

To: City Council

From: Mary Medeiros, Director, Legislative Services/City Clerk,
Office of the C.A.O.

Report Number: CNCL-26-13

Date of Report: March 18, 2026

Date of Meeting: March 23, 2026

Subject: Restricted Acts of Council Following Nomination Day (Lame Duck)

Ward: All Wards

File: 03-05

1.0 Purpose

The purpose of this report is to pass a by-law to address the potential for Council's authority to be restricted following Nomination Day (August 21, 2026) in accordance with Section 275 of the Municipal Act, 2001, S.O. 2001, c. 25 ("Municipal Act").

Attachment 1 is a draft by-law to temporarily delegate authority as set out in this Report.

2.0 Recommendation

It is recommended to City Council:

That in accordance with Report CNCL-26-13 dated March 18, 2026 related to the Restricted Acts (Lame Duck) Delegation of Authority Provisions, Council pass a by-law generally as set out in Attachment 1 to said Report and in the form and content acceptable to the Director, Legislative Services/City Clerk and City Solicitor.

3.0 Input From Other Sources

- Corporate Leadership Team
- Legal Services

4.0 Analysis

4.1 Legislative Framework

Section 275 of the Municipal Act sets out certain acts of Council that are restricted if, after Nomination Day, one of the following applies to the new Council that will take office after 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.

This legislative restriction is commonly referred to as the “lame duck” provision.

Should any of the above situations apply, Section 275(3) states that a municipality shall not take any of the following actions:

- 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.

Council may be restricted from performing these acts during one or both of two separate time periods:

1. After nomination day but before voting day

Council is subject to the restricted acts if, based on the nominations to the new council that have been certified, and any acclamations made to the new council, any of the above three scenarios applies.

2. After voting day

Council is subject to the restricted act if, based on the declaration of the results of the election including declarations of election by acclamation, any of the above three scenarios applies.

4.2 Impact on Oshawa City Council

As of the writing of this Report, it is not anticipated that the new Council will differ in size from the current Council, therefore the only potential situation is if the new Council will have less than three-quarters (or 75%) of the members of the outgoing Council.

If, after Nomination Day on August 21, 2026, but before Voting Day on October 26, 2026, fewer than nine (9) of the current members of Council will not be returning (i.e. more than three (3) current members have chosen not to run for Council), lame duck provisions will apply.

Similarly, if after Voting Day on October 26, 2026, but before the new Council takes office, fewer than nine (9) of the current members will not be returning, lame duck provisions will apply. It is important to note that members of Council do not have to be returning to the same position. For example, if a City Councillor returns as a Regional and City Councillor, or a Councillor returns as a Councillor for a different Ward, they still count as a returning member of the outgoing Council.

4.3 Delegation of Authority

With respect to the restricted acts, Subsection 275(3)(a) would require authority to be temporarily delegated to the Chief Administrative Officer ("C.A.O.") in the rare event that an officer such as the City Clerk, the City Treasurer, the Chief Building Official and the Fire Chief of the Municipality is required to be removed from office.

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. For items not included in the budget or provided for in the Purchasing By-law, the proposed by-law temporarily delegates authority to the C.A.O.

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. Council's existing delegations such as those under the C.A.O.'s By-law, the Delegation By-law and the Purchasing By-law, for example, are not impacted by the restrictions identified in this Report.

As such, Subsection 275 (3)(b) does not require further delegation as the authority for the hiring or dismissal of any employee of the Municipality has already been delegated to the C.A.O.

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

The proposed by-law seeks to safeguard against potential gaps by temporarily delegating additional authority to the C.A.O. beyond that already delegated and would come into effect only if the Restricted Acts section should apply to this Council. The temporary by-law provides a sunset provision, which effectively renders the by-law null and void upon the commencement of the inaugural meeting of the new Council, which is scheduled for November 16, 2026. Further, the C.A.O. would be required to report to Council in the first quarter (Q1) of 2027 regarding any exercise of this delegated authority.

5.0 Financial Implications

There are no financial implications associated with this report.

