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MEMORANDUM

**To: The Honorable City Council Members
The Honorable Duval County School Board Members**

**From: Jason R. Gabriel, General Counsel
Mary Margaret Giannini, Assistant General Counsel**

**Re: Redistricting Process and Legal Analysis for Council and School Board
Districts**

Date: February 23, 2021

EXECUTIVE SUMMARY

This memorandum addresses core legal considerations the Jacksonville City Council must address in fulfilling its duty and responsibility of redistricting the Council and School Board districts. The required steps and associated timelines for the redistricting process are outlined in the *City Charter* and the *Jacksonville Municipal Ordinance Code*. The *Charter* and *Ordinance Code*, along with state and federal law, also generally guide that voting districts shall be equal in population, compact and contiguous, not drawn along racial lines, and comply with § 2 of the 1965 Voting Rights Act (VRA). In accomplishing these goals, the Council will review the 2020 Census data, as well as other voter data collected by consolidated government subject matter experts.

Specifically, the Council must ensure that redistricting complies with the one person/one vote principle. This principle directs that, as nearly as practical, voting districts shall be of equal population, taking into account other considerations such as compactness, contiguousness, and honoring natural and other major physical boundaries (such as bridges). As a general rule, so long as population numbers in any given district do not deviate beyond 10% from that in other districts, redistricting is not likely to violate the one person/one vote principle.

The Council must also ensure that in the process of reevaluating district lines, it does not use race as a predominant factor. Courts have deemed racial gerrymandering unlawful under the Fourteenth Amendment of the U.S. Constitution. Districts which have bizarre shapes can be indicative of racial gerrymandering. Whether minority voters are “packed” in a single district, or “cracked” because they are dispersed across multiple districts, courts may determine that the districting has unlawfully diluted the vote of minorities. Courts review racially motivated

redistricting under the strict scrutiny standard, which often results a judicial determination that the redistricting is unconstitutional.

While the Council must avoid drawing districts along racial lines, it must also comply with § 2 of the VRA, which requires that in some instances, voting districts be shaped to enable minority voters to act as the majority in a given geographic area. The VRA's requirement that a redistricting entity create minority/majority districts (or maintain pre-existing minority/majority districts) arises only after a party challenging districting decisions clears a series of legal benchmarks. Initially, the party must show that census and voter data indicate that (1) the minority group could constitute a majority in some reasonably configured voting district; (2) the minority group is politically cohesive; and (3) the district's white majority votes sufficiently as a bloc to usually defeat the minority's preferred candidate. Then, the challenging party must show under a totality of the circumstances that the lack of a minority/majority district dilutes the voting power of the minority group. If a party is able to establish these various requirements, then the Council would be required to craft or maintain minority/majority voting districts.

Therefore, for redistricting purposes, the Council's redistricting plan will not violate the VRA if any one of the three components identified above is absent. Further, so long as discriminatory intent is absent, and the one person/one vote principle is met as nearly as is reasonably practical, the Council's newly-drawn districts will not be violative of the Equal Protection Clause.

In considering the foregoing, the law has been somewhat unclear regarding what population segment should be counted for the purposes of evaluating one person/one vote, racial gerrymandering, and § 2 VRA matters. Recent case law suggests that as for one person/one vote questions, the "total population" metric is appropriate. Alternatively, when evaluating whether a minority group could represent a majority in some reasonably configured voting district pursuant to § 2 of the VRA, the Supreme Court and the Eleventh Circuit Court of Appeals have indicated that using a "citizen voting age population" metric is favored, but have not otherwise prohibited the "total population" approach.

Finally, the Council is not required to take into account political parties in the course of drawing district lines. The Supreme Court has ruled that the federal courts lack jurisdiction to address claims of political gerrymandering as such matters are better addressed by the other branches of government. Similarly, while Florida voters recently amended the state constitution to ban apportionment on the basis of political parties, those amendments do not apply to local redistricting processes.

I Introduction

This Memorandum¹ addresses the process for redistricting the Jacksonville City Council and Duval County School Board (DCSB) districts, and identifies the key issues and legal principles that guide that process. Section II of the Memorandum lays out the broad legal requirements, general procedures and guiding authorities, and relevant data that should orient the Council's process. Section III of the Memorandum provides a detailed analysis of what the Council must do to ensure that redistricting decisions comport with state and federal law. Section III addresses the one person/one vote principle, the prohibition against racial gerrymandering, as well as what is required under § 2 of the Voting Rights Act (VRA). Section III of the Memorandum closes with a brief discussion regarding political gerrymandering and other resources available to the Council during the redistricting process. Part IV of the Memorandum provides a conclusion, followed by various appendices.

