

# City of Detroit


## CITY COUNCIL

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TO: The Detroit City Council

FROM: David Whitaker   
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DATE: January 20, 2012

RE: **COUNCIL BY DISTRICT AND REDISTRICTING UPDATE**

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The Research & Analysis Division (RAD) submits this memorandum to aid Council in its redistricting responsibilities. It sets forth the legal requirements under Federal and State law as well as the 2012 Detroit City Charter. Proposed maps for Council's consideration have been submitted under separate cover.

The primary legal concern for any districting plan is compliance with the "one person, one vote" principle set forth by the U.S. Supreme Court<sup>1</sup> and subsequently extended to the various state city, town and county legislatures via the equal-protection clause of the 14<sup>th</sup> Amendment<sup>2</sup>. This principle mandates each citizen's vote should be of generally equal mathematical weight. Stated differently, the voting strength of the citizens in one district should not be greater than a citizen in another simply because there are fewer people in one district enjoying the same amount of representation compared to another more populated district.

Census data is utilized to determine whether districts comply with the "one person, one vote" principle. The data is organized into small areas of population called "blocks" which are then grouped together by local election officials in to election precincts. In drawing local election precincts, the drafters are prohibited from splitting precincts. Each local election district

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<sup>1</sup> Baker v. Carr, 369 U.S. 186 (1962) holding that reapportionment of state legislative districts was not a political question to be resolved through legislation due to conflicts of interests but is a justiciable federal question to be resolved by the federal courts; Reynolds v. Sims, 377 U.S. 533 (1964) that held state political districts of unequal size resulted in under-representation of some citizens' interests and over-representation of others'.

<sup>2</sup> Avery v. Midland County, Texas, et al., 390 U.S. 474 (1968) that extended "one man, one vote" rule from the fifty states to units of government that hold "general responsibility and power for local affairs."

must include the entirety of each election precincts contained within because each elector within a precinct must be voting from the same ballot.

The City's Department of Election began redrawing boundary lines for election precincts in September 2011, before the new Charter was voted upon and in advance of Council's redistricting efforts. Allowing the Department to conclude its activities prior to Council drawing its districts resulted in a cleaner, more simplified process. The Department was under time constraints to redraw the election precincts to conform to the most recent Census data and the recent redrawing of the U.S Congressional districts. The new Congressional district data included 51 boundary splits. The Department then merged or consolidated precincts to eliminate smaller precincts (ranging from 5 voters to 300) so that they could right-size and recognize cost savings. Based on 2010 U.S. Census data, the precincts were redrawn resulting in 485 precincts within the City of Detroit.<sup>3</sup> These new precinct boundaries were used in the drafting of the proposed district maps.

The Home Rule City Act<sup>4</sup> requires that the local legislative body, *i.e. Detroit City Council*, apportion districts utilizing the decennial U.S. Census data. Pursuant to the Act, the apportionment plan must provide for districts that "are nearly of equal population as is practicable and contiguous and compact." In drawing the drafting the district maps these were the only criteria utilized. These requirements track U.S. Supreme Court cases and federal law on the redistricting topic.<sup>5</sup> The Law Department will report verbally at the Council meeting scheduled for Monday, January 23<sup>rd</sup> as well as in writing under separate cover whether other factors can be utilized in evaluating the different options before your Honorable Body. We believe it most appropriate that Law singularly provide this specific information as the City's resident experts on Election law and as the entity that will handle any protests or claims stemming from this process.

The proposed districts should be scrutinized in light of how they apportion the population as reported in the 2010 U.S. Census data. Although districts should be as evenly distributed as possible, other constraints often make this impossible. Within the State of Michigan local governments are allowed a population deviation<sup>6</sup> not to exceed 11.9%.<sup>7</sup> In other words, the total departure between the most populated district and the least populated cannot exceed 11.9%.

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<sup>3</sup> In May of 2012, the Department anticipates mailing new voter registration cards to the more than 550,000 registered voters within the City of Detroit. All of the Detroit electorate will be apprised of their new representation (national, state, county, local) well in advance of the upcoming election season.

<sup>4</sup> MCL 117.27a(5)-(6).

<sup>5</sup> 15<sup>th</sup> Amendment to the U.S Constitution codified in the Voting Rights Act of 1965.

<sup>6</sup> Deviation is a technical term used to describe the degree to which a plan fails to apportion population evenly among districts.

<sup>7</sup> In Re Apportionment of Tuscola County Board of Comm'rs-2001 v. Tuscola County Apportionment Comm'n, 466 Mich. 78 (2002).

The Federal Voting Rights Act<sup>8</sup> (VRA) also places additional redistricting requirements on eligible jurisdictions. Section 2 prohibits discrimination in voting and applies nationwide to any voting standard, practice, or procedure that results in the denial or abridgement of the right to vote on account of race, color, or membership in a language minority group. It prohibits minority vote dilution (tactics, legislation, etc. that weaken the voting strength of minorities). Section 5 requires preclearances<sup>9</sup> for any change that applies to voting (such as a redistricting plan) and applies primarily to Southern communities with history of voter discrimination. As such, those requirements do not apply to the City of Detroit or this redistricting process.

The apportionment/redistricting plan must be filed with the city clerk (copies should be made available to registered voters of the city at cost).<sup>10</sup> Any registered voter of the City may petition the 3<sup>rd</sup> circuit court within 30 days after the filing of the plan. Redistricting must occur before the next general municipal election<sup>11</sup> in November of 2013. The primary will be held in August of 2013.

At this juncture, it may be most appropriate to convene a working group of representatives from CPC, RAD, Law, P&DD, and Dept. of Elections to analyze the proposed maps in conjunction with the City's development plans and other relevant issues.

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<sup>8</sup> 42 U.S.C. 1973c.

<sup>9</sup> From either the U.S Attorney General or U.S. District Court for the District of Columbia.

<sup>10</sup> MCL 117.27a(6).

<sup>11</sup> This redistricting must occur prior to the next general municipal election. This election cannot be earlier than 4 months after the official release date of the census figures. Michigan's official census data was released on March 22, 2011 and the next general municipal election is scheduled for November 2013, more than 4-months after the Census data was released.