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In force date of regulations: As of March 4, 2005*, the date a regulation comes into force is determined by subsection 3(6) of the *Regulations Act*. The date a regulation is made, the date a regulation is approved, the date a regulation is filed and any date specified in a regulation are important to determine when the regulation is in force.

*Date that subsections 3(6) and (7) and Sections 11 and 13 of the *Regulations Act* and amendments to the *Regulations Act* made by Chapter 46 of the Acts of 2004 were proclaimed in force.

N.S. Reg. 78/2006

Made: May 25, 2006

Filed: May 30, 2006

Municipal Government Act Rules

Order dated May 25, 2006
made by Utility and Review Board
pursuant to Section 12 of the *Utility and Review Board Act*

Nova Scotia Utility and Review Board
Rules of Practice and Procedure
Respecting *Municipal Government Act* Proceedings

1 These Rules are made pursuant to Section 12 of the *Utility and Review Board Act* and apply to appeals and applications under the *Municipal Government Act*.

Short title and object

2 (1) These Rules may be cited as the *Municipal Government Act Rules*.

(2) The object of these Rules is to secure the just, speedy and economic determination of every appeal or application.

Definitions

3 In these Rules

- (a) "Act" means the *Municipal Government Act*;
- (b) "agent" means a person who has been lawfully authorized to act on behalf of an Applicant or an Appellant;
- (c) "Board" means the Nova Scotia Utility and Review Board;
- (d) "Clerk" means the Clerk of the Board;
- (e) "decision" includes a refusal, failure or neglect to make the decision sought;
- (f) "holiday" means Saturday or a holiday as defined in the *Interpretation Act*, S. 7 (1)(j);
- (g) "person" includes an unincorporated organization, a corporation and the heirs, executors, administrators or other legal representatives of a person;
- (h) "proceeding" includes any application, appeal, matter or thing that the Board has jurisdiction to hear or determine under the Act;
- (i) "written evidence" includes reports, documents, letters, appraisals, hard copies of overhead projection sheets, calculations and other data which a party intends to present as evidence at the hearing or pre-hearing;
- (j) "visual evidence" includes photographs, maps, audio tapes, videos, charts, models, overlays and computer generated images which a party intends to present as evidence at the hearing or pre-hearing.

General

- 4 (1) Where procedures are not provided for in these Rules or in an enactment, the Board may do whatever is necessary and permitted by law to enable it to effectively and completely adjudicate on the matter before it.
- (2) The Board may dispense with, amend, vary or supplement, with or without a hearing, all or part of these Rules at any time by making a procedural order, if it is satisfied that the special circumstances of the appeal or application so require, or it is in the public interest to do so.
- (3) The Board may make directions on procedure and procedural orders which shall govern the conduct of a specific appeal or application.
- (4) The Board may extend or abridge the time fixed by these Rules or otherwise fixed by the Board, and may do so of its own initiative or in response to a motion by any party whether or not the motion to extend or abridge the time is made after the time so fixed has expired.
- (5) Unless otherwise specified, where these Rules or a Board order make reference to the number of days between two events, not expressed to be clear days, the number of days shall be calculated by excluding the day on which the first event happens and including the day on which the second event happens. If the last day falls on a day the Board offices are closed, the time shall automatically be extended to the next business day.
- (6) No appeal or application before the Board shall be defeated or affected by any technical objection or by any objection based upon defects in form or procedure.

Filing of notice of appeal, application or other documents

- 5 (1) Any Notice of Appeal, application or other document to be filed with the Board shall be filed with the Clerk.
- (2) A Notice of Appeal or application shall be in writing and shall be signed by the Appellant, the Applicant, or the agent or solicitor acting on their behalf.
- (3) Any document to be filed with the Board, including a Notice of Appeal or application, shall be filed with the Clerk by any of the following methods:
- (a) delivering a copy to the Clerk at the Board's office;
 - (b) mailing a copy to the Clerk;
 - (c) transmitting a copy to the Clerk via fax or e-mail; or
 - (d) such other manner as the Board may determine.
- (4) A Notice of Appeal under the Act must be filed with the Board within 14 days after the date prescribed in S. 249 of the Act, except when the 14th day falls on a holiday, in which case the Notice of Appeal must be filed with the Board on the next day that is not a holiday. (The date of filing of a Notice of Appeal has been interpreted as the date, up to midnight, that the document is actually received by the Board (not the date it is sent), and that the Board has no power to grant extensions).
- (5) All documents filed shall be date stamped by the Board and any document, other than a Notice of Appeal or other document the filing of which is required by the Act, filed with the Board after 4:00 p.m. or on a holiday shall be considered to have been filed on the next working day.

- (6) In all cases where documentary evidence is offered, the Board, in lieu of requiring the originals thereof to be filed, may accept true copies of such evidence or such parts of the same as may be relevant, or may require such evidence to be transcribed as part of the record.
- (7) When a document is filed with or served on the Board by e-mail transmission, a hard copy or fax of the document shall be provided to the Board within three days thereafter.
- (8) When a document is filed with or served on the Board by e-mail transmission or fax, the sender shall obtain an acknowledgement from the Clerk of its receipt.

Service of documents

- 6 (1) Where any document is required to be served on another person, service shall be effected by any of the following methods:
- (a) personal service upon the person;
 - (b) delivering a copy to the person's proper address;
 - (c) sending a copy by ordinary mail addressed to the person at his or her proper address;
 - (d) transmitting a copy to the person via fax or e-mail, where the person has provided a fax number or e-mail address; or
 - (e) such other manner as the Board may determine.
- (2) Where a person has indicated that he or she shall be represented by an agent or counsel, service of a document, including a Notice of Appeal, shall be effected upon that person's agent or counsel by any of the methods listed in subsection (1).
- (3) Service of any document, including a Notice of Appeal or application, may be proved by affidavit, oral testimony, or both.
- (4) When a document is served on a person by e-mail transmission, a hard copy or fax of the document shall be provided within a reasonable period thereafter if requested by the recipient.