II Redistricting Process

A) Broad Legal Requirements

The redistricting process must comply with a variety of requirements laid out by federal, state, and local law. Each set of requirements is distinct, but nonetheless overlap and implicate one another. Regardless of the authority from which these requirements originate (federal, state, local), they can be categorized broadly as the one person/one vote principle, the prohibition against racial gerrymandering, and the requirement to comply with § 2 of the VRA. These matters are discussed in more depth in Section III of this Memorandum.

B) General Process and Controlling Authorities

The general process for redistricting is laid out in the *City Charter* and *Jacksonville Ordinance Code*. See *Charter*, Art. 5.02; Art. 13.02-03; *Ordinance Code* §§ 18.101-112. The *Charter* directs that the Council shall redistrict the City's fourteen council districts and five at-large residence areas, along with the seven school board districts, within eight months of the publication of the official federal census data. If the Council is unable to complete the process within the eight-month period, the General Counsel is to petition the circuit court to complete the redistricting. See *Charter*, Art. 5.02(a); Art. 13.02-03. The *Ordinance Code* lays out even more specific timelines regarding the steps to be taken during this eight-month period. See generally *Ordinance Code*, §§18.104-107.

The heart of the process, however, is not triggered until the U.S. Census Bureau certifies and releases the 2020 census data. In past redistricting years, census data was normally available to municipalities early in the calendar year. At the writing of this memorandum, the Census Bureau has yet to release the census data, and it is unclear when it will do so.² Hence, it is not presently

¹ This Memorandum builds upon a Memorandum drafted by the Office of General Counsel for the last redistricting process, dated January 31, 2011. The present Memorandum includes information contained in the 2011 memo, while also supplementing and revising the text to address legal developments that have occurred over the last ten years.

² Some reports suggest that the data may not be released until the late summer or early fall of 2021.

possible to identify the specific date-certain benchmarks associated with the City’s redistricting process. Once the Census Bureau releases the data, however, those overseeing the redistricting process should be able to craft an appropriate timeline with sufficient ease.

Regardless of the fluidity of timeframes, the *Charter* and *Ordinance Code* lay out the general structure and requirements for the process. Specifically, the Council President “shall appoint a special committee or designate a standing committee to serve as a Redistricting Committee” responsible for creating the Redistricting Plan (the “Plan”). *See Ordinance Code* § 18.104. Presently fashioned as the Special Committee on Redistricting, that committee is initially charged to determine whether to employ the City Planning Department or hire outside consultants to serve as the staff overseeing the mechanics of the redistricting process, and to adopt a schedule for the preparation and submission of the Plan to the Council. *See Ordinance Code* § 18.104.³

Once the designated redistricting committee receives the relevant census data along with voter information from identified consolidated government subject matter experts,⁴ *see infra* II.C, the committee should utilize that data in its process of redistricting. *See Ordinance Code* §18.101(b), (c). Specifically, the *Ordinance Code* provides as follows:

[T]he Council is obligated to insure that all districts are *as nearly equal in population* and are arranged *in as logical and compact a geographical pattern as it is possible to achieve* and to insure that *all federal and state constitutions, laws and requirements are complied with;*

While the Council districts are based upon population with respect to their size, the geographical arrangement and territorial boundaries of the districts must take into consideration other factors, particularly *compactness and contiguity*, so that the people of the City, and their varied *economic, social and ethnic interests and objectives*, are adequately represented in the Council

Id. (emphasis added). Neither the *Ordinance Code* nor the *Charter* provide further directions on the substantive issues affecting redistricting. However, as referenced in the *Ordinance Code*, any redistricting recommendations must comply with federal and state requirements. Those requirements are addressed in more depth below. *See infra* § III.

³ At the writing of this memo, the Special Redistricting Committee has already determined that it will not use an outside consultant to assist in the redistricting process. *See* Meeting Minutes, January 14, 2021, Hybrid Virtual/In-Person Special Committee on Redistricting, Office of the City Council. Likewise, the Special Redistricting Committee is aware of the *Charter* and *Ordinance Code* timelines guiding its work, and is remaining flexible given the uncertainty associated with the release of the census data.

⁴ If current projections are correct regarding when the Census Bureau will release the census data, and the data is not received until after July 1, 2021, the next City Council President shall have the discretion to retain the Special Redistricting Committee, create a new Redistricting Committee, or task a standing committee to fulfill the duties associated with redistricting.

