

USER GUIDE

Statutory requirements for applications

Section 369 of the *Municipal Government Act* requires each council in 2014 (and every eighth year thereafter) to conduct a study of the number and boundaries of polling districts in the municipality, their fairness and reasonableness and the number of councillors. After the study is completed, and before the end of the year in which the study was conducted, the council must apply to the Board to confirm or to alter the number and boundaries of polling districts and the number of councillors. In the case of towns whose councillors are elected at large, an application must nevertheless be filed with the Board to either confirm or alter the number of councillors.

As noted in s. 368(4) of the *Act*, the Board must consider several factors in determining the number and boundaries of polling districts, including the number of electors, relative parity of voting power, population density, community of interest and geographic size.

These provisions also apply to Halifax Regional Municipality by virtue of s. 364 of the *Halifax Regional Municipality Charter*.

In determining the number of councillors for a town, s. 368(5) requires the Board to consider the population and geographic size of the town. For the purposes of an application under the *Act*, the position of mayor is not included in the number of councillors and, accordingly, does not fall within the scope of the review conducted by the Board.

Recommended two-step process for study

In its previous decisions, the Board has provided specific guidance to municipalities and towns with respect to the preparation of municipal boundary applications under ss. 368 and 369 of the *Act*.

The nature and extent of the study to be carried out is within the discretion of council. It does not require a consultant or third party to be engaged, but council may decide to do so. Many councils involve senior municipal staff to conduct the study, in some cases assisted by committees which include members from the public.

The Board has recommended a two-step process. The logical starting point under the *Act* is for council to determine the desired number of councillors (i.e., the size of council). Questions related to the distribution of polling districts should be addressed in a second stage.

Determining the size of council involves the consideration of the desired style of Council, the governance structure of Council, and a determination of an effective and efficient number of councillors. The style of government is a question which should not be decided by council until adequate public consultation has occurred respecting the expectation of its constituents. The size of council and its governance structure is a matter which can then be determined by Council in an informed debate.

Once the total number of councillors and polling districts is determined, the task becomes one of distributing the polling districts to satisfy the objectives listed in s. 368(4) of the *Act*. Just as with determining the desired number of polling districts, public consultation is essential to a successful process of setting boundaries.

Ideally, the public consultation process should mirror the two-step process outlined above, but the Board recognizes that for smaller municipalities or towns (or in instances where the first round of consultation has indicated a preference to substantively maintain the status quo, including its boundaries), a second round of public consultation may not be practical or necessary.

Public consultation

Public consultation is an inherent component of the study to be conducted by council. The form and extent of public consultation is within council's discretion, depending on the circumstances existing in each case. However, the consultation should be of a type and degree which allows members of the public an opportunity to express their views on the size of their council, upon the location of boundaries for town wards or municipal polling districts, or whether a town should be divided into wards, should that be applicable. Allowing the public the opportunity to provide its valuable input is a key component of the decision making process leading to an application by a municipality or town.

Relative parity of voting power

The Board has determined that in municipal boundary review applications the target variance for relative parity of voting power must be $\pm 10\%$ from the average number of electors per polling district or ward. Any variance in excess of $\pm 10\%$ must be justified in writing. The larger the proposed variance, the greater the burden on the municipal unit to justify the higher variance from the average number of electors.

While the Board will permit variances up to $\pm 25\%$, the outer limits of this range should only apply in exceptional cases, where the affected municipality provides detailed written reasons showing that population density, community of interest or geographic size clearly justify the necessity of an increased variance within a polling district. In most cases, however, the Board expects municipalities to meet a target variance of the number of electors in each polling district which is within a $\pm 10\%$ range of the average.

Polling district boundary descriptions

As part of all applications, the municipal unit is required to provide descriptions of the existing and proposed municipal polling districts (or of the wards in the case of towns). In most cases, the descriptions are in written form, which is acceptable to the Board.

However, in recent years, some municipalities and towns have requested to provide the descriptions of its polling districts or wards using digital GIS technology.

While the Board is mindful of the benefits of digital mapping over text descriptions, both in terms of cost and efficiency, the important factor to be considered is the subsequent use of any polling district or ward descriptions during the conduct of municipal elections. Regardless of the format which is adopted by a municipality or town, the description must be able to address any inquiry made by electors or municipal election staff during the conduct of municipal elections. Accordingly, it is necessary that the scale of any digital mapping descriptions be capable of being adjusted to respond to any inquiry.

As a result, the Board is prepared to accept digital mapping descriptions instead of text descriptions with respect to any existing or revised polling district descriptions. However, in addition to filing a large hard copy map showing all polling districts, the Board also requires the separate filing of individual digital mapping for each polling district or ward. The individual mapping is to be filed by way of hard copy and electronically, both in 8.5 x 11 inch format. The Board is mindful that due to differences in the size of the respective polling districts, the relative scale on each of the maps may differ.

Hearing - general procedure

Upon receipt of an application, the Clerk of the Board will immediately contact the municipality or town to schedule a public hearing. Once the hearing date is confirmed, a notice of hearing will be prepared by the Clerk of the Board and published two times in a local newspaper. The notice will invite members of the public to comment on the application by way of letter of comment or to speak in person at the hearing. The municipality or town is billed for the cost of these advertisements.

The public hearing is normally held in the Municipality where the application arises. Hearings outside HRM are usually heard in municipal council chambers or other rooms within the municipal building. In cases where no change to the number of polling districts and councillors is requested, and no member of the public has contacted the Board to oppose the application or to request to speak at the hearing, the Board may elect to hold the public hearing by way of telephone conference call. Notwithstanding this general practice, the Board reserves the right to hold a public hearing in person if it deems it appropriate. Where the application requests a change to the number of polling districts and councillors, or there is a material change proposed to the boundaries of the polling districts, the Board will conduct the public hearing in person.

Municipalities or towns are not required to be represented by legal counsel, but they are free to do so. Most municipal units are not represented by counsel and the applications are presented

by one or more of the following: Mayor, Warden, Chief Administrative Officer, Clerk, Chair of the local boundary review committee, etc.

At the public hearing itself, the Board member opens the hearing by briefly describing the application and then asking the parties to identify themselves. The Board's hearings are all recorded electronically by a recording clerk who sits near the Board member hearing the application. The recording clerk is also responsible for handling the exhibits discussed during the hearing.

During a public hearing, a town or municipality presents evidence through the examination of its witnesses. He or she is first sworn in or affirmed (whichever their preference) to testify. In the case of municipal boundary hearings, the evidence is typically presented in the form of a presentation by the appropriate municipal official, including a discussion of the study or consultation undertaken by the municipal unit, any report prepared by the applicant, and details contained in the application. After the municipal unit has presented its application, the Board will usually ask questions related to the application. In rare cases, the Board may ask for additional information or data to be filed as an undertaking after the hearing.

After the presentation of the application is concluded, the Board will open the hearing to any members of the public who may have comments, either in support or opposed to the application. At the end of such comments, the town or municipality will be provided with an opportunity to respond to any concerns or issues raised by the public and to provide any final submissions summarizing the key points of their application.

Most municipal boundary review hearings take one or two hours.

Board Decision

The Board normally issues a written decision within 60 days following the hearing. The Board will also issue an Order giving effect to the approved number of councillors and polling districts, and to the boundaries of the polling districts. Where text descriptions are used for the polling districts or wards, the Board may require the municipal unit to submit an electronic WORD or PDF version of the descriptions.