



SUBJECT: Ward Boundary Review
TO: Committee of the Whole
FROM: Office of the City Clerk

Report Number: CL-03-24

Wards Affected: All

Date to Committee: March 4, 2024

Date to Council: March 19, 2024

Recommendation:

Approve Option 2: Council Composition and Ward Boundary Review, the associated expenditure of \$220,000, and the use of the Election Reserve Fund to offset the costs; and

Direct the City Clerk to retain an independent consultant to conduct the Council Composition and Ward Boundary Review.

PURPOSE:

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture

Executive Summary:

A review of the municipality's ward boundaries is typically undertaken every three to four election cycles to ensure the electoral system represents the principles of effective representation. Staff recommend that an independent consultant be retained through an RFP process to complete the review. Public consultation and engagement will be paramount to the review, regardless of which review scope option is approved.

Background and Discussion:

At the July 11, 2023 Council meeting, Office of the City Clerk staff were directed to bring back a report on the potential City of Burlington ward boundary review for consideration including an option to review council composition and governance model. The purpose of this report is to provide Council with information on a proposed ward boundary review and to seek direction on the scope and process of the review, and approval of the proposed budget for this exercise. The goal of the review itself is to ensure voters are represented equally in the decision-making process and to establish a ward structure that will accommodate growth and population shifts for at least the next three municipal election cycles (2026, 2030, 2034).

A ward boundary review is typically undertaken every three to four election cycles to ensure the division of wards in the City reflects the principles of effective representation. Effective representation as established by the Supreme Court of Canada in what is commonly known as the “Carter Case”¹, means that the primary consideration is voter parity, along with factors to be considered such as geography, community history, community interests and minority representation.

The last ward boundaries review for the City of Burlington took place in 2005 and was implemented for the 2006 municipal election. Through this review, the City’s six ward boundaries were re-drawn, and a seven-member council maintained. Burlington has had a seven-member council since 1997, when Burlington had a population of 139,000. Since the last review, the population of Burlington has increased from approximately 160,000 in 2005, to approximately 186,948 in 2021, according to Census population data. The City’s increasing rate of growth over the last 10 years is expected to continue. Given the length of time that has elapsed since the last review, where established ward boundaries were in force for the last five election cycles, along with continued population growth, staff believe that undertaking a ward boundary review at this time is appropriate.

¹ Reference re Prov. Electoral Boundaries (Sask.), 1991, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/766/index.do>

Strategy/process/risk

Legislative Authority

The *Municipal Act, 2001*, as amended (“the Act”) provides the legislative framework for municipalities to change its composition of council and review ward boundaries. Section 222(1) provides that a municipality is authorized to “divide or re-divide the municipality into wards or to dissolve the existing wards.” Section 222(3) requires that a municipality provides public notice that a ward boundary by-law has been passed within 15 days after the by-law is passed. The notice must specify the last date for filing a notice of appeal. Section 222(4) of the Act states that within 45 days of the ward boundary by-law being passed, it may be appealed to the Ontario Land Tribunal (Formerly the Local Planning Appeal Tribunal, and the Ontario Municipal Board before that). For any changes to be in effect for the 2026 Municipal Election, the by-law establishing new ward boundaries must be in force before January 1, 2026. This means if the by-law establishing new boundaries is appealed to the OLT, the notices of appeal must be withdrawn, or the Tribunal must have issued an order to affirm or amend the by-law before that date.

Section 223(1) also provides a mechanism where electors of a municipality can present a petition to Council asking them to pass a by-law dividing or re-dividing a municipality into wards or dissolving the existing wards. The petition requires the signatures of 1% of the electors in the municipality or 500 electors in the municipality, whichever is less. If council does not pass a by-law in accordance with the submitted petition within 90 days of receiving the petition, any of the electors who signed the petition may appeal to the OLT to have the municipality divided or re-divided into wards or have the existing wards dissolved. The Tribunal is required hear the application and may make an order dividing or re-dividing or dissolving the existing wards. It is important to point out that in this scenario the Tribunal becomes the decision maker for establishing ward boundaries with little input from the municipality.