In developing the Plan, the designated redistricting committee may hold meetings as it deems necessary, with the goal to present the Council with a final proposed plan, in the form of an ordinance, not later than 150 days after the Census Bureau has certified the final population count for the City. *See Ordinance Code* §§ 18.104, 18.106. “As soon as the plan is received by the Council Secretary, it shall be referred to the Rules Committee.” *Id.* at § 18.107(a). “The Rules Committee shall hold not less than three public hearings, at three separate places in the City” *Id.* at § 18.107(b). Within fifteen days after completing the public hearings, the Rules Committee “shall report the ordinance [containing the redefined districts] to the Council.” *Id.* at §18.107(c). If the Council seeks to amend any aspect of the redefined districts, those amendments “shall be recommitted to the Rules Committee and it shall hold additional public hearings to receive the comments and views of those persons who are or would be affected by the amendments.” *Id.* Any such public hearings “shall be completed no later than 75 days after the [redistricting ordinance] was originally referred to the Rules Committee” *Id.* *See also* Appendix A: *Jacksonville Municipal Ordinance Code* Chapter 18.

Once the Council adopts the Plan, the redefined districts shall “not become effective for the purpose of electing members of the Council until the next general Consolidated Government election which occurs at least nine months after the enactment of the [new district plan].” *Ordinance Code* §18.108. *See also Charter*, Art. 5.02. For example, according to Supervisor of Elections data, the next scheduled general Consolidated Government election for City Council positions is set for May 16, 2023, with the primary being held on March 21, 2023. Even if the redistricting process is not completed until late 2021 or early 2022, the dates for the next City Council election appear to occur well after nine months from any enactment of a redistricting ordinance. Hence, any new district boundaries should apply to these elections. Of course, if for unforeseen reasons the redistricting process is pushed later into 2022, a reevaluation regarding the application of the new City Council district boundaries would be necessary.

In comparison, “[a]ny redistricting of the school board districts . . . shall not affect any term of office in existence at the date of such redistricting but shall be applicable only to the next succeeding school board election.” *See Charter*, Art. 13.02-03; *Ordinance Code* § 18.110 (“Any redistricting of School Board districts shall not affect any term of office in existence at the time the redistricting becomes effective, but shall be applicable at the next School Board election which occurs at least nine months after the redistricting.”). *See also* Appendix B: *Charter*, Art. 5.02; Appendix C: *Charter*, Art. 13.02-03. Here, for example, if the ordinance approving the redistricting plan is enacted as of December 1, 2021, then the newly fashioned districts would apply to any election that occurs *after* September 1, 2022. Pursuant to current Supervisor of Elections data, the next scheduled School Board election is set for August 23, 2022, with a run-off election scheduled for November 8, 2022. Therefore, if the redistricting plan were to be enacted by December 1, 2021, the new district maps would not apply to the School Board elections occurring in 2022, as the initial election falls inside, rather than outside, of the nine-month window. Instead, the redistricting maps would apply to subsequent elections. Again, given the time sensitive and specific nature of determining when any new maps would apply for future School Board elections, it will be prudent to revisit these calculations once the Council has more information regarding when the census data will be available.

C) Data Resources

The primary data the Council must use in the process of redistricting includes the federally collected census data, along with voter and election information collected by consolidated government subject matter experts. This information should be instrumental in aiding the Council in evaluating and, where necessary, redrawing district boundaries. In particular, this data serves as an important tool in ensuring that any redrawn districts comply with § 2 of the VRA.

The collected data generally includes the following:

1. Analysis of voting patterns for each candidate by name, position, and race (if known), for the past 4 years;
2. Identification, by voting precinct, of the number of registered voters, by race;
3. Identification, by voting precinct, of the number of votes for each candidate;
4. Identification, by voting precinct, of the following, using the unique voter identification number assigned by the state:
 - a. all non-exempt information supplied by the voter pursuant to Fla. Stat. § 97.052(2);
 - b. date of registration for each qualified voter;
 - c. the current precinct for each qualified voter;
 - d. each qualified voter's current state representative district, state senatorial district, and congressional district, according to the Supervisor of Elections;
 - e. voting history for each qualified voter, including, among other things, whether the voter voted in the precinct or by absentee ballot, or voted provisionally, and whether the vote counted;
5. Geographic data regarding community of interest and compactness:
 - a. actual maps showing roads, streams, railway lines, and other major features, along with the geographical boundaries of each precinct, and additional data;
 - b. or, in lieu of a map, if the precincts are comprised of census blocks, a listing of the blocks in each precinct.⁵

This information should assist the Council in redistricting seats so as to avoid any VRA or Equal Protection Clause challenges.

⁵ It should be noted that Precincts shall consist of areas bounded on all sides by: census block boundaries; governmental unit boundaries from the census bureau; visible features readily distinguishable on the ground and present in current official maps; boundaries of public parks, public school grounds, or churches; or boundaries of counties, and other political subdivisions. Fla. Stat. §101.001(3)(e).

