

Information Report

Title: Ward Boundary and Council Composition Review Timelines

Report Number: Legislative Services-2024-05

Director: Corporate Services

Manager: Legislative Services

Meeting Date:

Tuesday, February 13, 2024

Executive Summary:

This is an Information Report on the Provincial regulations for Ward boundary and council composition reviews. It will lay out the timelines for these types of reviews under the Municipal Act, 2001, S.O. 2001, c.25. These timelines are important if Council wishes to consider these types of reviews so that they can be completed before the 2026 Election. This is for information only and no recommendation is provided.

Context and Background Information:

Council plays a vital role in the electoral process in the establishment of the size and composition of municipal council, determining the method of selecting members of municipal council (i.e. at-large elections versus the ward system) and by establishing the wards from which councillors are elected.

The Municipality of Kincardine has not had a ward boundary or council composition review since 2005. In the previous term of Council, one change was made to have the Deputy Mayor elected in a stand-alone position, as opposed to being selected by the candidate having the most votes in the Councillor At-Large race.

The current Council is nine (9) members with the composition as follows:

- Mayor
- Deputy Mayor
- 3 Councillors At-Large
- 2 Councillors Ward 1
- 1 Councillor Ward 2
- 1 Councillor Ward 3

The ward boundaries are the historic boundaries of the former Town of Kincardine (Ward 1), former Township of Kincardine (Ward 2), and former Township of Bruce (Ward 3). See the attached map.

Ward Boundaries

The Municipal Act authorizes municipalities to pass by-laws to divide or redivide the municipality into wards or to dissolve the existing wards. The legislative parameters include the following:

1. Council must pass a by-law to divide or redivide the municipality into wards or to dissolve the existing wards;
2. The municipality must provide notice of the passing of said by-law to the public within 15 days of passage by municipal council specifying the last date for filing notice of appeal;
3. Any person may appeal the by-law to the Ontario Land Tribunal (OLT) within 45 days of the passage of the by-law setting out the objections to the by-law and reasons in support of the objections;
4. Within 15 days of the last day for filing notice of appeal, the municipality shall forward any notices of appeal to OLT.
5. OLT has the power to make an order affirming, amending or repealing the by-law.

Despite the importance of the ward boundary review process, the Act contains no criteria or direction for municipalities respecting the process for a ward boundary review.

Per Section 222 (8) of the Municipal Act, a by-law to authorize a municipality to divide or redivide the municipality into wards or to dissolve existing wards, must be passed and if there are any appeals, they must be dealt with before January 1 in the year of regular election. This means that any ward boundary review would need to be completed by January 1, 2026, for the next municipal and school board election in 2026. The by-law would not come into force until the day the new council is organized after the election, but the election would be conducted as if it was already in force.

To ensure that all appeals are dealt with by the deadline, if Council wishes to consider changes to the ward boundaries, then a review should be undertaken in 2024. Additionally, if Council wishes to consider changes to the ward boundary, then external expertise is recommended to lead Council and the community through the process to help build a strong case for any ward boundary changes, which are subject to appeal, so that the decision can be defended.

Electors in a municipality may also initiate ward boundary changes by presenting a petition to their council asking the council to pass a by-law dividing or redividing the municipality into wards or dissolving existing ward boundaries. The process for presenting a petition to council is set out in section 223 of the Municipal Act. Council has 90 days after receiving the petition to pass a by-law or any electors who signed the petition may apply to OLT to the municipality divided or redivided into wards or to have the existing wards dissolved.

There are a few guiding principles concerning ward boundary reviews that have been established through O.M.B/LPAT (predecessors of the OLT) hearings and judicial decisions. A [Supreme Court of Canada Decision](#) held that “effective representation”, not representation by population on its own, is the standard for determining electoral boundaries in Canada. Effective representation must be based on relative parity of voting power and not solely on mathematical parity. The ruling notes that “factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic.”

It is commonly accepted that wards should have relatively equal population totals, and that population variations of up to 25% above or below the optimal or average size are considered reasonable. These degrees of variation can be due to geography, varying population densities, and characteristics of the municipality. This would allow each resident to have equal access to their elected representative and each Councillor would represent an equal number of constituents.

Council Composition

The Municipal Act gives municipalities the authority to determine the composition of Council, subject to certain parameters. Unlike ward boundary changes, the composition of a Council is not a matter that may be appealed to OLT. The legislative parameters for the composition of Council are as follows:

1. There shall be a minimum of five members, one of whom shall be the head of council.
2. The members of council shall be elected in accordance with the Municipal Elections Act, 1996.
3. The head of council shall be elected by general vote (at-large).
4. The members, other than the head of council, shall be elected by general vote (at-large) or wards or by any combination of general vote and wards.
5. The representation of a local municipality on the council of an upper-tier municipality shall not be affected by the by-law of the local municipality under this section.
6. A by-law does not come into force until the day the new council is organized.

Decisions on council composition can include changes to the size of council, members' titles and certain methods of election or selection of members. Similar to ward boundary reviews, the Municipal Act contains no criteria or direction for municipalities respecting the process for a ward boundary review.

Per Section 217 (2) of the Municipal Act, a by-law to authorize a municipality to change the composition of its Council, must be passed before January 1 in the year of regular election. This means that any Council composition review would need to be completed by January 1, 2026 for the next municipal and school board election in 2026. The by-law would not come into force until the day the new council is organized after the election but the election would be conducted as if it was already in force.

Consultation Overview:

Staff reviewed the Municipal Act regarding these processes and did a jurisdictional scan of ward boundary and council composition reviews completed by other municipalities prior to the 2022 Election. In general, the reviews began in 2020 in order to be completed by January 1, 2022 and were conducted by an independent consulting firm.

Origin:

Municipal Act, 2001, S.O. 2001, c.25

Attachments: [Ward Map](#), Ontario Municipal Board Decision 3326 - 2005

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