Principles of a Ward Boundary Review

The *Municipal Act, 2001*, as amended, provides authority to municipalities to change their ward boundaries, however it does not specify how to conduct such a review or parameters to consider. Municipalities that have undertaken this exercise have relied on a set of generally accepted principles considered when reviewing ward boundaries. Effective representation is the key test for any ward boundary review, as confirmed by

the OMB² and the courts in the Carter case. The goal of any review is to establish a ward system that achieves this principle by assessing how well residents are represented. In general, it means that one person’s vote should hold the same weight as another person’s vote. In applying it to ward boundaries, it suggests that wards should have similar populations. In practice, however, it means that achieving effective representation must include balancing several factors:

Voter Parity: Voter parity speaks to the relationship between a ward’s population and the average ward population of all municipal wards. Ward populations need to be similar but not necessarily identical. Voter parity is assessed in terms of percentage around the average ward population. If the range gets too large, effective representation is lost. Determining the appropriate variance is complex. A figure of +/-25% variance has traditionally been suggested as a standard, however this could mean a range of 50% between the largest and smallest wards in terms of population. Some recent reviews show that there is an evolving standard of +/- 10-15% variance in ward populations in urban and suburban areas.

Burlington’s population as per the 2021 census and variance from the average are shown in the table below. Based on the total population of 186,948, the average ward population is 31,158.

Table 1. 2021 Census Populations by Ward

Ward	Population as per 2021 census	Variance
1	28,542	-8.4%
2	26,945	-13.5%
3	23,497	-24.6%
4	36,441	17%
5	36,049	15.7%
6	35,474	13.9%
Total:	186,948	

² The OMB was replaced by the Local Planning Appeal Tribunal (LPAT) in 2018, which then became the Ontario Land Tribunal (OLT) in 2021.

Table 2. 2022 Municipal Election Elector Counts by Ward

Ward	2022 Election Elector Count	Variance
1	22,673	-4.3%
2	20,898	-11.8%
3	18,883	-20.3%
4	28,499	20.2%
5	26,245	10.7%
6	25,018	5.6%
Total:	142,216	

Table 2 shows the 2022 municipal election elector counts per ward and variance from average of 23,703 electors. Although legislation usually refers to electors, it is standard to consider total population counts in ward boundary reviews. This recognizes that Council serves not just electors but a much broader constituent base. The elector count variances however show a similar trend as the population data.

Communities of Interest: The term communities of interest refers to different neighbourhoods and commercial areas of a municipality. It also considers different types of communities such as urban or rural. Examples of communities of interest include neighbourhoods, heritage conservation districts, business improvement areas and ethno-cultural groups that live in the same area. Communities of interest have different needs and perspectives that need to be respected and not disenfranchised or diluted while establishing ward boundaries. The Carter case recognizes that the protection of communities of interest may override the principle of voter parity where the inclusion of a community of interest will lead to a system that is more representative of a municipality’s diversity.

Natural and Physical Boundaries: Ward boundaries should be drawn with consideration given to distinct physical and geographic features as they are highly recognizable and often naturally separate communities of interest. Examples of natural and physical boundaries include hills, valleys, rivers, highways, railways, or green spaces such as parks, trails, etc.

Future Population Trends: Ward boundary reviews should consider future changes in ward population. Any new ward structure should last for three to four election cycles and should reflect future growth both in terms of amount as well as location.

Over the last few years, there have been a whole range of changes made to the planning framework in Ontario including the Royal Assent of Bill 23, More Homes Built

Faster Act, 2022, Bill 97, Helping Homebuyers, Protecting Tenants Act, 2023 and Bill 150, Planning Statute Law Amendment Act, 2023, that will have an impact on future growth in Ontario and in Burlington. Additionally, there are proposed changes to the PPS and Growth Plan currently being considered by the Province. These shifts necessitate a new Growth Analysis Study that considers the new and changing policy landscape in Ontario, Halton Region and Burlington. The procurement process for this work is currently underway through the City's Population and Employment Growth Analysis Study as a part of the [Burlington Official Plan, 2020, Targeted Realignment Exercise, Initial Workplan Report](#) (See [Appendix D](#) for more details).

As forecasted by Watson & Associates Economists Ltd, as part of the DC Background Study provided in report [F-25-23 Development Charges and Community Benefits Strategy draft growth assumptions](#) (see [Appendix A](#) for more details), the population of Burlington is estimated to grow to 210,989 by 2034. These numbers and assumptions are supported by staff and Council for a specific purpose, as the best information available at the time, and will be updated and influenced by the findings of the City's Population and Employment Growth Analysis study work.