III Legal Requirements

A) Overview

Three core principles undergird any redistricting process. Redistricting decisions must (1) fulfill the one person/one vote principle, (2) avoid racial gerrymandering, and (3) comply with § 2 of the VRA.

Generally, the one person/one vote principle directs that voting districts should be equal in population so to ensure that each vote bears equal weight. This doctrine is rooted in the Equal Protection Clause of the Fourteenth Amendment, as well as in Art. VIII, § 1(e) of the Florida Constitution, and Articles 5 and 13 of the *Charter*. As the one person/one vote doctrine has developed, the law allows for variation in crafting voting districts and does not require absolute mathematical precision. The Equal Protection Clause also directs that it is unconstitutional to use race as the predominant factor in drawing district boundaries. *See generally Shaw v. Reno*, 509 U.S. 630 (1993). However, in counterpoint to the clear edict against racial gerrymandering, § 2 of the VRA commands that in some instances, districts *must* be drawn to take into account the race of those living within a geographic area. *See generally Thornburg v. Gingles*, 478 U.S. 30, 43 (1986). Hence, as the Council reviews the 2020 census data and associated voter information to determine whether and how to redefine districts, it must strike a careful balance between not engaging in racial gerrymandering, while simultaneously complying with the VRA's requirements, all the while satisfying the one person/one vote principle.

B) One Person/One Vote

The one person/one vote doctrine serves as the foundation for any redistricting evaluation, upon which the prohibition against racial gerrymandering, as well as the requirements of § 2 of the VRA, are layered. The Supreme Court originally developed the one person/one vote doctrine to address federal congressional and state legislative districting, but has extended its application to local districting processes. *See Evenwel v. Abbott*, 136 S. Ct. 1120, 1124 n.1 (2016) (“In *Avery v. Midland County*, 390 U.S. 474, 485–486 (1968), the Court applied the one-person, one-vote rule to legislative apportionment at the local level.”). At its core, the one person/one vote principle directs that in order to ensure that each vote is treated equally, voting districts should be drawn in such a way to ensure “as nearly of equal population as practicable.” *Harris v. Ariz. Independ. Redistricting Comm’n*, 136 S. Ct. 1301, 1306 (2016). Those overseeing the district-drawing process should therefore avoid creating “cracked” or “packed” districts.

A “cracked” district is one in which a party’s supporters are divided among multiple districts, so that they fall short of a majority in each; a “packed” district is one in which a party’s supporters are highly concentrated, so they win that district by a large margin, “wasting” many votes that would improve their chances in others.

Rucho v. Common Cause, 139 S. Ct. 2484, 2492 (2019) (internal citations and quotations omitted).

While the one person/one vote canon aims to achieve population equality, the Supreme Court has emphasized that mathematical perfection is not required. *Harris*, 136 S. Ct. at 1306;

Tennant v. Jefferson County. Comm’n, 567 U.S. 758, 759 (2012). Rather, the standard directs that those redrawing voting districts must “justify population differences between districts that could have been avoided by a good faith effort to achieve absolutely equality.” *Tennant*, 567 U.S. at 759. Often referred to as the “safe harbor rule,” “minor deviations from mathematical equality do not, by themselves, make out a prima facie case of invidious discrimination under the Fourteenth Amendment so as to require justification by the State. . . . [M]inor deviations [are] those in an apportionment plan with a maximum population deviation under 10%.” *Harris*, 136 S. Ct. at 1307 (internal citations and quotations omitted); *see also Evenwel*, 136 S. Ct. at 1124.⁶ Justifications warranting a deviation from absolute population equality include the “traditional districting principles such as compactness [and] contiguity, [along with] . . . maintaining the integrity of political subdivisions, or the competitive balance among political parties.” *Harris*, 136 S. Ct. at 1306; *see also Evenwel*, 136 S. Ct. at 1124.

It is important to note, however, that the 10% minor deviation rule is “not a substantive rule of constitutional law, but rather a way of determining in one person, one vote cases which party should bear the burden of proof in demonstrating compliance or noncompliance with the Constitution.” *Calvin v. Jefferson County Bd. of Commissioners*, 172 F. Supp. 3d 1292, 1314 (N.D. Fla. 2016) (internal citations omitted). The party challenging a districting plan first bears the “burden of proving the existence of population differences that could practically be avoided,” i.e., that the population differences are more than 10%. *Tennant*, 567 U.S. at 760.

If they do so, the burden shifts to the State to show with some specificity that the population differences were necessary to achieve some legitimate state objective. This burden is a flexible one, which depend[s] on the size of the deviations, the importance of the State’s interests, the consistency with which the plan as a whole reflects those interests, and the availability of alternatives that might substantially vindicate those interests yet approximate population equality more closely.

