



Clerk's Office
Jane Leslie, City Clerk

From: Jane Leslie
To: Reapportionment Committee
Vern Pixley, Jim Rosen, Michael Webber
Cc: Bryan Barnett, John Staran
Date: May 25, 2011
Re: City Council Districts

Attached are copies of the Home Rule Cities Act, Section 117.27a, the approved County Commission Districts map, the proposed City Council Districts map, a precinct listing by District with population counts, City Charter, and Chapter 34 of the Code of Ordinances. You also have a memo from John Staran regarding the legal standards being applied. At the meeting I will have a list of the precincts with their voter numbers.

The Bureau of Elections notified us on May 4, 2011 that our City Council Districts/Wards must be reapportioned by the August 2, 2011 Primary Election pursuant to the Home Rule Cities Act. Our MIS Department advised on May 6 that we had our census data for the reapportionment process. Our filing deadline for candidates for the August Primary was May 10. This did not give Council the opportunity to approve new districts prior to an election cycle.

In the past, census data was not available during our City Election year immediately following the census. The information generally was received at the end of our election year – too late for reapportionment in our election cycle. In 1993 and 2003 new City Council Districts were approved and in place for the election cycle of those years. We were able to take the time to review boundaries, population numbers, polling place locations and availability and avoid displacing any seated Council Members in the process as well as giving notice to all voters and potential candidates for city office well ahead of a filing deadline. Technology has streamlined the entire process and speeded up the receipt of data. The Home Rule Cities Act, however, does not take this timeline for creating new district boundaries into consideration; it just says it must be done prior to the August Primary, and the state has given that direction.

When creating new district boundaries, we must look at the boundaries of our federal, state, and county representatives as well as our city representatives. The Bureau of Elections/Secretary of State distributed the listing of dates as they relate to the federal and state redistricting. These will occur in November of this year. The Oakland County Reapportionment Committee has finalized and approved their new boundaries for County Commissioners. We have reviewed the data, compared information, and have taken the liberty of proposing a new district map. You will note that several precincts have been split, added to another precinct or have been given a new precinct number; we are adding two new precincts for a total of 31. We found that to balance the districts, we had to shift some precincts and voters to different City Council Districts. This redistricting utilized the new County Commission Districts map to avoid any split district precincts.

The Congressional, State Senate and House of Representatives boundaries will have to be reviewed later this year when they are received and compared with our current redistricting to determine if any precincts are split or if a second redistricting has to happen – hope not!

As the City's Reapportionment Committee, you will meet to review and approve a new map, make your recommendation to City Council and be placed on the next Council meeting agenda (6/6) for Council's resolution of approval. Ballots must be ordered and voters must be notified of the changes. By law, absent voter ballots must be available 45 days prior to an election (6/18). As you can see, there is a very short window of opportunity to complete this process.

HAFELI STARAN HALLAHAN & CHRIST, P.C.

TO: City Clerk Leslie and City Council District Reapportionment Committee

FROM: John D. Staran, City Attorney

RE: *City Council District Reapportionment*

DATE: May 26, 2011

MEMORANDUM

Clerk Leslie will provide more background detail, but suffice it to say that state law, city charter and city ordinance require that, following the official release of the U.S. decennial census, the City Council shall apportion the City's council districts to provide for districts "which are as nearly of equal population as is practicable and contiguous and compact." MCL 117.27a(5). City Charter Section 7.3 further provides "Following each official United States Census, District boundaries shall be redrawn by the Council as necessary to maintain the population balance between the Districts." The census was officially released earlier this month, which starts the reapportionment process. In Rochester Hills, the process is governed further by City Code Chapter 34, Article II, which, in short, establishes a city council committee comprised of the 3 elected at-large councilmembers who, together with the City Clerk, are charged with the responsibility of meeting, analyzing census data, and recommending a reapportionment plan to the entire City Council for approval.