Confidential documents

- 7 (1) Subject to subsection (2), all documents filed in respect of an appeal or application shall be placed on the public record.
- (2) A party may request that all or any part of the document be held in confidence by the Board, which request shall be placed on the public record.
- (3) The burden of satisfying the Board that a document should be held in confidence is on the party claiming confidentiality.
- (4) Any request for confidentiality shall
- (a) include a summary of the nature of the information in the document;
 - (b) state
 - (i) the reasons for the request, including the details of the nature and extent of the specific harm that would result if the document were publicly disclosed, and

- (ii) any objection to placing an abridged version of the document on the public record, and the reasons for such an objection; and
 - (c) be filed with the Board and served on the parties.
- (5) Where a party has made a request under subsection (2), the document shall be held in confidence unless the Board orders otherwise.
- (6) A party may object to a request for confidentiality by filing an objection and serving the objection on the parties.
- (7) An objection shall state the reasons
 - (a) why the party requires disclosure of the document; and
 - (b) why disclosure would be in the public interest.
- (8) The party claiming confidentiality will have an opportunity to reply to any objection.
- (9) The Board may decide the issue with or without a hearing. Where the Board holds a hearing, the Board may direct that the hearing be held in the absence of the public.
- (10) In ruling on a request for confidentiality the Board shall consider
 - (a) whether the document may disclose matters involving public security;
 - (b) whether the document may disclose sensitive financial, commercial or personal matters in relation to which the desirability of avoiding disclosure in the interest of any person affected outweighs the desirability of adhering to the principle that documents be available to the public; or
 - (c) such other matters as the Board deems appropriate.
- (11) The Board may
 - (a) order that the document be held in confidence by the Board;
 - (b) order that the document be placed on the public record;
 - (c) order that an abridged version of the document be placed on the public record;
 - (d) order that the document be made available to a party to the proceeding, who has a good faith interest in accessing the confidential information and who would not otherwise be in conflict of interest, on such terms as the Board considers appropriate, including the signing of a confidentiality undertaking in a form approved by the Board;
 - (e) order that the document be withdrawn; and
 - (f) make any other order the Board may deem to be in the public interest.

- (12) Where the Board rejects a claim for confidentiality, the party claiming confidentiality may, within seven (7) days of receiving the Board's ruling, or such other time as the Board may allow, notify the Board in writing that
- (a) if the party has filed an appeal or application, the appeal or application is withdrawn; or
 - (b) if the party is an intervenor, the intervention is withdrawn.
- (13) Where a party provides written notice to the Board pursuant to subsection (12), if the document is on file with the Board, the Board shall immediately return the documents for which confidentiality was claimed.

Amendment of documents

- 8 Subject to subsection (2), a document received by the Board may be amended at any time with leave of the Board.
- 9 A Notice of Appeal may not be amended for the purpose of adding Appellants.

Admission of facts

- 10 (1) The parties to any proceeding before the Board may, by admission in writing filed with the Board, agree upon the facts or any of the facts involved therein, which admission, if filed, shall be regarded and used as evidence at the hearing.
- (2) The Board may require such additional evidence as it may deem necessary.

Preliminary hearings

- 11 (1) In any appeal or application, the Board may, on its own initiative or at the request of any party, hold a preliminary hearing to deal with any matter that may aid in the disposition of the hearing, including to
- (a) consider any preliminary motion for an order dismissing the appeal or application on the grounds that the Board lacks jurisdiction to hear the appeal or application, that an appellant is not an aggrieved person, that a Notice of Appeal was filed too late, or for other reasons that may appear;
 - (b) determine any question as to the admissibility of any evidence;
 - (c) clarify or simplify the issues;
 - (d) consider the necessity or desirability of an amendment to the Notice of Appeal, application, or any other document;
 - (e) consider the participation by interested persons;
 - (f) consider a request for access to information in the custody or control of any party;
 - (g) consider the possibility of obtaining agreements to facts and to documents that will avoid unnecessary proof;
 - (h) fix dates for the hearing and for any procedural steps to be completed by the parties;
 - (i) make any directions for the pre-filing of witness lists or expert witness statements and reports (except as otherwise provided for in these Rules), or direct further disclosure where necessary;

- (j) determine issues of confidentiality, including any need to hold a part of the hearing in the absence of the public, or to seal documents.
- (2) Unless otherwise ordered by the Board, it shall not be necessary to give notice of a preliminary hearing by advertisement in a newspaper.
- (3) Following the preliminary hearing, the Board may make an order giving such directions as the Board deems advisable.
- (4) The Board member who presides at a preliminary hearing shall not be deemed to be seized of the appeal or application, and any subsequent hearing related to the appeal or application may be heard by that member or any other member.
- (5) Where a party intends to request dismissal of an appeal or application pursuant to subsection (1)(a) herein, the party shall seek a preliminary hearing to deal with the issue.
- (6) Where a party requests a preliminary hearing to seek an order, including an order relating to subsection (1)(a), and intends to present written or visual evidence at that preliminary hearing in support of the granting of that order, the party shall provide a copy of such evidence to any other party and to the Board, not less than five business days before the preliminary hearing. Any other party, who intends to present written or visual evidence at the preliminary hearing, shall provide a copy of such evidence to all other parties, and to the Board, not less than one business day prior to the preliminary hearing.
- (7) Notwithstanding subsection (6), where a preliminary hearing is convened to determine whether an appellant is an aggrieved person, the person seeking standing as an aggrieved person shall first file the written or visual evidence sought to be relied upon at the preliminary hearing.

Disclosure of evidence before hearing

12 Subject to Rule 13,

- (1) an Appellant, or a party who filed an application, who intends to present written or visual evidence at a hearing shall provide a copy of such evidence to all other parties and to the Board, as directed by the Hearing Order referred to in Rule 14(4);
- (2) any other party who intends to present written or visual evidence at a hearing shall provide a copy of such evidence to all other parties and to the Board, as directed by the Hearing Order referred to in Rule 14(4);
- (3) evidence so disclosed will be considered to be evidence before the Board, unless a party objects.

Disclosure of expert reports

13 Notwithstanding Rule 12,

- (1) unless a copy of a report containing the full opinion of an expert, including the essential facts on which the opinion is based, a summary of the expert's qualifications, and a summary of the grounds for each opinion expressed, has been served on each party and filed with the Board, as directed by the Hearing Order referred to in Rule 14(4), the evidence of the expert shall not be admissible at the hearing without leave of the Board;
- (2) if the report of an expert does not comply with the requirements of subsection (1), the Board may, on the application of another party, make an order requiring the party providing the report to comply with that subsection;

- (3) where a copy of the report has been filed and delivered as provided in subsection (1), the expert shall be required to attend at the hearing unless all other parties give notice that they do not require the attendance of the expert at the hearing, which notice shall be given as soon as is reasonably possible.