Id. (internal citations and quotations omitted) (alternation in original). Moreover, because

redistricting ordinarily involves criteria and standards that have been weighed and evaluated by the elected branches in the exercise of their political judgment . . . [courts tend to] defer to [such] state legislative policies, so long as they are consistent with constitutional norms, even if they require small differences in the population of congressional districts.

Id.

By comparison, Florida law directs that counties must draw districts contiguously with as equal population as practicable. *See* FLA. CONST., Art. VIII, § 1(e). Florida law, however, does not command that the districts must be compact. Thus, counties are under no state direction to

⁶ In this context, a 10% relative deviation means a combination of deviations from the actual numerical equality number no greater than 10% for any two districts.

have compact districts. Over time, case law has defined typical allowable redistricting considerations to include the following:

1. major physical boundaries, such as a bridges;
2. political subdivision boundaries;
3. schools;
4. notable major structures;
5. existing incumbencies, as they represent communities of interest.

Likewise, under Florida law, redistricting entities may not treat race, sex, or economic status as predominant reason(s) for drawing district lines.

In summary, the one person/one vote rule aims to ensure that voting districts are equally populated. However, deviations of up to 10% will not automatically render redistricting constitutionally suspect. Moreover, a court should be unlikely to deem population deviations beyond 10% as violations of the one person/one vote principle if the districting entity can justify its deviations from equal population with other legitimate state interests, such as seeking to maintain compact and contiguous districts, as well as districts that preserve the integrity of political subdivisions and communities of interest.

C) Line Drawing by Race

It is well established that drawing voting districts on the basis of race without sufficient justification violates the Equal Protection Clause. *See Shaw*, 509 U.S. at 648-49. Whether in the form of “racial gerrymandering,” “that is, intentionally assigning citizens to a district on the basis of race without sufficient justification . . . [or] intentional vote dilution — invidiously . . . minimizing or canceling out the voting potential of racial or ethnic minorities,” either approach is constitutionally prohibited. *Abbott v. Perez*, 138 S. Ct. 2305, 2314 (2018) (internal citations, quotations omitted). *See also Cooper v. Harris*, 137 S. Ct. 1455, 1473 n.7 (2017) (“[T]he sorting of voters on the grounds of their race remains suspect even if race is meant to function as a proxy for other (including political) characteristics.”); *Bethune-Hill v. Virginia State Bd. of Elections*, 137 S. Ct. 788, 797 (2017) (“The Equal Protection Clause prohibits a State, without sufficient justification, from separat[ing] its citizens into different voting districts on the basis of race.”). When a plaintiff sufficiently alleges a racial gerrymandering or dilution claim, a court will review that claim pursuant to the strict scrutiny standard. *See Bethune-Hill*, 137 S. Ct. at 797; *Atkins v. Sarasota County*, 457 F. Supp. 3d 1226, 1230–31 (M.D. Fla. 2020).⁷

In order to make out a racial gerrymandering or dilution claim, the plaintiff must show that the defendant intentionally used race as the predominant factor in drawing voting district boundaries. *See Cooper*, 137 S. Ct. at 1479–80; *Bethune-Hill*, 137 S. Ct. at 797; *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. 254, 272 (2015); *Atkins*, 457 F. Supp. 3d at 1230–

⁷ The strict scrutiny standard requires that the government establish that it is furthering a compelling government interest, and that its use of race to further that interest represents the least restrictive means to do so. *Bernal v. Fainter*, 467 U.S. 216, 219-20 (1984). Other iterations of the test require that the government show that its use of race is narrowly tailored to fulfill the government interest. *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200, 227 (1995).

31. At bottom, the plaintiff must establish that the defendant crafted a district because of race, rather than on account of other potential considerations. *Atkins*, 457 F. Supp. 3d at 1230–31. Moreover, because any redistricting challenge asks a court to intrude into the “most vital of local functions,” *id.* at 1231, the court must begin its analysis with the presumption that any challenged districts “were drawn in good legislative faith.” *Id.* (citing *Miller v. Johnson*, 515 U.S. 900, 915 (1995)).

Because it can sometimes be difficult for a plaintiff to produce direct evidence showing that a redistricting decision was motivated predominantly by race, *Shaw*, 509 U.S. at 646-47, the Supreme Court has directed that a plaintiff can show “either through circumstantial evidence of a district’s shape and demographics or more direct evidence going to legislative purpose, that race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.” *Bethune-Hill*, 137 S. Ct. at 797. In this context, a misshapen district, in and of itself, does not conclusively establish the existence of racial gerrymandering.