The requirement for district reapportionment is grounded in the "one person, one vote" legal rule, which the U.S. Supreme Court has held derives from the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. State and federal case law throughout the country, and in Michigan, has accepted some deviation in population among districts. For instance in *In re: Apportionment of Tuscola County Board of Cmrs*, 466 Mich 78 (2002), the Michigan Supreme Court upheld an 11.9% deviation in population between county districts.

Clerk Leslie has developed and shown to me a proposed reapportionment plan that I believe passes legal muster under the requirements spelled out by law and city ordinance, in that:

1. *It purports to equalize and maintain the population balance among the districts.* The City Clerk's plan would result in an average district population of 17,750, with only a 600 person difference between the highest and lowest district population.
2. *It is contiguous and compact.* The City Clerk's plan does not break up the districts or result in atypical boundaries. The boundaries follow visible, geographic delineations such as thoroughfares and, in the southwest part of town, a watercourse.

3. *It recognizes the quadrants of the City.* The Clerk's proposed plan does uphold the 4 quadrants of the City, and does not appear to be based on any artificial or inappropriate gerrymandering.

4. *It proposes a reasonable plan for election precincts.* As proposed, the drawing of district lines will promote a reasonable and efficient plan for election precincts, and according to Clerk Leslie, is compatible with County district boundaries that were adopted last Friday.

Timing is another issue which both Clerk Leslie and I have discussed. Rochester Hills is in a unique position in Oakland County, due to our upcoming primary election, and is one of the few municipalities in the state who are in this position of looking at district reapportionment in the midst of an odd-year election cycle. The timing is driven by the release of the census, state law, and interpretations thereof by the state and county elections officials. Both state and county election officials believe the City should reapportion prior to the August primary election. It has been determined that if the City Council approves an apportionment plan at the Council's June 6 meeting, it is possible to get ballots printed and issued in time to meet applicable deadlines and requirements for the August primary. Undoubtedly, it is inconvenient that this comes about after the candidate petition-filing deadline, but the proposed plan does not appear to displace any candidates or incumbent councilmembers, and it would arguably be more confusing and/or unfair to reapportion between the primary and general elections. The other alternative would be to delay the effective date of reapportionment to the 2013 election cycle. Arguments can be made that this makes sense, but at the same time it may be difficult to defend in the absence of supporting case law, and would appear to be contrary to statute and state and county election official interpretations, and would temporarily ignore official census data that tells us that are district populations are imbalanced. My recommendation is to proceed now with a goal of approving a district reapportionment plan at the June 6 City Council meeting.

Section 7.1- City legislative body

The legislative power of the City, except as reserved by this Charter, shall be vested in a Council of seven Members elected on a nonpartisan basis. Four of the Councilmembers shall be elected on a District basis; three Members shall be elected at-large. The Council shall have the power and authority to adopt such ordinances and resolutions as it shall deem proper in the exercise of its powers.

State law reference— Mandatory that Charter provide for a body vested with legislative power, MCL 117.3(a).

Section 7.2- Qualifications

Each Councilmember shall be a registered elector in the City and shall have been a resident of the City for one year immediately prior to the final date of filing of nominating petitions. A Council candidate shall be a resident of the District in order to represent a District and shall maintain residency in the district during the term of office. A Councilmember or Council candidate shall not be in default of payment of any tax, assessment or obligation owed to the City.

(Ref. of 11-4-2008)

State law reference— Mandatory that Charter prescribe qualifications of officers, MCL 117.3(d).

Section 7.3- Council Districts

There shall be four (4) Districts, the boundaries of which are delineated on the map in the Appendix to this Charter. Following each official United States Census, District boundaries shall be redrawn by the Council as necessary to maintain the population balance between the Districts.

Section 7.4- Term of office

The term of office of Councilmembers shall be four (4) years commencing on the second Monday next following the date of the regular City election at which they were elected. At each regular City election, two (2) District positions shall be elected. Two (2) At-Large positions shall be elected at a regular City election and the other At-Large position shall be elected at the next regular City election.

