

Policy Discussion Papers Decision Requested

Request for Recommendation Priorities Committee



Type of Decision									
Meeting	February 20, 2008				Report Date	February 12, 2008			
Decision Requested	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	Priority	<input checked="" type="checkbox"/>	High	<input type="checkbox"/>	Low
	Direction Only				Type of Meeting	<input type="checkbox"/>	Open	<input type="checkbox"/>	Closed

Report Title
Clearing of Debris from Lands By-Law

Budget Impact / Policy Implication	
<input checked="" type="checkbox"/>	This report has been reviewed by the Finance Division and the funding source has been identified.


Recommendation

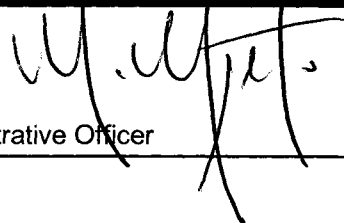
There is no budget impact.

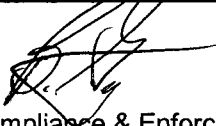
THAT Council accept the Clearing of Debris from Lands report and direct staff to draft a Clearing of Debris from Lands By-Law that would include an appeal process as outlined in either Option 1, 2, or 3 of this report.

Background Attached

Recommendation Continued

Recommended by the Department

 Doug Nadrozny
 General Manager of Growth and Development

Recommended by the C.A.O.

 Mark Mieta
 Chief Administrative Officer

Report Prepared By	Division Review
Bryan Gutjahr Manager of Compliance & Enforcement 	

At the Priorities Committee meeting on December 5, 2007 staff presented a report outlining the need for a Clearing of Debris from Lands By-law. This report highlighted the fact that a Clearing of Debris from Lands By-law passed under the authority of the Municipal Act would be of great assistance to the By-Law Enforcement Officers. The benefits to the Officers would include a more efficient enforcement process in obtaining compliance, which in turn would allow Officers more time to investigate more complaints, and properties in state of disrepair would be brought into compliance in less time than the current process.

Although Council generally agreed with the need for a Clearing of Debris from Lands By-law, there were some concerns raised dealing with enforcement process and the definition of vacant land. It was brought forward that property owners should be given the opportunity to appeal a Notice issued by an Officer if the owner did not agree to the Notice or if the owner needed more time to comply.

Staff have since reviewed this concern and can offer the following:

APPEAL PROCESS:

An appeal process within a by-law would allow owners of properties or individuals, that don't agree with the conditions of the Notice, a chance to request more time to comply with or dispute the content of the Notice.

The appeal would have to be requested within a certain time period after receiving the Notice (3 days) to avoid undue delay in the process.

Staff would recommend that property owners appealing the Notice, be required to submit in writing reasons for the appeal.

The following are options that Council may consider:

OPTIONS:

1. Submit in writing, an appeal to a Notice to the Manager of Compliance and Enforcement for review and request more time for compliance. The Manager's decision is final and binding, whether to uphold the Notice or grant an extension;
2. Submit in writing, an appeal to a Notice to the Manager of Compliance and Enforcement for review and if the applicant disagrees with the decision of the Manager, the applicant may then appeal to the General Manager of Growth and Development. This appeal must also be submitted in a certain time period. The General Manager of Growth and Development may uphold the Notice or extend time for compliance;

OPTIONS: (cont'd)

3. Submit in writing, an appeal to a Notice to the Manager of Compliance and Enforcement for review and if the applicant disagrees with the decision of the Manager, the applicant can appeal to a Hearing Committee of Council for their decision, to either uphold the Notice or extend time or revoke the Notice.

Staff have also reviewed the Clearing of Debris from Lands By-laws from other areas within Ontario and can provide the following:

Municipality	Appeal Process
North Bay	Yes - After second Notice may appeal to Council
Markham	No
Ottawa	No
London	No
Thunder Bay	Yes Appeal to Manager of By-Law Enforcement and then may appeal to Hearing Committee
Toronto	No
Windsor	No

NOTE:

It should be kept in mind that the By-Law Enforcement Officers currently have full discretion to allow the owner of property sufficient time to comply to a Notice and often do so if the property owner is cooperative. If a property owner requests more time to comply, unless there are unusual circumstances such as a repeat offender, the Officer will grant an extension to the time needed to comply.