Shape is relevant not because bizarreness is a necessary element of the constitutional wrong or a threshold requirement of proof, but because it may be persuasive circumstantial evidence that race for its own sake, and not other districting principles, was the legislature’s dominant and controlling rationale. Parties therefore may rely on evidence other than bizarreness to establish race-based districting, and may show predominance either through circumstantial evidence of a district’s shape and demographics or more direct evidence going to legislative purpose.

Id. at 798 (internal citations and quotations omitted). However, the Supreme Court has also noted that political and racial reasons can yield

similar oddities in a district’s boundaries. That is because, of course, racial identification is highly correlated with political affiliation. As a result of those redistricting realities, a trial court has a formidable task: It must make a sensitive inquiry into all circumstantial and direct evidence of intent to assess whether the plaintiffs have managed to disentangle race from politics and prove that the former drove a district’s lines.

Cooper, 137 S. Ct. at 1473 (internal citations and quotations omitted). Additionally, a plaintiff could present an alternative district map as circumstantial evidence to support the argument that the challenged scheme was driven by racial rather than other permissible considerations. *See id.* at 1479-80; *Broward Citizens for Fair Districts v. Broward County*, No. 12-60317-CIV, 2012 WL 1110053, at *9 (S.D. Fla. Apr. 3, 2012).

In sum, the Equal Protection Clause forbids drawing district lines predominantly because of race. A misshapen district, or the plaintiff’s proffer of an alternatively drawn election scheme that demonstrates that voters would have better access to the political process, can serve as circumstantial evidence that race served as the primary motivation in crafting a given district. If a

plaintiff is able to show that race was the driving factor for the district's shape, a court must review the state's reasons for doing so under the strict scrutiny standard of review.

D) Voting Rights Act, § 2

Section 2 of the VRA, *see* 52 U.S.C. § 10301 (formerly 42 U.S.C. § 1973), commands that a districting entity violates § 2 of the Act if “its districting plan provides less opportunity for racial minorities to elect representatives of their choice.” *Abbott*, 138 S. Ct. at 2315 (internal citations and quotations omitted). At its core, § 2 of the VRA seeks to quell vote dilution and other impediments imposed on minority voters. Nothing, however, in § 2 of the VRA “establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.” *Gingles*, 478 U.S. at 43.

The Court has interpreted § 2 of the VRA “to mean that, *under certain circumstances*, [districting entities] must draw [minority/majority] districts in which minority groups form effective majorit[ies].” *Abbott*, 138 S. Ct. at 2315 (emphasis added). In some instances, therefore, districting entities must take race into account in creating minority/majority districts.⁸ The interplay between the requirements of § 2 of the VRA, and the prohibition against racial gerrymandering, unquestionably represents a point of tension. While the “Equal Protection Clause restricts the consideration of race in the districting process, compliance with the Voting Rights Act of 1965 . . . pulls in the opposite direction: It often insists that districts be created precisely because of race.” *Id.* at 2314.

At the outset, then, it is important to note that the Supreme Court has directed that “compliance with the VRA may justify the consideration of race in a way that would not otherwise be allowed.” *Id.* at 2315. Accordingly, the Court has ruled that a districting entity's use of race to comply with the VRA represents “a compelling state interest, and that [the districting entity's] consideration of race in making a districting decision is narrowly tailored and thus satisfies strict scrutiny if the State has *good reasons* for believing that its decision is necessary in order to comply with the VRA.” *Id.* (emphasis added). Here, the Court has slightly softened the second prong of the strict scrutiny standard of review. *See supra* note 7. Instead of requiring the government show that its use of race is narrowly tailored or represents the least restrictive means to accomplish the compelling interest of complying with the VRA, *see supra id.*, this second prong of the standard

⁸ Election law tends to recognize a variety of districts: minority/majority districts (also referred to as opportunity districts), crossover districts, and influence districts. *See generally Cooper*, 137 S. Ct. at 1470; *Bartlett v. Strickland*, 556 U.S. 1, 13 (2009). “In majority-minority districts, a minority group composes a numerical, working majority of the voting-age population.” *Bartlett*, 556 U.S. at 13. A crossover district is one where minority voters make up less than a majority of the voting-age population, but where “members of the majority help a ‘large enough’ minority to elect its candidate of choice.” *Cooper*, 137 S. Ct. at 1470; *Bartlett*, 556 U.S. at 13. “At the other end of the spectrum are influence districts, in which a minority group can influence the outcome of an election even if its preferred candidate cannot be elected.” *Bartlett*, 556 U.S. at 13. When a plaintiff satisfies the requirements laid out by § 2 of the VRA, the statute requires the creation of minority/minority districts. *Id.* at 13, 23-24. *See also Cooper*, 137 S. Ct. at 1470. The VRA does not require the creation of crossover districts or influence districts. *Cooper*, 137 S. Ct. at 1470; *Bartlett*, 556 U.S. at 15, 19, 23-24.

insists only that the [line drawing entity] have a *strong basis in evidence* in support of the (race-based) choice that it has made. [It is] not require[d] to show that its action was actually . . . necessary to avoid a statutory violation, so that, but for its use of race, [the districting entity] would have lost in court. Rather, the requisite *strong basis in evidence* exists when the legislature has good reasons to believe it must use race in order to satisfy the Voting Rights Act, even if a court does not find that the actions were necessary for statutory compliance.