Hearing date

- 14 (1) The Clerk, in consultation with the parties, shall attempt to set a date for the hearing of the appeal or application.
- (2) Where the parties cannot reach agreement as to a date, the Chair shall set a date for the hearing.
- (3) The Clerk shall notify the parties of the date of the hearing.
- (4) The Board may issue a Hearing Order setting the date for the hearing and containing directions on disclosure and procedure.

Hearings

- 15 (1) Hearings may be conducted in an informal manner and need not follow the strict rules of practice and procedure required in a court of law.
- (2) The Board may, at its discretion, conduct a hearing or preliminary hearing in person, in writing or by teleconference, video conference or by any other electronic means.
- (3) At the hearing of an appeal or application, the Appellant or Applicant shall present its evidence first, and after the evidence of all other parties is given, shall have the right to reply.
- (4) A party may call and examine witnesses, cross-examine opposing witnesses and present arguments and submissions.
- (5) The Board may receive in evidence any statement, document, information or matter that, in the opinion of the Board, may assist it to deal with the matter before the Board whether or not the statement, document, information or matter is given or produced under oath or would be admissible as evidence in a court of law.
- (6) A party may be represented before the Board by counsel or an agent.
- (7) A hearing may be adjourned from time to time by the Board on reasonable grounds on its own motion or at the request of any party.
- (8) The Board, whenever it deems it desirable, may require briefs to be filed by the parties within such time as the Board may prescribe.

Informal settlement conference

- 16 (1) The Board may, on its own motion or at the request of any party, hold an Informal Settlement Conference in relation to any appeal or application.
- (2) An Informal Settlement Conference will be presided over by a Board member (the "Presiding Board Member"), and shall be subject to the following provisions:
 - (a) participation by a party is voluntary;
 - (b) the parties may attend the Informal Settlement Conference with, or without, legal counsel; or

- (c) when a party is represented by legal counsel, however, that legal counsel must, unless the Board otherwise directs, participate in the Informal Settlement Conference.
- (3) In the course of the Informal Settlement Conference, the Presiding Board Member may offer opinions to the parties about the likely outcome, in the view of that member, if the appeal or application proceeds to a hearing on the merits, and alternative procedures which may be available to the parties.
- (4) The Informal Settlement Conference will be confidential. Any information or documents provided or exchanged during the Conference, and any suggestion for resolution of the issues, or any offer to settle, made during the Conference, shall remain confidential, and not be disclosed in evidence in the present or any subsequent proceeding, nor be placed in the Board file, unless the party who provided the information or document, or who made the suggestion or offer, consents to such disclosure and to the manner of such disclosure.
- (5) Any notes made by the Presiding Board Member during the Informal Settlement Conference will remain confidential, and will not be released to any person or admitted into evidence in any proceeding.
- (6) The Presiding Board Member may not participate in the hearing of the appeal or application, unless otherwise requested by all parties involved in the Informal Settlement Conference.
- (7) (a) An agreement between the parties may, depending upon the circumstances of the particular proceeding, and the nature of the proceeding itself, include
- (i) withdrawal of an appeal or application;
 - (ii) withdrawal of opposition to an appeal or application;
 - (iii) agreement between the parties as to certain facts;
 - (iv) agreement between the parties that certain issues are to be included, or excluded, from the hearing on the merits; or
 - (v) such other agreement between the parties as the Board finds acceptable.
- (b) If, as a result of the Informal Settlement Conference, the parties are able to reach agreement with respect to certain matters, but not with respect to others, the Presiding Board Member may prepare a statement summarizing the points of agreement and disagreement, which will be distributed to the parties, and thereafter (with the consent of the parties) placed in the Board file for the information of the Board member or members who may eventually conduct a hearing on the merits with respect to the remaining issues.
- (8) If, as a result of the Informal Settlement Conference, an agreement is reached between the parties with respect to all or any of the issues, procedural or substantive, in the appeal or application, and the parties agree that an order of the Board may be appropriate in relation to that agreement, then the Presiding Board Member may take appropriate action, including
- (i) making an order to implement any matter agreed upon between the parties;
 - (ii) holding a hearing, with the consent of all parties, immediately or otherwise; or

- (iii) scheduling a hearing, with the consent of all parties, to be held by another Board member, to consider any issues relating to the public interest or requirements of the governing legislation, including notice to possible intervenors, before issuing any order which implements such agreement.

Audio and video recording of hearings

- 17** (1) Audio and video recording of an oral or electronic hearing which is open to the public may be permitted on conditions the Board considers appropriate.
- (2) The Board may refuse to permit the recording of all or any part of an oral or electronic hearing if, in the opinion of the Board, such coverage would inhibit specific witnesses or disrupt the proceeding in any way.
- (3) Where recording is allowed, the following shall apply unless otherwise directed by the Board:
- (a) only equipment which does not produce distracting sound or light shall be used;
 - (b) where possible, existing audio systems present in the hearing room shall be used;
 - (c) media personnel shall not move about while the hearing is in progress; and
 - (d) equipment shall be positioned unobtrusively before the hearing begins and shall not be relocated while the hearing is in progress.

Subpoenas

- 18** (1) At the request of a party, the Board may issue a subpoena, which shall be signed by the Clerk and sealed with the Board's seal.
- (2) A subpoena issued pursuant to subsection (1) shall be issued in the form prescribed by the Board and may set out the names of any number of persons required to appear before the Board.
- (3) No person served with a subpoena is required to appear before the Board pursuant to the subpoena unless the person has been paid or tendered conduct money in an amount sufficient to cover the person's reasonable fees and traveling expenses as fixed by the Board from time to time.
- (4) A subpoena shall be served personally on the person to whom it is directed at least two clear business days before the date on which the person is to appear.

Destruction of exhibits

- 19** (1) A person who has submitted exhibits to the Board may request that the Board return the exhibits.
- (2) The Board, at the end of six months from the date of the final order in the proceedings, provided no appeal or judicial review has been commenced within that time, may return requested exhibits and may destroy any remaining exhibits.

Costs

- 20** Except in respect of an appeal under Section 247 of the Act, any application for costs shall be governed by the Board's *Cost Rules*.