Council Composition Review and Regional Governance

Section 217 of the *Municipal Act, 2001*, as amended, provides that a local municipality may change the composition of its council, with the following rules:

- Minimum of 5 members, one of which is the Head of Council
- Members are elected in accordance with the *Municipal Elections Act, 1996*
- Head of Council is elected by general vote
- Members other than the Head of Council are elected by general vote, or wards or by any combination of general votes and wards.

The Act also states that any changes to council composition at the local level shall not affect composition at the regional level. This means that in the event that a change to composition occurs for the City, it does not automatically affect or trigger a composition review at the regional level. Additionally, before passing a by-law to change its council, the municipality must provide notice of its intentions and must hold at least one public meeting.

In 1996 Burlington adopted two principles concerning regional representation: that the Mayor should be one of the City's representatives on Regional council, and that the regional councillors from the City of Burlington should sit on both City and Regional Council. At that time the size of Burlington's Council was reduced from 17 to 7 members, and all 7 City Council members sat on Regional Council, as is the case today.

If Council wishes to review its composition at the same time as the ward boundary review, any change in composition will establish the preconditions for governance and serve as a basis for ward boundary review. In addition to the above-mentioned considerations and factors for a ward boundary review, other factors considered may include the capacity to represent. 'Capacity of represent' is often equated with councillors' workload. It considers ward size, types and breadth of concerns, ongoing growth and development and complexity of issues that the elected officials deal with. Any increases to the number of members of council would have financial implications for the Corporation, including but not limited to council remuneration, support staffing and requirements for additional office space.

Appendix A provides a comparison of other municipalities, their governance structures and population by member statistics. It shows that Burlington's population per member is similar to Vaughan, Richmond Hill, Hamilton, London and Markham.

Section 218(6) of the Act requires that a regional municipality shall review the number of members of its Council that represent the lower-tier municipality following the 2018 regular election, and every second regular election after that. Since Halton Region reviewed its composition after the 2018 election, the next composition review will take place after the 2026 election. A motion can be brought forward to review regional council composition and regional representation before then, and any changes to composition would need to meet the triple majority requirement. This means that a majority of local councils, a majority of regional Councillors, and a majority of the represented regional population must be in favour of a change to regional council composition.

Provincial Regional Review

In November 2022, the provincial government indicated that 6 regions including Halton, would be subject to a regional review process. In May 2023, Council endorsed a [motion](#) that demonstrated its commitment to actively participate in the upcoming assessment of Halton Region upper and lower-tier responsibilities. On September 13, 2023 the newly appointed Minister of Municipal Affairs and Housing announced that the Chair of the Legislature's Standing Committee on Heritage, Infrastructure and Cultural Policy would take on the work of the regional review. The scope of the review would focus on the ability of the two-tier government to support the construction of new homes and provision of effective local governance in general. It would also review whether responsibilities and services of each level of government can be combined, amended, or transferred to support construction of new homes, and whether the municipal governance in the region supports the construction of new homes and effective local governance in general. It would also look at whether any changes to regional governance would enhance local services or provide better value for taxpayers. The Province's direction on regional review shifted from appointment of regional review

facilitators to public hearings through the Standing Committee on Heritage, Infrastructure and Cultural Policy. The hearings, currently underway, have no defined date of completion/decision arising from this work. On January 26, 2024, the Minister of Municipal Affairs and Housing issued a letter to the Chair of the Peel Region Transition Board providing clarity for the recalibrated scope of the Board's mandate in light of the Province's decision not to dissolve Peel Region. This re-calibration work is expected to result in the provision of recommendations on the transfer of services currently provided by the Region of Peel to the City of Mississauga, the City of Brampton and the Town of Caledon. In January 2024, the City Manager provided Council with a [Regional Review Update CM-01-24](#). At this time, the regional CAOs have begun work to explore opportunities to streamline and optimize services, shifting the focus to service instead of governance structure. Staff has included this as a consideration, as other municipalities who have paused their ward boundary and composition reviews in anticipation of the potential impacts of provincial regional reviews, are moving ahead with boundary reviews.