Bethune-Hill, 137 S. Ct. at 801 (internal citations and quotations omitted) (emphasis added). See also *Cooper*, 137 S. Ct. at 1464 (articulating the “good reasons” standard); *Alabama Legislative Black Caucus*, 575 U.S. at 278 (internal citations omitted) (referencing “good reasons” and “strong basis in evidence”).

The Supreme Court’s decision in *Thornburg v. Gingles* lays out the analytical steps for determining when a districting entity’s choices have resulted in diluting the votes of minorities, and thereby require the creation of a minority/majority district.⁹ *Gingles* directs that first, the “minority group must be sufficiently large and geographically compact to constitute a majority in some reasonably configured legislative district. Second, the minority group must be politically cohesive. And third, a district’s white majority must vote [] sufficiently as a bloc to usually defeat the minority’s preferred candidate.” *Cooper*, 137 S. Ct. 1470 (internal citations and quotations omitted) (alterations in original). The Supreme Court has explained that these initial three elements are “needed to establish that the minority [group] has the potential to elect a representative of its own choice in a possible district, but that racially polarized voting prevents it from doing so in the district as actually drawn because it is submerg[ed] in a larger white voting population.” *Id.*

If a plaintiff satisfies these three threshold conditions, the plaintiff then must show by a totality of the circumstances that

the political processes leading to nomination or election . . . are not equally open to participation by members of a [protected class] . . . in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

Gingles, 478 U.S. at 43. The plaintiff’s proof must establish that the present districting plan has the result of diluting the votes of the minority group. *Abbott*, 138 S. Ct. at 2330-31. It is not enough that the plaintiff allege that the districting entity merely intended to dilute the minority group vote. Rather, the plaintiff must show that *as a result* of the districting plan, minority voters have less opportunity than white voters “to elect their preferred representatives.” *Gingles*, 478 U.S. at 63.

⁹ The *Gingles* decision addressed the constitutionality of boundaries drawn for at-large or multi-member districts. 478 U.S. at 37. The Supreme Court has subsequently extended the *Gingles* analysis to single-member districts. See *Bartlett*, 556 U.S. at 11-12 (citing *Grove v. Emison*, 507 U.S. 25 (1993)).

In interpreting the first of the *Gingles* elements, courts have consistently held that the relevant minority population must constitute at least 50% of the voting age population. *Bartlett v. Strickland*, 556 U.S. 1, 19-20 (2009); *Negron v. City of Miami Beach, Fla.*, 113 F.3d 1563, 1568-89 (11th Cir. 1997) (refining standard to include only citizen voting aged population). The Supreme Court has also directed that in evaluating whether there is “bloc voting by the majority to defeat the minority’s preferred candidate,” *Abbott*, 138 S. Ct. at 2330-31, plaintiffs must prove “not only that whites vote as a bloc, but also that white bloc voting *regularly causes* the candidate preferred by black voters to lose; in addition, plaintiffs must show not only that blacks and whites sometimes prefer different candidates, but that blacks and whites *consistently* prefer different candidates.” *Wright v. Sumter County Bd. of Elections & Registration*, 979 F.3d 1282, 1304 (11th Cir. 2020) (internal citations and quotations omitted) (emphasis in original). See also *Cooper*, 137 S. Ct. 1470; *Gingles*, 478 U.S. at 50-51. Hence, when a plaintiff seeks to establish the initial *Gingles* elements, the plaintiff “must demonstrate that the challenged system suppressed minority voting strength in comparison to some alternative, feasible benchmark system.” *United States v. Osceola County, Fla.*, 475 F. Supp. 2d 1220, 1230 (M.D. Fla. 2006) (internal citations and quotations omitted).

If a plaintiff establishes the threshold *Gingles* elements, the plaintiff must then show, by a totality of the circumstances, that the challenged district dilutes the votes of the minority group. *Abbott*, 138 S. Ct. 2331. Factors that may be relevant to a § 2 claim include

the history of voting-related discrimination in the State or political subdivision; the extent to which voting in the elections of the State or political subdivision is racially polarized; the extent to which the State or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts, majority vote requirements, and prohibitions against bullet voting; the exclusion of members of the minority group from candidate slating processes; the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process; the use of overt or subtle racial appeals in political campaigns; and the extent to which members of the minority group have been elected to public office in the jurisdiction.