6.0 Relationship to the Oshawa Strategic Plan

This report responds to the Oshawa Strategic Plan Priority Area “Lead: Governance and Service Excellence” with the goal to provide transparent, efficient, and responsible fiscal stewardship and use of resources.



Laura Davis, Manager, Legislative Services/Deputy City Clerk,
Legislative Services



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Office of the C.A.O.



**By-law XX-2026
of The Corporation of the City of Oshawa**

being a by-law to temporarily provide the Corporation of the City of Oshawa with the ability to conduct certain business in the event of the Council being restricted in its authority pursuant to Section 275 of the Municipal Act, 2001 S.O. 2001, c25, as amended.

Whereas a municipal election will be held on October 26, 2026; and,

Whereas Nomination Day for the election is on August 21, 2026; and,

Whereas it is possible that Council may be restricted on Nomination Day or thereafter as a result of the operation of Section 275 of the Municipal Act, 2001 S.O. 2001, c25, as amended (the "Municipal Act"); and,

Whereas it is desirable for Council to delegate certain limited authority for the purpose of ensuring the efficient operation of the Corporation of the City of Oshawa in the event that, and for so long as Council is restricted as a result of the operation of Section 275 of the Municipal Act;

It is enacted as a by-law of the Corporation of the City of Oshawa by its Council as follows:

Interpretation

1. In this by-law:

- 1.1 "By-law" means this By-law;
- 1.2 "City" means the Corporation of the City of Oshawa;
- 1.3 "C.A.O." means the City's Chief Administrative Officer or their designate;
- 1.4 "Council" means collectively the Council for the City;
- 1.5 "Department Head" means any of the Commissioner, Community and Operations Services; Commissioner, Corporate and Finance Services; Commissioner, Economic and Development Services; and, Commissioner, Safety and Facilities Services;
- 1.6 "Effective Period" means any time between" 2:00 pm EST August 21, 2026 until the commencement of the inaugural meeting of Council;
- 1.7 "Officer" means any Officer of the City appointed by Council pursuant to statutory authority;
- 1.8 "Request for Proposal" means a Request for Proposal as defined in the Purchasing By-law 80-2020;
- 1.9 "Request for Tender" means a Request for Tender as defined in the Purchasing By-law 80-2020; and,
- 1.10 "Responsive and Responsible Bidder" means a Responsive and Responsible Bidder as defined in the Purchasing By-law 80-2020.

Delegation

2. This By-law shall only apply during the Effective Period, before and after which time this By-law shall be void and of no force and/or effect.
3. During the Effective Period, if at any time it becomes mathematically impossible for three quarters of the members of the outgoing Council to be re-elected, thereby subjecting Council to the restrictions contained in Section 275 of the Municipal Act, the following delegations of authority shall apply:

3.1 Appointment or Removal of Officer

The authority to appoint or remove an Officer or Department Head of the City shall be delegated to the C.A.O.

3.2 Disposition of Property

The authority to approve and execute agreements for the disposal of any real or personal property belonging to the City with an appraised value or a value, in the opinion, of a real estate broker is greater than \$50,000.00 shall be delegated to the C.A.O.

3.3 Expenditures and Liabilities

During the Effective Period, if a Request for Proposal or Request for Tender for a contract in excess of \$100,000.00 but less than \$500,000.00 is received and concluded, in the event that the highest ranked proposal or the lowest Responsive and Responsible Bidder is in excess of the budget approved by Council, the authority to approve the bid or proposal, as the case may be, shall be delegated to the C.A.O., provided that the big or proposal is not in excess of 125% of the approved budget for the subject of the bid or proposal.

4. During the first quarter in 2027, the C.A.O. shall report any exercise of this delegated authority.

General

5. No delegation of authority in this By-law shall constrain or limit, in any manner whatsoever, any delegation of authority existing in any other City by-law. In the event of inconsistency between this By-law and any other City by-law or Council resolution, the provision that most effectively delegates authority prevails to the extent of the inconsistency.
6. This By-law shall come into force on the date of its passing.

By-law passed this xx day of March, 2026.

Mayor

City Clerk