

MEMORANDUM

TO: John A. Budesky, County Administrator
FROM: Tara A. McGee, County Attorney
DATE: July 15, 2019
RE: Goochland/Louisa Boundary Line Agreement

Virginia Code § 24.2-309.2 prevents localities from creating, dividing, abolishing, or consolidating, any precincts, or otherwise changing the boundaries of any precinct between February 1, 2019 and May 15, 2021; however, there is a very valuable exception to this prohibition, allowing a change as a “result of a court order.” This exception would allow a change in the election district and precinct boundaries based on a court order obtained by the two localities going through the process, under Virginia Code § 15.2-3106 through -3108, to change the localities’ boundary line by agreement with court approval.

Louisa and Goochland Counties have already agreed to a new boundary line and submitted it to the Census Bureau. The boundary is shown, as required pursuant to Virginia Code § 15.2-3108, through a GIS map with the boundary established by Virginia State Plane Coordinates System, North/South Zone meeting National Geodetic Survey standards. Goochland’s map has 300 separate coordinate points identified along the boundary line between the two counties.

Today, Goochland County uses the census line as the boundary between Goochland and Louisa for election district purposes, but using that line causes problems with voter registration. Pursuant to Virginia Code § 24.2-417, the Goochland County Registrar is required to register “every resident of his county” who is qualified to vote. However, in order to be a “qualified voter” as defined in Virginia Code § 24.2-101, a person must be a resident of the precinct in which he seeks to vote. The problem with using the census line as the boundary between Goochland and Louisa is that it places some Goochland County residents outside of the precinct lines for some Goochland precincts and some Louisa County residents outside of the precinct lines for some Louisa precincts.

Election districts and precincts are required to have “clearly defined and clearly observable boundaries” pursuant to Virginia Code § 24.2-305. “Clearly observable boundaries” is defined in the state law; it generally refers to roads, streets, highways, rivers, and streams, as well as other natural or constructed or erected permanent physical features shown on an official map from VDOT, a US Geological Survey topographic map, or a polygon boundary on the TIGER/line files of the US Census Bureau.

The Goochland County election districts are described in Goochland County Code § 2-43 and its precincts are described in Goochland County Code § 2-64. In both of these ordinances, clearly observable boundaries are used to describe the demarcations between election districts or precincts, except that the descriptions also refer to the borders/lines with adjoining counties (e.g. “thence in an easterly direction along the Louisa County line to the Henrico County line”). Meg

Lamb, the Privileges and Elections Attorney with the Division of Legislative Services, clarified in a telephone conversation with me last Friday afternoon that the boundaries between localities do not have to meet the requirements for a “clearly observable boundary”; that requirement is for the boundaries that the Board actually establishes between election districts and precincts, but not for the locality’s actual boundary with another locality. Accordingly, the new boundary established by court order will be able to be used for election district and precincts despite the fact that the localities’ boundary line doesn’t use “clearly observable” boundaries.

Given the agreement between the two counties as to the boundary line, a court order approving the new agreed boundary line could be obtained in time by following the steps below. In the proposed timeline, the Court has up to three weeks to approve the petitions recognizing the new boundary in order to have the new boundary approved more than 60 days before the next general election (as required by Virginia Code § 24.2-306). **September 5 is the last date to have the new boundary approved.**

Once the boundary line is changed by court order, Virginia Code § 24.2-309.2 requires that the localities send copies of the change to the State Board of Elections and the Division of Legislative Services. Because its ordinance includes an electoral map, Goochland County would also need to adopt the new map as part of its ordinance.

The adoption of the current parcel boundary map which has been submitted to the Census Bureau does not address the approximately 10 parcels which are located on the “wrong” side of the boundary (i.e. parcels paying Goochland taxes, but which are located on the Louisa side of this boundary line and vice versa), but those parcels can be addressed in the future. Once the counties have had the opportunity to reach out to those property owners and advise them of the proposed change, a new map can be prepared, new petitions filed, and a new boundary approved by the Court. That new map will be submitted to the Census Bureau and it is my understanding that they will update maps based on locality boundary line adjustments even between the times of the decennial census.

Procedure for Boundary Line Agreement (BLA) Change under Va. Code §§ 15.2-3106 et seq.

1. Reach agreement with Louisa to cooperate in BLA; circulate BLA between the two localities for preliminary approval
 - a. Complete by **July 19**
2. Advertise intention to approve BLA by publishing descriptive summary in local papers for 2 successive weeks. Unlike for zoning public hearings, the second ad does not have to run at least 5 days before the public hearing.
 - a. **Goochland -- July 15** deadline to place advertisement in Goochland Gazette for July 18 and July 25 [July 23 deadline to advertise for July 25 and Aug. 1]
 - b. **Louisa** – same advertising deadlines and publication dates
3. Hold Public Hearing on BLA; adopt BLA
 - a. **Aug. 6 Goochland**
 - b. **August 5 Louisa**

4. Serve notice of BLA by first class mail to affected property owners. If the owners of at least one third of the affected parcels object to the change, they can intervene in the subsequent court proceeding.
 - a. Send notices by **Aug. 9**
5. Each locality petitions the circuit court for one of the affected localities to approve the BLA; include facts pertaining to the desire to change or relocate the boundary line and attach GIS map depicting the change in the boundaries of the localities with coordinates
 - a. Goochland County Attorney will prepare petition
 - b. Louisa County can “duplicate” Goochland’s petition
 - c. File petitions in Goochland Circuit Court by **Aug. 12**
6. Judge enter court order
 - a. 2 weeks from filing date is Aug. 26
 - b. 3 weeks from filing date is Sep. 3
 - c. Per 24.2-306(A), no changes can be made to boundary after **Sep. 6** (60 days prior to election on Nov. 5)
7. Registrars reassign voters based on BLA
8. Localities send notices to affected voters
 - a. Notice must be mailed by **Oct. 15** (at least 15 days prior to election per 24.2-306(B))