VACANT LANDS:

To address the varying geographic areas of the City, the by-law must distinguish between **vacant lands, vacant lots and yards**. The intent of this by-law is to address certain properties and areas that have, as a result of neglect or disregard, become deleterious to the surrounding properties. This by-law is not meant to deal with large tracts of undeveloped vacant land that have natural growth or land used for an agricultural purpose. It would not be feasible or possible to enforce such a by-law.

As such, the new by-law must clearly define the difference between **vacant lands, vacant lots and yards**.

By doing so we can limit enforcement to those properties that have become unkept and unsightly. For example, on **vacant land** no person would be allowed to deposit refuse or debris or cause refuse or debris to be deposited. In this instance we would not be dealing with the growth of natural vegetation or weeds. However on **vacant lots** which would be limited to areas under development or an empty developed lot, we would address concerns regarding debris, long grass and weeds. Debris, long grass and weeds would also be addressed on **yards** which are located in residential and commercial areas.

RECOMMENDATION:

THAT Council accept the Clearing of Debris from Lands report and direct staff to draft a Clearing of Debris from Lands By-Law that would include an appeal process as outlined in either Option 1, 2, or 3 of this report.

Request for Recommendation Priorities Committee




Type of Decision									
Meeting	February 20, 2008			Report Date	January 24, 2008				
Decision Requested	X	Yes		No	Priority	X	High		Low
	Direction Only			Type of Meeting	X	Open		Closed	

Report Title
Ward Boundary Review Policy

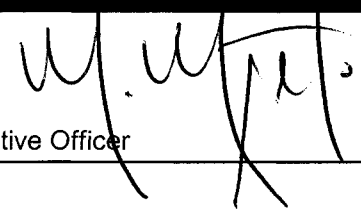
Budget Impact / Policy Implication	Recommendation
N/A This report has been reviewed by the Finance Division and the funding source has been identified.	
	<p>Option 1:</p> <p>That Council accept and implement the Ward Boundary Review Policy to describe the frequency and guiding principles for triggering Ward Boundary Reviews in the City of Greater Sudbury and that the first review occur following the Municipal Election of 2014.</p> <p>OR</p> <p>Option 2:</p> <p>That Council accept and implement the Ward Boundary Review Policy to describe the frequency and guiding principles for triggering Ward Boundary Reviews in the City of Greater Sudbury and that the first review occur at a date determined by Council.</p>
X Background Attached	Recommendation Continued

Recommended by the Department



Caroline Hallsworth
Executive Director, Administrative Services

Recommended by the C.A.O.



Mark Miato
Chief Administrative Officer

Report Prepared By	Division Review
Tammy North Deputy City Clerk	Angie Hache City Clerk

EXECUTIVE SUMMARY

At the Priorities Committee of June 20, 2007 , options for Ward Boundary Review were discussed and the following recommendation was passed:

“That Council select Option 2 as described in the report dated June 14, 2007 from the Executive Director of Administrative Services; and that staff be directed to implement the option and report back to Council.”

By selecting Option 2, Council decided to

“Retain the current ward system and direct staff to bring back a “Ward Boundary Review Policy” which will use census data and demographic change as the criteria for triggering Ward Boundary Reviews in the City of Greater Sudbury.”

This report provides background information related to Ward Boundary Reviews and presents a draft policy for the consideration of the Priorities Committee. The proposed policy addresses two elements, frequency of Ward Boundary Reviews and Guiding Principles for Ward Boundary Reviews.

HISTORY OF CGS WARD BOUNDARIES

In 2001, Hugh Thomas, Special Advisor on Local Government Reform for the Sudbury Region, was asked to make recommendations to the Provincial Government on Council and ward structure. The Thomas Report found that *“Communities are not formed by boundaries, but by common interests”* and that *“the public favoured larger wards and fewer politicians.”* The Report recommended that the municipality be divided into six wards, with two members of Council elected to each ward.

