

REDISTRICTING – LEGAL PRINCIPLES

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County Charter - Timeline

Charter Section 202(f)

- The Commission prepares a Redistricting Plan and presents the Plan to the Council by a date set by Council Resolution
- Within 30 days of receipt, the Council holds a hearing on the Plan
- If the Council does not enact an ordinance to set the boundaries of the Council districts by the date specified by Council Resolution, the Commission's Plan becomes law.
- Council Resolution 35-2021 was introduced on February 3, 2021. CR35-2021 sets the deadline for the Commission to present the Plan to the Council as September 7. Under CR35-2021, the date by which an ordinance would need to be enacted is January 7, 2022.
- At its legislative session on March 1, the Council tabled CR35-2021.

Drawing District Boundaries: Overview

- Charter Section 202(f) specifies that Councilmanic districts must be:
 - Compact
 - Contiguous
 - **Substantially equal in population**
 - Have common interest as a result of geography, history, or existing political boundaries

Drawing District Boundaries: Substantially Equal in Population

- Substantial equality is the controlling criterion
 - One person, one vote
 - *Reynolds v. Sims*, 377 U.S. 533 (1964)
 - *Legislative Redistricting Cases*, 331 Md. 574 (1993)
- Minor deviations in population are acceptable
 - 10% rule – a population deviation under 10% is generally acceptable
 - *Brown v. Thomson*, 462 U.S. 835 (1983)
 - *In re 2012 Legislative Districting*, 436 Md. 121 (2013)

Drawing District Boundaries: Compact and Contiguous

- Contiguous
 - Territory that is touching, adjoining and connected, as distinguished from territory separated by other territory.

- Compactness
 - Close union of territory
 - Due consideration must be afforded to the mix of constitutional and other factors which make some degree of noncompactness unavoidable, i.e., concentration of people, geographic features, convenience of access, means of communication, and the several competing constitutional restraints, including contiguity and due regard for natural and political boundaries, as well as the predominant constitutional requirement that districts be comprised of substantially equal population.

Drawing District Boundaries: Other Factors

- Common interest as a result of geography, history, or existing political boundaries
 - The primary intent of geography/existing political boundaries is to preserve fixed and known features that enable voters to maintain an orientation to their own territorial areas.
 - Howard County does not have any municipalities
 - History is not a permissible factor in attempting to justify disparities from population-based representation
- Non-Charter factors are allowed, but cannot override factors specified in the Charter
- Factors to avoid
 - Race (racial gerrymandering – drawing district boundaries based predominantly on race – violates the Equal Protection Clause)
 - Occupation

Drawing District Boundaries: Voting Rights Act

- The VRA prohibits practices and procedures that results in the denial or abridgement of the right of any citizen of the United States to vote on account of race or color or being a member of a language minority group
- A violation of this prohibition can be shown if political processes leading to nomination or election are not equally open to participation by members of a protected class of citizens and its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice
- Districts cannot be drawn in such a way as to dilute a minority population's voting power.