Planning appeals

- 21** (1) A planning appeal to the Board under Section 247 of the Act shall be by notice in writing and shall contain

- (a) the name of the Appellant;
 - (b) the name of the person making the decision;
 - (c) the date of the decision;
 - (d) the date that public notification of the decision was given; or the date on which written notice of the decision was received; or the date on which the decision is deemed to have been refused;
 - (e) a brief summary of the decision or a copy of the decision;
 - (f) the address of the Appellant or the name and address of an individual upon whom documents or notices relating to the appeal may be served;
 - (g) a phone number at which the Appellant or the individual referred to in paragraph (f) may be reached during normal business hours and a fax number, if available;
 - (h) reasons for appealing.
- (2) A Notice of Appeal may be in Form A.
- 22** (1) A Notice of Appeal shall be accompanied by the written undertaking of the Appellant, his solicitor, or his agent, agreeing to pay the costs of advertising the Notice of Public Hearing for the appeal, and agreeing to keep the list of names and addresses of assessed owners, which will be provided, confidential, and not to disclose it to any person, nor use it for any purpose, not related to the planning appeal.
- (2) Where a Notice of Appeal filed with the Board is not accompanied by the required written undertaking, the Board may extend the time for filing such undertaking, provided however that such extension of the time shall not exceed 14 days from the date of filing the Notice of Appeal.
- (3) Failure by the Appellant, his solicitor, or his agent to file the written undertaking shall not preclude the Board from setting the appeal down for hearing, advertising the Notice of Public Hearing, and thereafter recovering the cost of such advertisement from the Appellant.
- 23** When more than one Notice of Appeal is filed with the Board, arising out of the same decision, or affecting the same matter, the Board may require the several Appellants, or their solicitors or agents, to file a joint undertaking agreeing to pay the cost of advertising a Notice of Public Hearing, and agreeing to keep the list of names and addresses of assessed owners, which will be provided, confidential, and not to disclose it to any person, nor use it for any purpose, not related to the planning appeal.
- 24** (1) The municipality which is responsible for the decision which is the subject of the appeal shall, unless it has received leave of the Board, within 30 days of the filing of the Notice of Appeal, file with the Clerk and with any other party, the Appeal Record and the relevant Municipal Planning Strategy, Land Use By-law, Zoning By-law, Subdivision By-law or Subdivision Regulations.
- (2) An Appeal Record shall consist of the following:
- (a) a table of contents;
 - (b) the application;

- (c) the decision under appeal;
 - (d) a copy of the advertisements for any public hearing held relating to the subject of the appeal;
 - (e) a copy of the minutes of any public hearing respecting the subject of the appeal;
 - (f) a copy of the minutes of any council meeting at which the subject of the appeal was discussed;
 - (g) a copy of any report, letter, submission, recommendation or other matter respecting the subject of the appeal which was submitted to or was considered by council or the Development Officer, excluding any legal opinion prepared for the municipality for which privilege is claimed;
 - (h) a copy of the publication of the notice of the decision; or a copy of the written notice which was sent to the Applicant.
- (3) The pages of the Appeal Record shall be numbered.
- (4) Nothing in this Section shall be deemed to prejudice the right of any party to inspect and obtain copies of any documents prior to the time that the Appeal Record is to be filed.
- (5) In the case of an appeal from a decision of the Provincial Director of Planning or a Provincial Development Officer, the Appeal Record shall be prepared and filed by the Provincial Director of Planning or the Provincial Development Officer who made the decision.
- 25 (1) Upon receipt of the Appeal Record, the Clerk shall publish in the newspaper a Notice of Public Hearing advising the public that a Notice of Appeal has been filed with the Board, and advising that any aggrieved person has the right to intervene and participate in the public hearing.
- (2) Any aggrieved person wishing to intervene in the public hearing shall file a notice with the Board advising of his or her intention to participate in the hearing.
- 26 The Board may require the Appellant to serve, not later than two weeks before the date of the hearing, such other persons as the Board determines with a copy of the Notice of Public Hearing.

Municipal boundaries

- 27 (1) An application under Section 368 or 369 of the Act by a municipality which has been divided into polling districts shall contain the following information:
- (a) a list of the polling districts in the municipality and the number of councillors elected from each;
 - (b) a brief description of each polling district, including the names of the larger communities, its geographic size, any relevant geographic features, and any factors which establish a particular community of interest in the polling district;
 - (c) the latest available population statistics for the municipality and for each polling district;
 - (d) a table which shows the following information from the most recent municipal election:
 - (i) the number of electors in each polling district,

- (ii) the total number of electors in the municipality,
 - (iii) the percentage of the total number of electors in each polling district,
 - (iv) the average number of electors per councillor for the municipality,
 - (v) the number of electors per councillor for each polling district, and the number by which it exceeds or is less than the average number of electors per councillor,
 - (vi) the number expressed as a percentage by which the number of electors per councillor in each polling district exceeds or is less than the average number of electors per councillor.
 - (2) Where the application is to confirm the number and boundaries of the existing polling districts and the number of councillors to be elected therefrom, it shall contain the reasons why the status quo should continue.
 - (3) Where the application is to change the number or boundaries of the polling districts or the number of councillors elected therefrom, or both, it shall contain an outline of the proposed changes, reasons for the changes, a table similar to that referred to in subsection (1)(d) which shows an estimate of the elector statistics which will result if the change is approved.
 - (4) The application shall be signed by the mayor/warden and the clerk of the municipality and shall be accompanied by a copy of the resolution of council authorizing or directing the making of the application, certified by the Clerk of the municipality to be a true copy of the resolution.
 - (5) An application may be in Form B.
- 28** (1) An application under Section 368 or 369 of the Act by a town which has not been divided into wards or polling districts shall contain the following information:
- (a) the number of councillors;
 - (b) the geographic size of the town;
 - (c) the latest available population statistics for the town;
 - (d) the total number of electors in the most recent municipal election.
- (2) Where the application is to confirm the number of councillors, it shall contain the reasons why the status quo should continue.
 - (3) Where the application is to change the number of councillors, it shall contain an outline of the proposed changes and the reasons for the proposed changes.
 - (4) The application shall be signed by the mayor and the clerk of the town and shall be accompanied by a copy of the resolution of council authorizing or directing the making of the application, certified by the Clerk of the town to be a true copy of the resolution.
 - (5) An application may be in Form C.
- 29** (1) Every application shall be accompanied by

- (a) a copy of any advertisement soliciting input from the public in conducting the study;
 - (b) a copy of the Minutes of any council meeting and public hearing respecting the study or application;
 - (c) a map showing the boundaries of the existing polling districts;
 - (d) a description of the boundaries of the existing polling districts;
 - (e) where the application is to change the number or boundaries of the polling districts, a map showing the boundaries of the proposed polling districts and a description of the boundaries of the proposed polling districts;
 - (f) such additional information as Council determines.
- (2) Where an application under Section 358 (amalgamation or annexation), Section 368 (polling districts), Section 368 (incorporation of a town) or Section 394 (dissolution of a town) of the Act is made by a party other than a municipality or a town, the application shall contain, to the extent possible, the information outlined in Rules 27, 28 and 29(1) above, including Forms B and C, depending upon the nature of the application.