In 2002, Council appointed a Citizen’s Committee for Ward Boundary Review who were mandated to lead a public consultation process as to how to *“divide the current six wards, with two members each, into twelve single member wards.”* Council directed that the following criteria be used in recommending new ward boundaries:

- *Representation by population will be the primary factor in determining new ward boundaries*
- *New ward boundaries involve the fewest changes possible*
- *Communities of interest and land use diversity should be encouraged, but not at the expense of population fluctuations of more than 25%*

The Citizen's Committee's review of ward boundaries involved extensive public consultations and an extensive advertising campaign which encouraged public commentary. The Committee considered a variety of models for division of each of the existing wards, and reviewed each model against four criteria:

- *Representation by Population*
- *Community of Interest*
- *Recognition of distinct geographic features*
- *Accounts for future population loss/growth*

Each proposed ward was tested to ensure it met all four criteria. A by-law was drafted to divide the ward boundaries into twelve single member wards; the third reading of the by-law resulted in a tie vote of the members of Council and in accordance with the Rules of Procedure, the motion was lost and the ward boundaries remained in their original form.

In 2005, Council reconsidered the issue of a ward boundary review and gave notice of the municipality's intention to pass a by-law to re-divide wards into a twelve ward model with one Councillors per ward, using the model developed by the Citizen's Committee for Ward Boundary Review in 2002. Council directed that public hearings be held in each of the wards so as to "*ensure public consultation is broad and extensive and to obtain public input.*" At the conclusion of the Public Hearings, Council passed a by-law to dissolve the existing wards and to divide the City into twelve, single-member wards. Public Notice of the decision was provided and the Greater Sudbury Municipal Watch group appealed the decision to the Ontario Municipal Board. Following the presentation of evidence, the appellants withdrew their appeal and the appeal was dismissed.

The new ward system was introduced for the 2006 election and took effect on December 1, 2006.

FREQUENCY OF ELECTORAL BOUNDARY REVIEW

The federal and provincial governments adjust electoral boundaries to reflect changing population after each decennial census. Increasingly, municipalities are introducing policies mandating ward boundary reviews on a periodic basis, usually based on a ten year or every third election cycle.

The City of Kitchener has a Council Policy which contains criteria to be used when reviewing ward boundaries and requires that a review take place after every third election. The City of Kitchener last completed a ward boundary review in 1999. Since that date, there have been three elections (2000, 2003 and 2006) and consequently, a ward boundary review will be undertaken prior to the 2010 election. In preparation for the ward boundary review, population changes over the past ten years and projected changes for the next twelve years will be considered and public consultations held.

The City of Ottawa completed a ward boundary review process during the last term of Council. As described in the report entitled "*Building Consensus - Ottawa Ward Boundary Review Background Report*" dated December 2004, the intent of the ward boundary review was to look

"at the period 2004-2015. By choosing a 10 year time horizon and aiming for a new ward structure for the 2006 municipal election, Council has indicated that this ward structure should last for four elections"

being the elections then scheduled for 2006, 2009, 2012 and 2015. Since this report was concluded, the Municipal Act has increased the municipal term of office from three years to four years, with elections to be held in 2006, 2010 and 2014.

The City of Edmonton adopted a Ward Boundary Design Policy in 1994. The City of Edmonton's Ward boundaries are to be designed with the goal of lasting through at least three municipal elections before revisions are necessary.

The demographic information that is used during Ward Boundary Reviews is extracted from the Census, which is conducted by Statistics Canada once every five years, in years ending in 1 and 6. The most recent Census was taken in 2006 and the next census will be conducted in 2011. The detailed census data that is required to undertake demographic review at the ward level, is only released to the public two years after the census date. For example, detailed 2006 census data will only be available for review in mid 2008. The alignment of census data and municipal elections is shown in the chart below:

Statistics Canada Census	Detailed Census Data Release Year	Municipal Election
2006	2008	2010
2011	2013	2014
2016	2018	2018

The proposed policy recommends that the CGS Ward Boundary Review be triggered after every third election. This balances a period of stability within the ward system with a periodic cycle of review to ensure that the principles of equal and effective representation are maintained. The last City of Greater Sudbury Ward Boundary Review was completed prior to the municipal election of 2006. With the new term of Council being four years, the policy suggests a review would take place every twelve years with the next review scheduled to follow the 2014 election. If this policy is adopted, staff would begin the statistical analysis of demographic data by ward when the information is released in 2013 and would report to the new Council within six months of the 2014 election, allowing sufficient time both to conduct a comprehensive ward boundary review process if it is deemed to be needed and to allow for any challenges to be heard well in advance of the next election.