Engaging a Consultant

It is recommended that an independent, third-party consultant lead the ward boundary review in order to ensure that there are no perceptions of staff conflicts in determining ward boundary recommendations to Council. Most urban municipalities that have undertaken ward boundary and composition reviews in recent years have engaged consultants to lead the review. The consultant would conduct research, develop, and execute a workplan that includes public consultation. Options and recommendations would be reported to Council. Additionally, the consultant would be an expert witness in the event of any appeals of the OLT of any Council-approved by-law to revise ward boundaries.

More specifically, the consultant responsibilities would include:

- Carrying out a ward boundary review that will withstand legal scrutiny and possible appeals to the OLT;
- Developing a review workplan and community engagement strategy for the review;
- Undertaking required electoral, public policy and other research to inform the ward boundary process;
- Implementing a two-stage engagement and consultation strategy with residents, key stakeholders, and Members of Council to gather input on current and proposed ward boundaries; and
- Developing ward boundary options and a recommended option for Council's consideration and approval by the spring of 2025.

The full scope of the consultant’s responsibilities will be included in the Terms of Reference for the review once the scope is approved by Council.

Projected Timeline

Staff are seeking an approval to retain a consultant to meet statutory timelines to have any new ward boundaries in place for the 2026 Municipal Election. As outlined above, for any new ward boundaries to be in effect for the 2026 Municipal Election, a by-law must be in effect by January 1, 2026, and any appeals must be concluded by this date.

Below is a proposed high-level timeline that may be subject to modification by the consultant once they are brought on board and depending on the scope of the review as approved by Council.

Task	Timeline
1. RFP process, evaluation and contract negotiation	April – May 2024
2. Consultant onboarding and project initiation	May – June 2024
3. Development of communication and engagement plan	May – June 2024
4. Consultant review, research and public consultation (this includes 2 rounds of public consultation)	June 2024 – December 2024
5. Final report to Council for consideration	February 2025
6. Enactment of by-law	February 2025
7. Public notice of enactment of by-law	February 2025
8. 45-day OLT appeal period	April 2025
9. Notice(s) of appeal forwarded to the OLT by City, if applicable	April 2025
10. Expected OLT decision (within 6-8 months), if applicable	May 2025 – December 2025
11. GIS work to redraw boundaries and forward information to Elections Ontario	2025/early 2026
12. Communications plan re: new boundaries	Ealy 2026, leading up to the election

Post ward boundary review and resolution of any appeals, work will begin to finalize the new ward boundaries. Ward boundary change information will be provided to Elections Ontario which now has the legislated responsibility for the Preliminary List of Electors for municipal elections. Staff will work with Corporate Communications and Engagement to develop a communications plan to inform residents of the new boundaries and potentially any changes in school trustee distribution if appropriate leading up to the 2026 election.

Anticipating Appeals

In planning and implementing the ward boundaries review the potential of appeal must always be considered. In the past Tribunal decisions that have been consistent, four tests are usually applied to determine the validity of a ward boundary review:

1. Has the consultant team undertaking the ward boundary review been objective and independent from council and staff direction;
2. Has the principle of effective representation been achieved;
3. Was the public engagement and consultation process robust and provided participants with opportunity to provide input on the design of the wards and ability to comment on various options; and
4. Are the population projections that determined the voter parity component of effective representation credible.

These four pillars have been reinforced in the OMB (now the Ontario Land Tribunal) decisions in the Ottawa, Toronto and Hamilton ward boundary review appeals and will be considered in drafting of the terms of reference for the review.

Options Considered

Below are options for Council to consider to determine the scope of the proposed review.

Option 1	Review of ward boundaries; maintaining the current council composition
Details:	Council direction to review current ward boundary reviews, while maintaining the current composition of 1 Head of Council (Mayor) and 6 City and Regional councillors.
Considerations:	<ul style="list-style-type: none"> • Review would consider boundary realignment to achieve the principle of effective representation for the next three election cycles. • Extensive public consultation and engagement will be conducted as part of the review
Timeline:	Timeline would generally remain as proposed above with minor modifications as the consultant is onboarded
Budget:	\$125,000 (based on other municipal comparators)