These *Municipal Government Act Rules* were made by the Nova Scotia Utility and Review Board at a Board meeting held on the 25th day of May, 2006, and replace and supercede other outstanding *Municipal Government Act Rules*.

Sgd: *Elaine Wagner*
 Elaine Wagner
 Clerk of the Board

Form A

NSUARB-

Nova Scotia Utility and Review Board

In the matter of: An Appeal under Section 247 of the *Municipal Government Act*

Notice of Planning Appeal

Take notice that _____ appeal from a
 (state name(s) of person(s) appealing)
 decision made by _____ on _____
 (municipal council or development officer) (date)
 respecting property located at _____ in the County of _____, which
 decision states (or attach a copy of the decision): _____

Notice of the decision was published on _____)
 or Written notice of the decision was received on _____ (date)

Reasons for appealing: _____

Dated at _____, Nova Scotia this _____ day of _____, _____.

Appellant, Solicitor or Agent

Mailing address:

(street) Home phone: _____

(city, province) Work phone: _____

(postal code) Fax number: _____

E-mail address: _____

Undertaking

The Appellant(s) hereby agrees to pay the costs of any advertising of the Notice of Public Hearing for the Appeal, and further undertakes to keep the list of names and addresses of assessed owners, which will be provided, confidential, and not disclose it to any person, nor use it for any purpose, not related to this planning appeal.

(Signature)

Form B

NSUARB

Nova Scotia Utility and Review Board

In the matter of: An application pursuant to Section 368 or 369 of the *Municipal Government Act*,

The Council of the Municipality of _____ makes application to the Nova Scotia Utility and Review Board to

- confirm the number and boundaries of polling districts
- confirm the number of councillors
- alter the number and boundaries of polling districts
- alter the number of councillors

1 There are at present _____ polling districts in the Municipality and _____ Councillors.

2 The following is a brief outline of each polling district in the Municipality, including the names of the larger communities, the geographic size, any relevant geographic features, and any factors which establish a particular community of interest in the polling district:

Polling District 1:

3 The latest population statistics for the Municipality are as follows:

Polling District

Population

Total:

4 The following table shows the results from the last municipal election which was held on

____ / ____ / ____
 m d y

Polling District	Number of Electors	% of Total Electors	Variation from the Average Number of Voters	
			#	%

Total number of electors:

Total number of councillors:

Average number of electors per councillor:

5 The number and boundaries of the polling districts and the number of councillors elected therefrom should be confirmed for the following reasons:

or

5 a) The following changes to the number and boundaries of the polling districts and the number of councillors to be elected therefrom are proposed:

b) The reasons for these proposed changes are as follows:

c) The following table shows an estimate of the voter statistics which will result if the changes are approved by the Board:

Polling District	Number of Electors	% of Total Electors	Variation from the Average Number of Voters	
			#	%

Total number of electors:

Total number of councillors:

Average number of electors per councillor:

Dated at)
County of)
this day of)
,)
.)
)
)
)

Mayor/Warden

Clerk

Form C

NSUARB

Nova Scotia Utility and Review Board

In the matter of: An application pursuant to Section 368 or 369 of the *Municipal Government Act* for use by towns which do not have polling districts or wards

The Council of the Town of _____ makes application to the Nova Scotia Utility and Review Board to

- confirm the number of councillors
- alter the number of councillors

- 1 There are at present _____ Councillors in the town.
- 2 The geographic size of the town is _____
- 3 The latest population statistics for the town are _____
- 4 The number of electors from the last municipal election which was held on _____ are
month day year
- 5 The number of councillors elected should be confirmed for the following reasons:

or

- 5 a) The following changes to the number of councillors to be elected are proposed:
- b) The reasons for these proposed changes are as follows:

Dated at)
County of)
this day of)
,)
.)
)
)

Mayor

Clerk

N.S. Reg. 79/2006

Made: May 25, 2006

Filed: May 30, 2006

Assessment Appeal Rules

Order dated May 25, 2006
made by Utility and Review Board
pursuant to Section 12 of the *Utility and Review Board Act*

Nova Scotia Utility and Review Board
Rules of Practice and Procedure
Respecting Appeals Under the *Assessment Act*

1 These Rules are made pursuant to Section 12 of the *Utility and Review Board Act* and apply to any appeals to the Board under the *Assessment Act*.

Short title and object

- 2** (1) These Rules may be cited as the *Assessment Appeal Rules*.
- (2) The object of these Rules is to secure the just, speedy and economic determination of every appeal.

Definitions

3 In these Rules:

- (a) “Act” means the *Assessment Act*;
- (b) “agent” means a person who has been lawfully authorized to act on behalf of an Appellant;
- (c) “appeal” means an appeal pursuant to Section 86 of the *Assessment Act*;
- (d) “Appellant” means the person who is appealing to the Board under the Act;
- (e) “Board” means the Nova Scotia Utility and Review Board;
- (f) “Clerk” means the Clerk of the Board;
- (g) “holiday” means Saturday or a holiday as defined in the *Interpretation Act*, S. 7 (1)(j);
- (h) “written evidence” includes reports, documents, letters, appraisals, hard copies of overhead projection sheets, calculations and other data which a party intends to present as evidence at the hearing or pre-hearing;
- (i) “visual evidence” includes photographs, maps, audio tapes, videos, charts, models, overlays and computer generated images which a party intends to present as evidence at the hearing or pre-hearing.

General

- 4** (1) Where procedures are not provided for in these Rules or in an enactment, the Board may do whatever is necessary and permitted by law to enable it to effectively and completely adjudicate on the matter before it.