(Ref. of 11-7-1995)

ARTICLE II. - CITY COUNCIL DISTRICTS

Sec. 34-26. - Purpose.

Sec. 34-27. - Reapportionment of districts.

Sec. 34-28. - Population balance between districts.

Sec. 34-29. - Referral to council committee.

Sec. 34-30. - Official reapportionment plan.

Sec. 34-26. - Purpose.

Under chapter VII, section 7:3 of the Charter, the city council is required to redraw the boundaries of the city's four council districts following each official United States census. In redrawing the boundaries of the districts, the council shall follow the procedures set forth in this article.

(Code 1976, § 1-06.01)

Sec. 34-27. - Reapportionment of districts.

(a)

Generally. Within a reasonable amount of time following the date of the official release of the census figures for each United States decennial census, however, not to be later than 30 days after state law allows for precinct boundary changes, the city council, by resolution, shall reapportion the four districts of the city from which city councilmembers are elected.

(b)

Effective duration. The apportionment plan adopted as provided in this article shall be in effect for the city's primary and general election following adoption of a reapportionment plan and until a new reapportionment plan is adopted after the next decennial census.

(c)

Elections held according to Charter. After adoption of any reapportionment plan, councilmembers shall be elected from districts approved in the reapportionment plan, at such time and in accordance with the provisions of the Charter.

(Code 1976, § 1-06.02)

Sec. 34-28. - Population balance between districts.

(a)

Generally. City council district boundaries shall be redrawn by the council as necessary to maintain the population balance between the districts.

(b)

Factors considered. In carrying out the requirement of the Charter to maintain population balance between the districts, the council shall consider the following additional factors, giving importance to them in the order stated:

(1)

Contiguous and compact. The districts shall be as contiguous and compact as possible.

(2)

Quadrants of city recognized. Insofar as possible, the four districts shall recognize in separate districts the four quadrants of the city.

(3)

THE HOME RULE CITY ACT (EXCERPT)
Act 279 of 1909

117.27a Apportionment of wards; definitions.

Sec. 27a. (1) For the purposes of this section:

(a) "Local legislative body" means the council, common council or commission of a city.

(b) "Ward" means a district comprising less than all of the area of a city which constitutes the political unit from which 1 or more members of the local legislative body is nominated, elected or nominated and elected.

(2) The population of each city subject to the provisions of this section shall, in the first instance, be determined from the most recent official United States decennial census. Other governmental census figures of total city population may be used if taken subsequent to the latest decennial United States census and the last decennial United States census figures are inadequate for the purposes of this section. Each city shall have the power to conduct its own census for this purpose.

(3) This section shall be applicable to all cities that do not elect all the members of their local legislative body at large. This section shall not repeal any charter provisions meeting the standards established herein but shall be applicable to all charters that fail in whole or in part, to meet the standards herein, or the constitutional requirements of this state or United States constitution.

(4) In each such city subject to the provisions of this section the local legislative body, not later than December 1, 1967, shall apportion the wards of the city in accord with this section. In subsequent years, the local legislative body, prior to the next general municipal election occurring not earlier than 4 months following the date of the official release of the census figures of each United States decennial census, shall apportion the wards of the city in accord with this section.

(5) The local legislative body shall file the apportionment plan with the city clerk and make copies available at cost to any registered voter of the city. Such plan shall provide for wards which are as nearly of equal population as is practicable and contiguous and compact. Residents of state institutions who cannot by law register in the city as electors shall be excluded from population computations where the number of such persons is identifiable in the census figures available.

(6) Any registered voter of the city within 30 days after the filing of the apportionment plan for his city, or within 30 days after such apportionment plan shall be submitted, may petition the circuit court to determine if the plan meets the requirements of the laws and constitution of this state and the United States.