The proposed Ward Boundary Policy proposes that a detailed ward based population review be completed after every third election and that when the number of eligible electors in any one ward fluctuates by more than 25% from the average number of electors per ward then a recommendation would be made to Council to complete a Ward Boundary Review. Furthermore, it is proposed that when the number of eligible electors in any one ward fluctuates more than 20% of the average number of electors per ward and where a significant community of interest is negatively affected, options for Ward Boundary Review would be presented to Council for consideration.

MUNICIPAL WARD BOUNDARY REVIEWS: GUIDING PRINCIPLES

Our Country is founded on the principle of representative democracy and every Canadian citizen has the right to be represented in their government. The right to vote should include equal and effective representation. Equal representation means that each vote carries equal weight, regardless of where the voter lives. Effective representation means that voters have an equitable opportunity to access their elected representation and that there is a balance between distinct groups and the broader population base. A ward based electoral system is structured to ensure equal representation from all areas in a community. Many municipalities have developed policies, in advance of any proposed ward boundary review process, which policies take into account the need for equal and effective representation by establishing the guiding principles for ward boundary reviews.

The City of Kitchener Council Policy (Policy I-50) provides basic guiding principles that municipality uses when establishing or amending ward boundaries. The criteria and guiding principles which are considered by the City of Kitchener relate to the frequency of the ward boundary review, the composition of Council, the protection of communities of interest and neighbourhoods, representation by population, physical features as natural boundaries and present and future population trends.

The City of Ottawa decided to build on their experience gained through their previous ward boundary reviews and associated Ontario Municipal Board hearings and has established Terms of Reference outlining guiding principles for the conduct of a comprehensive Ward Boundary Review. The primordial principle is that of "*effective representation*" and criteria to be considered include: protection of communities of interest and neighbourhoods; representation by population; as well as present and future population trends. The Terms of Reference also include parameters in which the review will be conducted and specify that an external consultant be retained to guide the process.

The Town of Oakville appointed a Citizen's Committee to Review Ward Structure and Council Composition. Terms for Reference were established for the Committee which included the following Ward Boundary criteria: effective representation; protection of communities of interest and neighbourhoods; present and future population trends; physical features as natural boundaries and representation by population.

The Town of Markham follows four guiding principles for a Ward Boundary Review: equitable representation with population levels that are reasonably balanced between wards; sense of community that defines the boundary of wards; a compact and contiguous shape in the resulting ward configuration and consideration of Natural Barriers and Major Highways.

The City of Edmonton's Ward Boundary Design Policy establishes population compared to number of electors; future growth; respecting community league boundaries; communities of interest; diversity within wards; easily identifiable boundaries; least number of changes and block-shaped wards as its principles for ward boundary design.

PROPOSED GUIDING PRINCIPLES FOR THE CITY OF GREATER SUDBURY

The proposed Ward Boundary Policy uses the criteria that was adopted in 2005 for the Citizen's Committee for Ward Boundary Review (2002) as the basis for the guiding principles for ward boundary design:

- *Representation by Population*
- *Community of Interest*
- *Recognition of distinct geographic features*
- *Accounts for future population loss/growth*

In addition, it is recommended that the guiding principles include provisions for extensive public consultations whenever ward boundaries are reviewed for change. The following paragraphs will provide a detailed description of each of the four criteria.

Representation by Population:

Many municipalities, including the City of Greater Sudbury, have considered representation by population to be the primary factor in determining new ward boundaries. The City of Markham reviewed ward boundaries in 2005 and included as one of its Guiding Principles that there be "*equitable representation with population levels that are reasonably balanced between wards.*" Kitchener has just begun a ward boundary review process and has determined that:

"The population of wards should be as equitable as possible in this regard and at the same time ensure that each voter is being fairly and equitably represented."

Community of Interest:

Recent court decisions have shaped the electoral boundary review process across Canada, for example the Dixon and Carter decisions. The Supreme Court's ruling in the Carter case highlighted that the right to vote as enshrined in the Charter of Rights is the "*right to effective representation*" and that:

Relative parity of voting power is a prime consideration of effective representation. Deviations from absolute voter parity, however may be justified on the grounds of practical impossibility or the provision of more effective representation. 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. Beyond this, dilution of one citizen's vote compared with another's should not be countenanced." (Re Prov. Electoral Boundaries (Sask) (Carter)).