- (2) The Board may dispense with, amend, vary or supplement, with or without a hearing, all or part of these Rules at any time by making a procedural order, if it is satisfied that the special circumstances of the appeal so require, or it is in the public interest to do so.
- (3) The Board may make directions on procedure and procedural orders which shall govern the conduct of a specific appeal.
- (4) The Board may extend or abridge the time fixed by these Rules or otherwise fixed by the Board, and may do so of its own initiative or in response to a motion by any party whether or not the motion to extend or abridge the time is made after the time so fixed has expired.
- (5) Unless otherwise specified, where these Rules or a Board order make reference to the number of days between two events, not expressed to be clear days, the number of days shall be calculated by excluding the day on which the first event happens and including the day on which the second event happens. If the last day falls on a day the Board offices are closed, the time shall automatically be extended to the next business day.
- (6) No appeal before the Board shall be defeated or affected by any technical objection or by any objection based upon defects in form or procedure.

Filing of notice of appeal or other documents

- 5 (1) Any Notice of Appeal or other document to be filed with the Board shall be filed with the Clerk.
- (2) A Notice of Appeal shall be in writing and shall be signed by the Appellant, or the agent or solicitor acting on behalf of the Appellant.
 - (3) Any document to be filed with the Board, including a Notice of Appeal pursuant to S. 86(2) of the Act, shall be filed with the Clerk by any of the following methods:
 - (a) delivering a copy to the Clerk at the Board's office;
 - (b) mailing a copy to the Clerk;
 - (c) transmitting a copy to the Clerk via fax or e-mail; or
 - (d) such other manner as the Board may determine.
 - (4) A Notice of Appeal under the Act must be filed with the Board within 30 days from the date the decision was mailed by the recorder of the regional assessment appeal court, except when the 30th day falls on a holiday, in which case the Notice of Appeal must be filed with the Board on the next day that is not a holiday. (The date of filing of a Notice of Appeal has been interpreted as the date, up to midnight, that the document is actually received by the Board (not the date it is sent), and that the Board has no power to grant extensions).
 - (5) All documents filed shall be date stamped by the Board and any document, other than a Notice of Appeal or other document the filing of which is required by the Act, filed with the Board after 4:00 p.m. or on a holiday shall be considered to have been filed on the next working day.
 - (6) In all cases where documentary evidence is offered, the Board, in lieu of requiring the originals thereof to be filed, may accept true copies of such evidence or such parts of the same as may be relevant, or may require such evidence to be transcribed as part of the record.

- (7) When a document is filed with or served on the Board by e-mail transmission, a hard copy or fax of the document shall be provided to the Board within three days thereafter.
- (8) When a document is filed with or served on the Board by e-mail transmission or fax, the sender shall obtain an acknowledgement from the Clerk of its receipt.

Contents of notice of appeal

- 6 (1) In addition to the requirements of S. 86(2) of the Act (including the civic address, property identification number or assessment account number), the Notice of Appeal shall include
- (a) the name of the Appellant;
 - (b) the name of the owner of the property which is the subject of the appeal;
 - (c) the location of the property which is the subject of the appeal;
 - (d) the Regional Assessment Appeal Court which made the decision;
 - (e) the date of the decision;
 - (f) the date that the decision was received by the Appellant;
 - (g) a brief summary of the decision or a copy of the decision;
 - (h) the grounds of appeal;
 - (i) the address of the Appellant or the name and address of an individual upon whom documents or notices relating to the appeal may be served;
 - (j) a phone number, if available, at which the Appellant or the individual referred to in clause (i) may be reached during normal business hours.
- (2) A Notice of Appeal shall be signed by the Appellant or the agent or solicitor acting on behalf of the Appellant.
- (3) A Notice of Appeal may be in Form A.

Service of documents

- 7 (1) Where any document is required to be served on another person, service shall be effected by any of the following methods:
- (a) personal service upon the person;
 - (b) delivering a copy to the person's proper address;
 - (c) sending a copy by ordinary mail addressed to the person at his or her proper address;
 - (d) transmitting a copy to the person via fax or e-mail, where the person has provided a fax number or e-mail address; or
 - (e) such other manner as the Board may determine.

- (2) Where a person has indicated that he or she shall be represented by an agent or counsel, service of a document, including a Notice of Appeal, shall be effected upon that person's agent or counsel by any of the methods listed in subsection (1).
- (3) Service of any document, including a Notice of Appeal, may be proved by affidavit, oral testimony, or both.
- (4) When a document is served on a person by e-mail transmission, a hard copy or fax of the document shall be provided within a reasonable period thereafter if requested by the recipient.

Confidential documents

- 8** (1) Subject to subsection (2), all documents filed in respect of an appeal shall be placed on the public record.
- (2) A party may request that all or any part of the document be held in confidence by the Board, which request shall be placed on the public record.
 - (3) The burden of satisfying the Board that a document should be held in confidence is on the party claiming confidentiality.
 - (4) Any request for confidentiality shall
 - (a) include a summary of the nature of the information in the document;
 - (b) state
 - (i) the reasons for the request, including the details of the nature and extent of the specific harm that would result if the document were publicly disclosed, and
 - (ii) any objection to placing an abridged version of the document on the public record, and the reasons for such an objection; and
 - (c) be filed with the Board and served on the parties.
 - (5) Where a party has made a request under subsection (2), the document shall be held in confidence unless the Board orders otherwise.
 - (6) A party may object to a request for confidentiality by filing an objection and serving the objection on the parties.
 - (7) An objection shall state the reasons
 - (a) why the party requires disclosure of the document; and
 - (b) why disclosure would be in the public interest.
 - (8) The party claiming confidentiality will have an opportunity to reply to any objection.
 - (9) The Board may decide the issue with or without a hearing. Where the Board holds a hearing, the Board may direct that the hearing be held in the absence of the public.
 - (10) In ruling on a request for confidentiality the Board shall consider

- (a) whether the document may disclose matters involving public security;
 - (b) whether the document may disclose sensitive financial, commercial or personal matters in relation to which the desirability of avoiding disclosure in the interest of any person affected outweighs the desirability of adhering to the principle that documents be available to the public; or
 - (c) such other matters as the Board deems appropriate.
- (11) The Board may
- (a) order that the document be held in confidence by the Board;
 - (b) order that the document be placed on the public record;
 - (c) order that an abridged version of the document be placed on the public record;
 - (d) order that the document be made available to a party to the proceeding, who has a good faith interest in accessing the confidential information and who would not otherwise be in conflict of interest, on such terms as the Board considers appropriate, including the signing of a confidentiality undertaking in a form approved by the Board;
 - (e) order that the document be withdrawn; and
 - (f) make any other order the Board may deem to be in the public interest.
- (12) Where the Board rejects a claim for confidentiality, the party claiming confidentiality may, within seven (7) days of receiving the Board's decision, or such other time as the Board may allow, notify the Board in writing that
- (a) if the party has filed an appeal, the appeal is withdrawn; or
 - (b) if the party is an intervenor, the intervention is withdrawn.
- (13) Where a party provides written notice to the Board pursuant to subsection (12), if the document is on file with the Board, the Board shall immediately return the documents for which confidentiality was claimed.