History: Add. 1966, Act 182, Eff. July 1, 1966.

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

168.656 Division of precincts.

Sec. 656. (1) A city, ward, township, or village using paper ballots, having less than 400 registered voters, which constitutes a single election precinct, in the discretion of the election commission, or other officials charged with the performance of the duty by the charter of the city or village, may be divided into 2 or more election precincts. In a township, upon a petition signed by not less than 25 qualified electors of the township showing the boundaries of the proposed election precincts, the township board shall submit to the electors of the township, at the next election held in the township, the question of the division of the township into election precincts, as set forth in the petition. If, at the referendum, the electors of the township decide in favor of the division of the township into such election precincts, the township board shall thereupon make the division and enter the same of record in the proceedings of the township board. When in a township, city, ward, or village, or in an election precinct therein, using paper ballots, there is 400 or more registered electors, the election commission of the township or city, or other officials charged with the performance of the duty by the charter of the city or village, shall by resolution divide the precincts into 2 or more precincts, or shall again divide the township, city, ward, or village into election precincts, so that there shall not be more than 400 registered electors in any 1 precinct.

(2) Except as provided in subsection (3), city and township election commissions shall divide precincts according to law, not later than 210 days before the primary next preceding the general November election, and shall immediately notify the county clerk of the number of registered voters in each precinct in such city or township. The county clerk shall notify the secretary of state not later than 200 days before the primary of any precincts in his or her county which have not been divided according to law, and the secretary of state shall proceed to make the divisions as are necessary at the expense of the city or township involved, not later than 180 days before the primary next preceding the general November election. The division of precincts shall be made effective not later than 180 days before the primary election next preceding the general November election.

✎ (3) In the second year following each federal census, precincts shall be divided pursuant to this subsection. City and township election commissions shall divide precincts, not later than 120 days before the primary election next preceding the general November election in order that a precinct, as far as is practical, is not split between districts and does not exceed 400 registered voters, and the commissions shall immediately notify the county clerk of the number of registered voters in each precinct in each city or township. The county clerk shall notify the secretary of state not later than 110 days before the primary of any precincts in the county which have not been divided, and the secretary of state shall proceed to make the divisions as are necessary at the expense of the city or township involved, not later than 90 days before the primary election. The division of precincts shall be made effective not later than 90 days before the primary election next preceding the general November election. The secretary of state may authorize, upon written request by a city or township election commission, a later division of a precinct which contains portions of more than 1 elective district. All precinct divisions under this subsection shall be completed not later than 90 days before the primary election next preceding the general November election.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1969, Act 290, Imd. Eff. Aug. 11, 1969;—Am. 1975, Act 325, Imd. Eff. Jan. 9, 1976;—Am. 1982, Act 2, Imd. Eff. Jan. 27, 1982.

Popular name: Election Code



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

Reapportionment – Key Dates and Tasks

Local Units of Government:

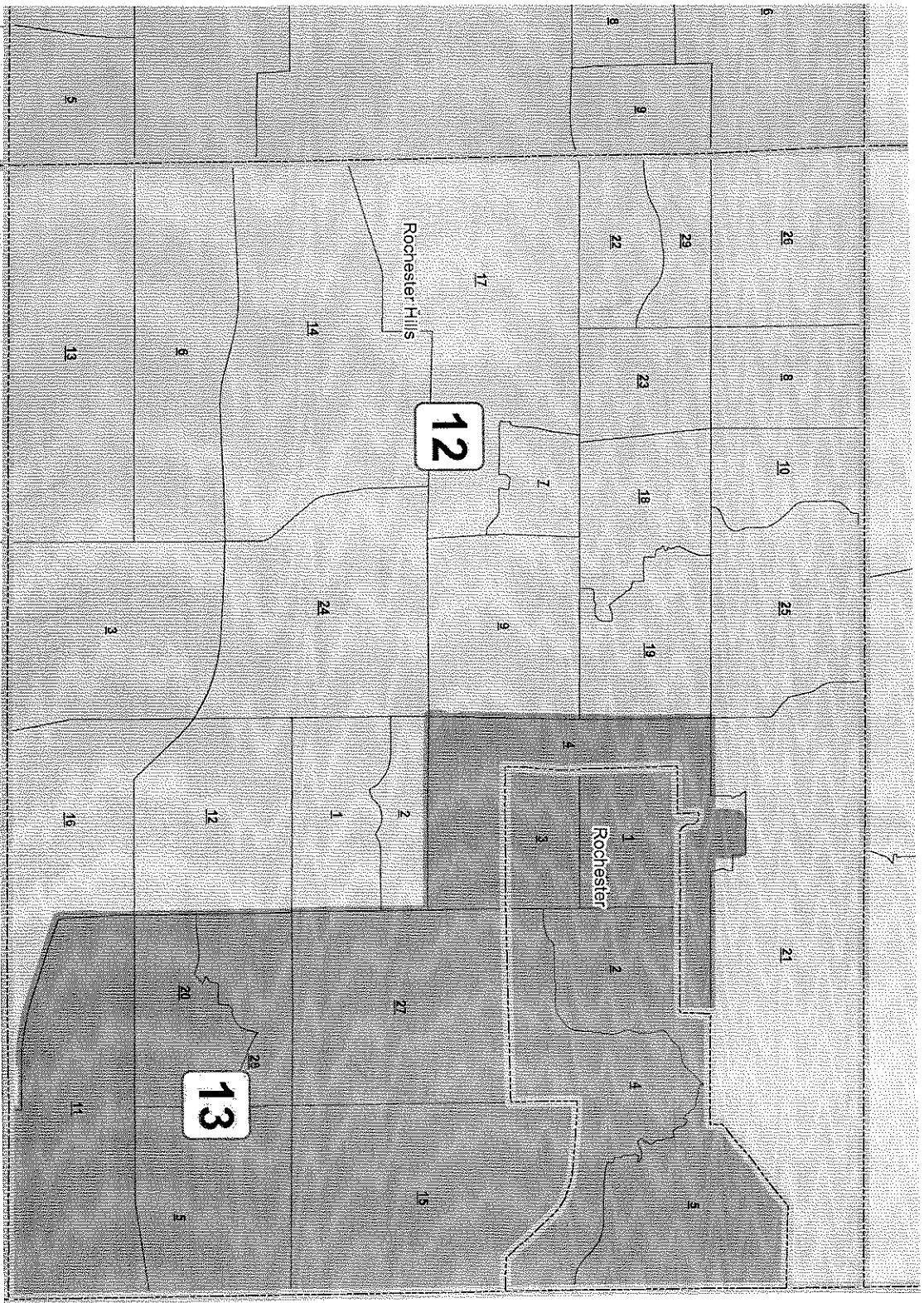
- * • A **home rule city** to whom MCL 117.27a applies must reapportion city wards and file the reapportionment plan with the city clerk. The **city clerk** must submit a copy of the resolution adopting the plan, old and new maps, and written description of the boundaries to the Bureau of Elections, and the new wards must be entered into the QVF street index prior to the August 2, 2011 election if 1) the city elects its council members by wards and 2) the city will conduct an election to fill its council positions on November 8, 2011.
- Each **township** having a population of at least 2,000 that has not incorporated as a charter township will be notified by the Secretary of State that it is eligible to incorporate as a charter township by this summer. MCL 42.3a.
- A reapportionment plan for every **county** commission must be adopted and filed with the county clerk within 60 days after the Secretary of State releases official census data to the counties, unless an extension is granted by the Court of Appeals. The **county clerk** must submit a copy of the resolution adopting the plan, a map of the new districts, population information, and written description of the boundaries to the Bureau of Elections. See 1966 PA 261. New county commission districts will be entered into the QVF street index prior to the 2012 election. The deadline for the submission of this data is June 6, 2011.

