actions of Council will be restricted where the new Council will include less than three quarters of the members of the outgoing Council. For the City of Greater Sudbury there would have to be less than ten members of Council potentially returning for a new term.

This determination is made at two specific points in time:

- 1) After nomination day based on the certified nominations and any acclamations made to the new Council. Nomination day is the last day, pursuant to the *Municipal Elections Act, 1996*, during which a person may file a nomination for the Municipal and School Board Election. For the 2022 Municipal and School Board Election, nomination day is Friday August 19, 2022.
- 2) After voting day based on the declaration of the results and any acclamations.

In other words, if less than 10 members of the current Council are certified as candidates or if less than 10 members of the current Council are elected, the actions of Council will be restricted until the new Council's term begins on November 15, 2022.

Where a determination is made pursuant to the above that the actions of Council are restricted Council may not:

- a) Appoint or remove from office any officer of the municipality;
- b) Hire or dismiss any employee of the municipality;
- c) Dispose of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal unless the disposition was included in the most recent budget adopted by the Council before August 19, 2022; and,
- d) Make any expenditures or incur any other liability which exceeds \$50,000 unless the liability was included in the most recent budget adopted by the Council before August 19, 2022.

The Act does provide that nothing prevents Council from taking any action in the event of an emergency nor does it prevent persons or bodies from exercising authority that has been delegated prior to nomination day. Numerous by-laws such as the Purchasing By-law or the Delegation By-law already delegate authority to staff and the delegated authority is not affected should the actions of Council be restricted.

The restrictions could, however, prevent the current Council from completing or moving forward with outstanding matters. As a precaution, it has been a practice in this municipality, like in many others, to pass a by-law delegating additional authority to the Chief Administrative Officer during the period where the actions of Council are restricted. For clarity, the delegated authority to the Chief Administrative Officer would only take effect where the Clerk makes a determination that the criteria in section 275 of the Act applies to the current Council. A by-law to delegate authority to the Chief Administrative Officer as stated herein appears on the current agenda for passage.

The proposed by-law would authorize the Chief Administrative Officer to incur any liability, award any contract or authorize any expenditure, not included in the previously approved budgets and which would otherwise require Council approval, provided that :

1. The Treasurer advises the Chief Administrative Officer that such expenditure or liability is not detrimental to the financial interests of the municipality;
2. The term of any contract does not exceed 12 months; and,
3. The Purchasing By-law is complied with in all other respects.

The Chief Administrative Officer will be required to report to the new Council at the earliest opportunity any actions taken under the authority of this by-law.