Amendment of documents

- 9 (1) Subject to subsection (2), a Notice of Appeal may be amended at any time with leave of the Board.
- (2) A Notice of Appeal may not be amended for the purpose of adding Appellants.

Preliminary hearings

- 10 (1) In any appeal, the Board may, on its own initiative or at the request of any party, hold a preliminary hearing to deal with any matter that may aid in the disposition of the hearing, including to
- (a) consider any preliminary motion for an order dismissing the appeal on the grounds that the Board lacks jurisdiction to hear the appeal, including but not limited to, by reason of S. 86 of the Act;

- (b) determine any question as to the admissibility of any evidence;
 - (c) clarify or simplify the issues;
 - (d) consider the necessity or desirability of an amendment to the Notice of Appeal or any other document;
 - (e) consider a request for access to information in the custody or control of any party;
 - (f) consider the possibility of obtaining agreements to facts and to documents that will avoid unnecessary proof;
 - (g) fix dates for the hearing and for any procedural steps to be completed by the parties;
 - (h) make any directions for the pre-filing of witness lists or expert witness statements and reports (except as otherwise provided for in these Rules), or direct further disclosure where necessary;
 - (i) determine issues of confidentiality, including any need to hold a part of the hearing in the absence of the public, or to seal documents.
- (2) Following the preliminary hearing, the Board may make an order giving such directions as the Board deems advisable.
- (3) The Board member who presides at a preliminary hearing shall not be deemed to be seized of the appeal, and any subsequent hearing related to the appeal may be heard by that member or any other member.
- (4) Where a party intends to request dismissal of an appeal for lack of jurisdiction pursuant to subsection (1)(a) herein, the party shall seek a preliminary hearing to deal with the issue.
- (5) Where a party (“the Applicant”) requests a preliminary hearing to seek an order, including an order relating to subsection (1)(a), and intends to present written or visual evidence at that preliminary hearing in support of the granting of that order, the Applicant shall provide a copy of such evidence to any other party and to the Board, not less than five business days before the preliminary hearing. Any party other than the Applicant, who intends to present written or visual evidence at the preliminary hearing, shall provide a copy of such evidence to the Applicant, to any other party, and to the Board, not less than one business day prior to the preliminary hearing.

Disclosure of evidence before hearing

11 Subject to Rule 12,

- (1) an Appellant who intends to present written or visual evidence at a hearing shall provide a copy of such evidence to all other parties and to the Board, as directed by the Hearing Order referred to in Rule 13(4);
- (2) any other party who intends to present written or visual evidence at a hearing shall provide a copy of such evidence to all other parties and to the Board, as directed by the Hearing Order referred to in Rule 13(4);

- (3) where market value of the property is at issue, the parties shall disclose to each other, and to the Board, pursuant to subsection (1) and (2) herein, any sales data and replacement cost calculations (including depreciation) intended to be tendered or relied upon at the hearing;
- (4) evidence so disclosed will be considered to be evidence before the Board, unless a party objects.

Disclosure of expert reports

12 Notwithstanding Rule 11,

- (1) unless a copy of a report containing the full opinion of an expert, including the essential facts on which the opinion is based, a summary of the expert's qualifications, and a summary of the grounds for each opinion expressed, has been served on each party and filed with the Board, as directed by the Hearing Order referred to in Rule 13(4), the evidence of the expert shall not be admissible at the hearing without leave of the Board;
- (2) if the report of an expert does not comply with the requirements of subsection (1), the Board may, on the application of another party, make an order requiring the party providing the report to comply with that subsection;
- (3) where a copy of the report has been filed and delivered as provided in subsection (1), the expert shall be required to attend at the hearing unless all other parties give notice that they do not require the attendance of the expert at the hearing, which notice shall be given as soon as is reasonably possible.

Hearing date

- 13** (1) The Clerk, in consultation with the parties, shall attempt to set a date for the hearing of the appeal.
- (2) Where the parties cannot reach agreement as to a date, the Chair shall set a date for the hearing.
- (3) The Clerk shall notify the parties of the date of the hearing.
- (4) The Board may issue a Hearing Order setting the date for the hearing and containing directions on disclosure and procedure.

Hearings

- 14** (1) Hearings may be conducted in an informal manner and need not follow the strict rules of practice and procedure required in a court of law.
- (2) The Board may, at its discretion, conduct a hearing or preliminary hearing in person, in writing or by teleconference, video conference or by any other electronic means.
- (3) At the hearing of an appeal, the Appellant shall present its evidence first, and after the evidence of all other parties is given, shall have the right to reply.
- (4) A party may call and examine witnesses, cross-examine opposing witnesses and present arguments and submissions.
- (5) The Board may receive in evidence any statement, document, information or matter that, in the opinion of the Board, may assist it to deal with the matter before the Board whether or not the

statement, document, information or matter is given or produced under oath or would be admissible as evidence in a court of law.

- (6) A party may be represented before the Board by counsel or an agent.
- (7) A hearing may be adjourned from time to time by the Board on reasonable grounds on its own motion or at the request of any party.
- (8) The Board, whenever it deems it desirable, may require briefs to be filed by the parties within such time as the Board may prescribe.

Notice of higher assessment

- 15** (1) A party intending to seek a higher assessment than that fixed by the Regional Assessment Appeal Court shall give notice of its intention to seek an increase in the assessment (and the amount sought) to all other parties and to the Board at least 30 days before the hearing of the appeal.
- (2) Where a party seeking an increase in assessment fails to comply with subsection (1) herein, the Board may refuse to consider the request for a higher assessment.