State Legislature:

- The state legislature is required to enact a redistricting plan for the state House and Senate into law on or before November 1, 2011. MCL 4.261. The plan is subject to review by the state Supreme Court if certain requirements are met. MCL 4.262.
- If the legislature fails to enact a redistricting plan by November 2, 2011, a political party or any of the four legislative caucus leaders may ask the state Supreme Court to prepare a redistricting plan. MCL 4.263.

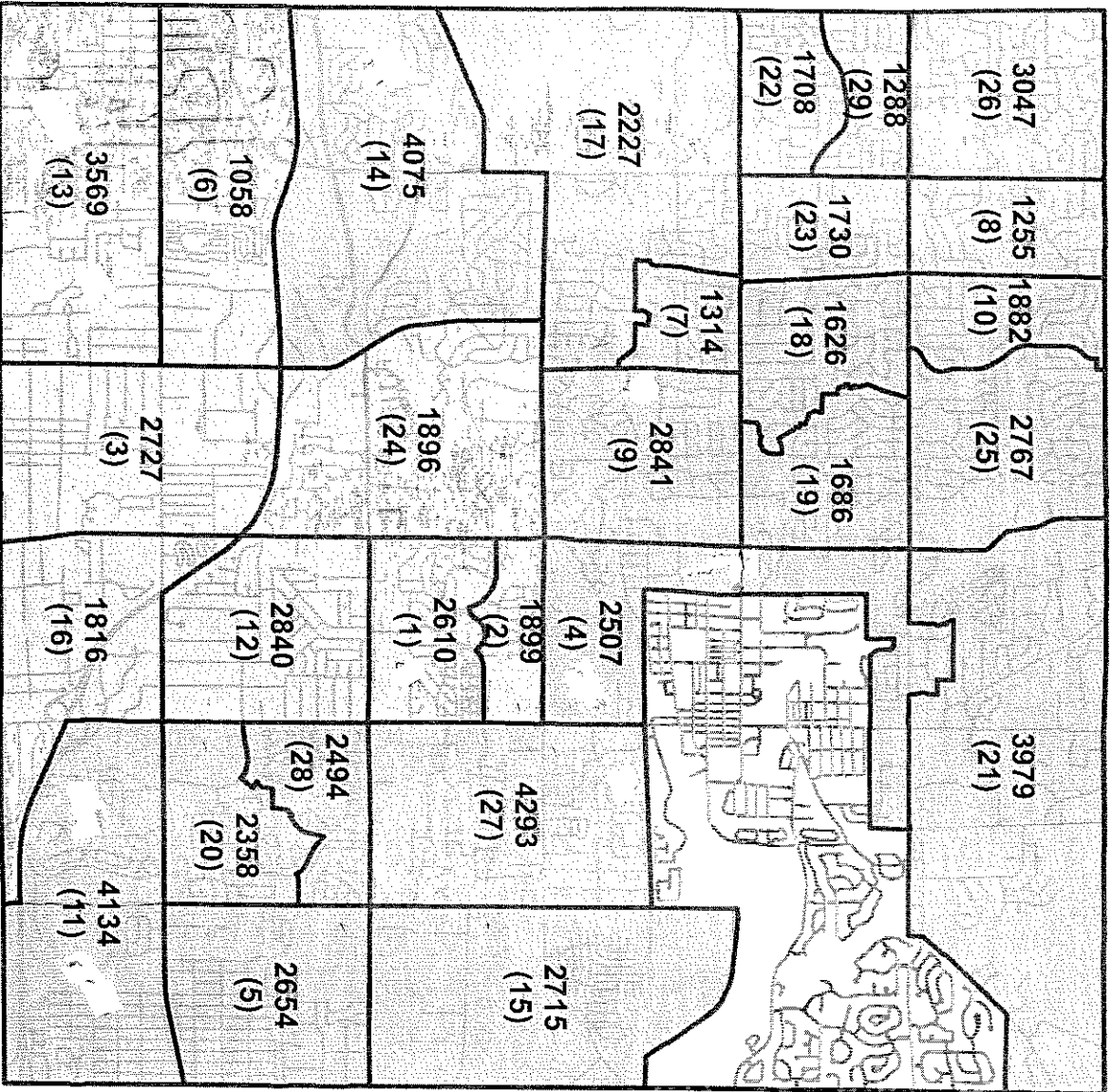
U.S. Congress:

- The state legislature is required to enact a redistricting plan for the U.S. House into law on or before November 1, 2011. MCL 3.62. The plan is subject to review by the state Supreme Court if certain requirements are met. MCL 3.72.
- If the legislature fails to enact a redistricting plan by November 2, 2011, a political party or sitting member of the U.S. House may ask the state Supreme Court to prepare a redistricting plan. MCL 3.73.



APPROVED
COUNTY COMMISSION
MAP

CURRENT
 Precinct Map
 WITH POPULATION DATA



Population Data (corrected)
2011 - New District/Precinct Apportionment

<u>District 1</u>	<u>Population</u>	<u>District 2</u>	<u>Population</u>
<u>Pct</u>		<u>Pct</u>	
26	3047	10	1882
8	1255	18	1626
29	1288	25	2767
22	1708	19	1686
23	1730	9	2841
17	2227	4 (partial)	1551
14	4075	7	1314
6 (6+partial 13)	<u>2782</u>	21	<u>3979</u>
Total	18,112	Total	17,646

<u>District 3</u>	<u>Population</u>	<u>District 4</u>	<u>Population</u>
<u>Pct</u>		<u>Pct</u>	
2	1899	15	2715
1	2610	30(partial 4+27)	3010
24	1896	27(partial)	2239
12	2840	28	2494
3	2727	20	2358
16	1816	5	2654
13	1845	11(partial)	<u>1879</u>
31(partial 11)	<u>2255</u>		
Total	17,888	Total	17,349

Changes:

- Pct 4 - new boundary at Walton. North portion remains Pct 4
- South portion of Pct 4 added to Dist. 4 and combined with Pct 27 (north of Avon) and renumbered as Pct 30
- Pct 7 added to Dist. 2
- Pct 6 and Pct 13 (west portion from Fairgrove Terrace south along watercourse to South Blvd and west to Adams) are combined to make new Precinct 6 in Dist. 1
- Pct 13 east of Fairgrove/watercourse remains Pct 13
- Pct 11 – new boundary on John R. East portion remains Pct 11
- West portion of Pct 11 renumbered to Pct 31 and moved to Dist 3

The number for equal population between districts is 17,750. The new district boundaries create a variance of 763 from the highest to lowest number. The state uses 10% for its variance. This number is within that %.

2010 Population Data
Precinct/Population by District

<u>District 1</u>	<u>Population</u>	<u>District 2</u>	<u>Population</u>
<u>Pct</u>		<u>Pct</u>	
26	3047	10	1882
8	1255	18	1626
29	1288	25	2767
22	1708	19	1686
23	1730	9	2841
17	2227	4	2507
7	1314	21	<u>3979</u>
14	<u>4075</u>		
Total	16,644	Total	17,288

<u>District 3</u>	<u>Population</u>	<u>District 4</u>	<u>Population</u>
<u>Pct</u>		<u>Pct</u>	
2	1899	15	2715
1	2610	27	4293
24	1896	28	2494
12	2840	20	2358
3	2727	5	2654
16	1816	11	<u>4134</u>
13	3569		
6	<u>1058</u>		
Total	18,415	Total	18,648

These are the current population/precinct distributions per district. There is a variance of 2,004 from the highest to lowest population numbers per district.