In order to ensure effective representation when conducting a Ward Boundary Review, many municipalities have considered the factor of community of interest as mentioned in the Carter Case. The definition of "*communities of interest*" can be quite broad, including spatial or geographic areas; community type (rural, suburban, urban); neighbourhoods; historic settlements; language; ethnicity; religious; cultural; and interest based communities. Sub-groups may exist within communities of interest and can include groups as varied as business or community associations, school or sports groups and ratepayer associations.

Recognition of distinct geographic features:

Ward boundaries and the number of wards recommended cannot be predetermined prior to the commencement of the Ward Boundary Review process as recent court and board rulings suggest that preconceived models can be considered gerrymandering of outcomes. Ward boundaries must be drawn impartially to avoid the manipulation of electoral boundaries for political advantage. When boundary lines are selected, there should be consideration of physical features such as natural barriers (rivers), arterial roads and railway lines as boundaries where appropriate to do so. Ward boundaries should be of a compact, contiguous shape, straightforward and easy to remember, for example, block-shaped with straight lines. Where possible, the distribution of residential, commercial, industrial, institutional and green space areas between wards will be considered so that each ward contains a mixture of these developments.

Accounts for future population loss/growth:

During the statistical data review, there should be consideration of past, present and future population trends. It is important to maintain similar population percentages between wards so as to ensure effective representation. The proposed policy states that population change over the past 10 years must be considered and that there should be capacity for twelve (12) years of growth built into the ward boundary structure.

The principles stated above are incorporated in the proposed Ward Boundary Review Policy, as all four of the criteria are important to ensuring equitable and effective representation. It is important to remember that even though the population principles are important, that effective representation is the common law standard for electoral boundaries in Canada. The proposed policy would assist in knowing which terms of reference to apply during the Ward Boundary Review process. It could be considered an important tool as Ward Boundary reviews are complex and extremely technical.

CONCLUSION

Therefore, it is recommended that Council accept that the CGS Ward Boundary Review be triggered after every third election and that the proposed policy outlining the Ward Boundary Review Guiding Principles be approved. It is important to respect the criteria for ward boundary reviews which have been developed to reflect recent Ontario Municipal Board and Court decisions and reflect best practices in other municipalities.

Council is asked to consider two options:

Option 1:

That Council accept and implement the Ward Boundary Review Policy to describe the frequency and guiding principles for triggering Ward Boundary Reviews in the City of Greater Sudbury and that the first review occur in 2014.

or

Option 2:

That Council accept and implement the Ward Boundary Review Policy to describe the frequency and guiding principles for triggering Ward Boundary Reviews in the City of Greater Sudbury and that the first review occur at a date determined by Council.

City of Greater Sudbury Ward Boundary Review Policy

PART A: Frequency of Ward Demographic Reviews

A review of ward demographics will be initiated after every 3rd municipal election. The most recent Ward Boundary Review was completed in 2005 and implemented on December 1, 2006.

Staff will use demographic data as gathered in the most recent census, to conduct a detailed review of ward populations over the past ten years and giving consideration to anticipated population growth over the next twelve year period.

Where it is found that the number of eligible electors in any one ward is, or within twelve years will be, +/-25% of the average number of electors per ward, a recommendation will be made to Council to initiate a Ward Boundary Review.

Where it is found that the number of eligible electors in any one ward is, or within twelve years will be, +/-20% of the average number of electors per ward and where a significant community of interest is negatively affected, options for a Ward Boundary Review will be presented to Council for consideration.

PART B: Ward Boundary Review Guiding Principles

- Representation by Population
Voters should be equally represented and wards should have reasonably equal population totals, with no more than a +/-25% difference from the average number of electors per ward.
- Community of Interest
Ward Boundaries will respect the principle of effective representation, including the development of ward boundaries that reflect communities of interest and traditional neighbourhoods.
- Recognition of distinct geographic features
Ward boundaries will be drawn impartially and with consideration to using distinct physical and geographic features as ward boundaries and to ensuring that ward boundaries are reasonably simple and identifiable.
- Accounts for future changes in ward population
Take into consideration anticipated changes in population of a period of twelve years, or three elections.
- Public Consultation
The Ward Boundary Review process will include broad and effective public consultations.