Informal settlement conference

- 16** (1) The Board may, on its own motion or at the request of any party, hold an Informal Settlement Conference in relation to any appeal.
- (2) An Informal Settlement Conference will be presided over by a Board member (the "Presiding Board Member"), and shall be subject to the following provisions:
- (a) participation by a party is voluntary;
 - (b) the parties may attend the Informal Settlement Conference with, or without, legal counsel; or
 - (c) when a party is represented by legal counsel, however, that legal counsel must, unless the Board otherwise directs, participate in the Informal Settlement Conference.
- (3) In the course of the Informal Settlement Conference, the Presiding Board Member may offer opinions to the parties about the likely outcome, in the view of that member, if the appeal proceeds to a hearing on the merits, and alternative procedures which may be available to the parties.
- (4) The Informal Settlement Conference will be confidential. Any information or documents provided or exchanged during the Conference, and any suggestion for resolution of the issues, or any offer to settle, made during the Conference, shall remain confidential, and not be disclosed in evidence in the present or any subsequent proceeding, nor be placed in the Board file, unless the party who provided the information or document, or who made the suggestion or offer, consents to such disclosure and to the manner of such disclosure.
- (5) Any notes made by the Presiding Board Member during the Informal Settlement Conference will remain confidential, and will not be released to any person or admitted into evidence in any proceeding.

- (6) The Presiding Board Member may not participate in the hearing of the appeal, unless otherwise requested by all parties involved in the Informal Settlement Conference.
- (7) (a) An agreement between the parties may, depending upon the circumstances of the particular proceeding, and the nature of the proceeding itself, include
- (i) withdrawal of an appeal;
 - (ii) withdrawal of opposition to an appeal;
 - (iii) agreement between the parties as to certain facts;
 - (iv) agreement between the parties that certain issues are to be included, or excluded, from the hearing on the merits; or
 - (v) such other agreement between the parties as the Board finds acceptable.
- (b) If, as a result of the Informal Settlement Conference, the parties are able to reach agreement with respect to certain matters, but not with respect to others, the Presiding Board Member may prepare a statement summarizing the points of agreement and disagreement, which will be distributed to the parties, and thereafter (with the consent of the parties) placed in the Board file for the information of the Board member or members who may eventually conduct a hearing on the merits with respect to the remaining issues.
- (8) If, as a result of the Informal Settlement Conference, an agreement is reached between the parties with respect to all or any of the issues, procedural or substantive, in the appeal, and the parties agree that an order of the Board may be appropriate in relation to that agreement, then the Presiding Board Member may take appropriate action, including
- (i) making an order to implement any matter agreed upon between the parties;
 - (ii) holding a hearing, with the consent of all parties, immediately or otherwise; or
 - (iii) scheduling a hearing, with the consent of all parties, to be held by another Board member, to consider any issues relating to the public interest or requirements of the governing legislation, including notice to possible intervenors, before issuing any order which implements such agreement.

Audio and video recording of hearings

- 17 (1) Audio and video recording of an oral or electronic hearing which is open to the public may be permitted on conditions the Board considers appropriate.
- (2) The Board may refuse to permit the recording of all or any part of an oral or electronic hearing if, in the opinion of the Board, such coverage would inhibit specific witnesses or disrupt the proceeding in any way.
- (3) Where recording is allowed, the following shall apply unless otherwise directed by the Board:
- (a) only equipment which does not produce distracting sound or light shall be used;
 - (b) where possible, existing audio systems present in the hearing room shall be used;

- (c) media personnel shall not move about while the hearing is in progress; and
- (d) equipment shall be positioned unobtrusively before the hearing begins and shall not be relocated while the hearing is in progress.

Subpoenas

- 18** (1) At the request of a party, the Board may issue a subpoena, which shall be signed by the Clerk and sealed with the Board's seal.
- (2) A subpoena issued pursuant to subsection (1) shall be issued in the form prescribed by the Board and may set out the names of any number of persons required to appear before the Board.
- (3) No person served with a subpoena is required to appear before the Board pursuant to the subpoena unless the person has been paid or tendered conduct money in an amount sufficient to cover the person's reasonable fees and traveling expenses paid in accordance with the Act.
- (4) A subpoena shall be served personally on the person to whom it is directed at least two clear business days before the date on which the person is to appear.

Destruction of exhibits

- 19** (1) A person who has submitted exhibits to the Board may request that the Board return the exhibits.
- (2) The Board, at the end of six months from the date of the final order in the proceedings, provided no appeal or judicial review has been commenced within that time, may return requested exhibits and may destroy any remaining exhibits.

Costs

- 20** Any application for costs shall be governed by the Board's *Cost Rules*.

These *Assessment Appeal Rules* were made by the Nova Scotia Utility and Review Board at a Board meeting held on the 25th day of May, 2006, and replace and supercede other outstanding *Assessment Appeal Rules*.

Sgd: *Elaine Wagner*
Elaine Wagner
Clerk of the Board

FORM A

NSUARB-

Nova Scotia Utility and Review Board
 1601 Lr. Water Street, Suite 300
 PO Box 1692, Unit "M"
 Halifax, Nova Scotia
 B3J 3S3
Tel: 902-424-4448 Fax: 902-424-3919

In the matter of: An appeal under Section 86 of the *Assessment Act* by:

Notice of Appeal

Take notice the Appellant(s) appeal from a decision of the Nova Scotia Regional Assessment Appeal Court made the _____ day of _____, 20 ____ and mailed by the Recorder to the Appellant(s) on the _____ day of _____, 20 ____ respecting property owned by _____ and located at _____ in the County of _____ Property Identification No. _____ Assessment Account No. _____ which decision is attached (a copy of the decision must be attached).

And that

- (1) **the specific matters of appeal are:** (examples: the assessment is too high; or the classification is wrong; or assessed ownership is incorrect; or other - specify)

- (2) **the specific component of the assessment being appealed is:** (examples: land value too high; or building value too high; or property should be classified as residential, not commercial; or incorrect ownership; or general level of assessment; or other - specify)

- (3) **the specific reason for the appeal:** (examples: not enough depreciation allowance for a building; or land sales or house sale prices around the base date indicate a lower value; or replacement cost (new) too high; or uniformity (general level of assessment) is wrong; or my activity on the property does not constitute a commercial one and I should be assessed as a residential property and not commercial; or the property sold to another person prior to December 1st preceding the assessment year; or other - specify)

Dated at _____, Nova Scotia, this ____ day of _____ 20____.

Appellant, Solicitor or Agent

Mailing address:

_____	Home phone no.	_____
_____	Business phone no.	_____
_____	Fax no.	_____