Budget breakdown:	<ul style="list-style-type: none"> • Research, review and completion of final report and recommendations for boundary realignment by Consultant • Public consultation and engagement by consultant • Advertising/promotion costs (tactics to be determined as part of communications plan) 	<p>\$65,000</p> <p>\$35,000</p> <p>\$25,000</p>
Option 2	Council composition and ward boundary review	
Details:	Council direction to review and explore options for council composition and serve as basis for the ward boundary review, should composition change.	
Considerations	<ul style="list-style-type: none"> • Change to composition of council would serve as the basis for re-drawing of the ward boundaries. • Changes to council composition at a local level do not impact regional council composition. • Currently all 6 City Councillors sit on Regional Council with the Mayor. • Halton Region will look to review their council composition after the 2026 municipal election. • Extensive public consultation and engagement will be conducted as part of the two phases of the review. This is a critical component of each phase of the review. 	
Timeline	Timeline for the review may need to be adjusted to incorporate the additional phase of composition review into the workplan	
Budget:	\$220,000 (based on other municipal comparators)	
Budget Breakdown:	<ul style="list-style-type: none"> • Research, review and completion of final report for options and recommendations for council composition by Consultant (phase 1) • Public consultation and engagement by consultant (phase 1) • Research, review and completion of final report and recommendations for boundary review by Consultant (phase 2) • Public consultation and engagement by consultant (phase 2) • Advertising/promotion costs (tactics to be determined as part of communications plan to account for 2 phases of the review) 	<p>\$60,000</p> <p>\$35,000</p> <p>\$65,000</p> <p>\$35,000</p> <p>\$25,000</p>
Option 3	Status quo: Maintain current ward boundaries and council composition	

Details:	Council may decide not to proceed with a ward boundary review at this time.
Considerations:	<ul style="list-style-type: none"> • If Council decides not to proceed with a review, petitions by electors can be filed as per Section 223(1) of the Municipal Act. • Current ward boundaries are already showing a population variance and are likely to continue to increase due to population shifts and growth. Increased range in voter parity would result in effective representation being lost. • The current ward structure has been in effect for the last 5 municipal elections. • Given that a regional council composition review will take place after the 2026 election, Council may consider delaying the review until that term.
Timeline:	Ward boundaries review would take place during the 2026-2030 term of council with effect for the 2030 municipal election.
Cost:	There may be costs incurred should a petition to re-draw ward boundaries be filed and a subsequent appeal take place.

Financial Matters:

Budget for this exercise will be determined by the scope of the review as approved by Council. Further refinements will be possible once the RFP process is completed.

Total Financial Impact

If Council approves Option 1, the proposed budget for the project will be \$125,000. Should Option 2 be approved, the proposed budget will increase to \$220,000.

Source of Funding

The funding source for the proposed ward boundaries review is the Election Reserve Fund. The balance in this reserve fund is just over \$400,000 as of December 31, 2023.

Other Resource Impacts

Staff in the Office of the City Clerk will lead the project and will collaborate with the Corporate Communications and Engagement team, along with staff from Procurement, GIS, Planning and Legal, depending on the phase of the project.

Climate Implications:

Not applicable.

Engagement Matters:

Extensive engagement and public consultation will be key in the ward boundary review to ensure wholesome input and feedback from the community. A robust communications plan will be developed by the Consultant in collaboration with Corporate Communications and Engagement teams. Emphasis will be placed on engagement with residents, businesses, and various stakeholders, and communications will be leveraged to educate residents about the review and effective representation to ensure they can participate with full information.

Having a consultant lead the engagement and public consultation will ensure that feedback received from the larger community is meaningful and politically unmotivated. While the final report and option will be approved by Council, it is critical that engagement allow for residents to speak freely outside of Council influence. The project will be transparent, open and take into consideration the story of residents, their wards, and their feelings about how they are represented.

Conclusion:

The City of Burlington is anticipating growth and continues to navigate recent and ongoing changes to the provincial and regional policy frameworks. This is the ideal time to review the current ward boundaries that have been in place for the last five election cycles. The ward boundary review will consider future growth and ensure that any changes to ward boundaries follow the principle of effective representation for the next three election cycles. To do this effectively, staff recommend engaging a consultant to lead the review and public consultation process.

Respectfully submitted,

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Appendices:

A. Appendix A – Population by member municipal comparators

Notifications:

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Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.