

**CORPORATION OF THE CITY OF CLARENCE-ROCKLAND
BY-LAW 2010-128**

**BEING A BY-LAW TO DELEGATE CERTAIN POWERS AND AUTHORITIES TO THE
CHIEF ADMINISTRATIVE OFFICER.**

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law; and

WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

WHEREAS the Council of The Corporation of the City of Clarence-Rockland deems it desirable to delegate the power to appoint or remove from office any Officer of the City of Clarence-Rockland and to hire or dismiss any employee of the City of Clarence-Rockland to the Chief Administrative Officer in the event that Council's powers are restricted by Section 275 of the *Municipal Act, 2001*, as amended;


NOW THEREFORE, the Council of the Corporation of the City of Clarence-Rockland enacts as follows:

- 1) That the Council of The Corporation of the City of Clarence-Rockland hereby delegates to the Chief Administrative Officer the powers and authority to appoint or remove from office any Officer of the City of Clarence-Rockland and to hire or dismiss any employee of the City of Clarence-Rockland in the event that Council's powers are restricted by Section 275 of the *Municipal Act, 2001*, as amended; and
- 2) That this By-law becomes effective on the day of its adoption.

READ, PASSED AND ADOPTED BY COUNCIL THIS 9th DAY OF AUGUST 2010.



Richard Lalonde
Mayor



Monique Ouellet
Clerk

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(original signed by)

Richard Lalonde
Mayor

(original signed by)

Monique Ouellet
Clerk



ADMINISTRATION

**Delegated authority
in relation to a 'Lame Duck' Council**

REPORT No: ADM2010-M8

NUMÉRO DU DOSSIER: n/a

August 2010

INTRODUCTION:

Provisions in the Municipal Act, 2001 (Section 275) limit the authority of City Council to make certain decisions prior to a municipal election. These provisions, also referred to as 'lame duck' provisions, are in effect if it is clearly known that the incoming new council will include less than three-quarters (75%) of the members of the outgoing council. If these provisions apply, the limited authority of Council will commence on September 11, 2010, and will continue until the date the new council takes office in December 2010.

For the City of Clarence-Rockland which is composed of 9 members, this means that 'lame duck provisions' will take effect when it becomes mathematically impossible for 7 members of the outgoing Council to be re-elected. The following examples may assist in clarifying the impact of the 'lame duck' provisions:

1. a) If fewer than 7 current members of Council ran for re-election, the lame duck provisions would apply as of September 11.

b) If more than one current member ran for the same office that would reduce the number that could be re-elected. For example, if 7 current members ran but two of them ran for Mayor, only 6 would be capable of being re-elected.
2. Between Nomination Day (September 10) and Voting Day (October 25), the 'lame duck' provisions would apply if a current member withdrew his/her candidacy or became ineligible and that resulted in it being impossible for 7 members to be re-elected.

PROVISIONS UNER THE MUNICIPAL ACT:

Restrictions: The following restrictions apply if the 'lame duck' provisions are in effect:

- 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.

Exception: Some of the above-noted restrictions, being (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 year.

Emergencies: Nothing in section 275 prevents a municipality taking any action in the event of an emergency.

COMMENTS :

Nothing in the act prevents any person or body from exercising authority delegated by council prior to Nomination Day (September 10, 2010).

Council may wish to consider adopting a by-law to delegate executive authority to the Chief Administrative Officer for the period in which Council could find itself subject to the restrictions under Section 275 of the Municipal Act, 2001.


If Council wishes to adopt a delegation by-law, please note that it has to be adopted before Nomination Day (September 10, 2010).

CONSULTATIONS:


In consultation with the Directors, it has been identified by the Director Community Services that there is an anticipated issue pertaining to the hiring of a full-time employee during the potential 'lame duck' period due to a recent resignation.

RECOMMENDATION:

It is recommended that Council consider the adoption of a by-law delegating executive authority to the Chief Executive Officer, in order to ensure that the business of the municipality is not unduly delayed.



Monique Ouellet, A.M.C.T.
Clerk




Daniel Gatién, A.M.C.T.
Chief Administrative Officer
Human Resources Director

**CORPORATION DE LA CITÉ DE CLARENCE-ROCKLAND
CORPORATION OF THE CITY OF CLARENCE-ROCKLAND
RÉSOLUTION NO / RESOLUTION NO: 2010 - 388**

Date : août / August 9, 2010	Article #:	13.7
Comité/Committee:	Gouvernement général / General Government	
Président/Chairperson:	Conseiller/Councillor	
Service/Department:	Administration	
Directeur/Director:	Daniel Gatien	
Proposé par/Moved by:	Conseiller/Councillor	R.S.
Appuyé de/Seconded by :	Conseiller/Councillor	G.D.
Objet/Subject:	Délégation de pouvoir au Directeur Général Delegation of Authority to the CAO	

QU'IL SOIT RÉSOLU que le conseil municipal adopte le règlement no. 2010-128, visant à déléguer certains pouvoirs au Directeur Général dans le cas où le conseil municipal se retrouvait assujéti aux restrictions imposées par la l'article 275 de la Loi de 2001, sur les municipalités.

BE IT RESOLVED that the Municipal Council adopts By-law no. 2010-128, being a by-law to delegate certain powers and authorities to the Chief Administrative Officer in the event that Council is subject to the restrictions under Section 275 of the Municipal Act, 2001.

Déclaration pécuniaire par / Pecuniary conflict by:	
Adoptée/Carried:	Défait/Defeated:
 <hr/> Monique Ouellet Greffière / Clerk	