Gingles, 478 U.S. at 44-45. Likewise, a § 2 violation may exist where “elected officials are unresponsive to the particularized needs of the members of the minority group and . . . the policy underlying the State’s or the political subdivision’s use of the contested practice or structure is tenuous.” *Id.* at 45. It must be noted however, that the § 2 factors are

neither comprehensive nor exclusive. [Likewise], there is no requirement that any particular number of factors be proved, or that a majority of them point one way or the other. Rather, . . . the question whether the political processes are equally open depends upon a searching practical evaluation of the past and present reality, and on a functional view of the political process.

Id. at 45.

In conclusion, § 2 of the VRA requires that when a plaintiff shows by a totality of the circumstances that

the political processes leading to nomination or election . . . are not equally open to participation by members of a [protected class] . . . in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice,

Gingles, 478 U.S. 43, the districting entity must create a minority/majority district for that group of voters. *Abbott*, 138 S. Ct. at 2315; *Cooper*, 137 S. Ct. 1470. However, in defending against a § 2 VRA challenge, the districting entity can

rebut the plaintiff's evidence by demonstrating the absence of racial bias in the voting community; for example, by showing that the community's voting patterns can best be explained by other, non-racial circumstances. If a defendant can prove, under the totality of the circumstances, that racial bias does not play a major role in the political community, and the plaintiff cannot overcome that proof, then obviously Congress did not intend the plaintiff to win, *even if the plaintiff has proven bloc voting*.

Osceola County, Fla., 475 F. Supp. 2d at 1229 (internal citations and quotations omitted) (emphasis in original). Similarly,

[i]n areas with substantial crossover voting it is unlikely that the plaintiffs would be able to establish the third *Gingles* precondition — bloc voting by majority voters. In those areas majority-minority districts would not be required in the first place; and in the exercise of lawful discretion States could draw crossover districts as they deemed appropriate. States can — and in proper cases should — defend against alleged § 2 violations by pointing to crossover voting patterns and to effective crossover districts.

Bartlett, 556 U.S. at 23-24.¹⁰ See also *Cooper*, 137 S. Ct. at 1470 (when voters create a “crossover district,” “it is difficult to see how the majority-bloc-voting requirement could be met”).

Therefore, for redistricting purposes, the Council's redistricting plan will not violate the VRA if any one of the three components identified in *Gingles* is absent. Further, so long as discriminatory intent is absent, and the one person/one vote principle is met as nearly as is reasonably practical, the Council's newly-drawn districts will not be violative of the Equal Protection Clause.

¹⁰ However, if there was evidence that a districting entity “intentionally drew district lines in order to destroy otherwise effective crossover districts, that would raise serious questions under both the Fourteenth and Fifteenth amendments.” *Bartlett*, 556 U.S. at 23-24.

E) Who Counts? Total Population as Compared to Voting Age Population or Citizen Voting Age Population.

The Supreme Court has circled around defining the appropriate metric for counting individuals for voting districts. Courts have previously used “total population,” “voting age population,” as well as “citizen voting age population” as the bases upon which to evaluate district apportionment challenges. *See e.g., Abbott*, 138 S. Ct. at 2333 (evaluating § 2 VRA claim with the metric of “citizens of voting age”); *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 436-442 (2006) (reviewing § 2 VRA claim using a “citizen voting age” population metric); *Chen v. City of Houston*, 532 U.S. 1046, 2021 (2001) (J., Thomas, dissenting) (advocating that the Court address the question of whether the metric should be voting age population or citizen voting age population in a one person/one vote setting); *Johnson v. De Grandy*, 512 U.S. 997, 1008-09 (1994) (declining to resolve the question); *Negron*, 113 F.3d at 1569 (stating preference for “voting age population as refined by citizenship”).

However, in the Supreme Court’s recent 2016 decision of *Evenwel v. Abbott*, the Court indicated that, at least as to one-person/one-vote challenges, a “total population” standard should be used. *Evenwel*, 136 S. Ct. at 1130 (clarifying that for one-person/one-vote claims, voting districts should be designed with equal “total populations”). Conversely, while the Court has not conclusively so stated, its dicta suggests that for § 2 VRA claims, it approves of “citizen voting age population” as the metric. *See Abbott*, 138 S. Ct. at 2333; *League of United Latin American Citizens*, 548 U.S. at 436-442.

Accordingly, it is important that the Council anticipate the alternative results that could arise from these different measures. However, in the context of one person/one vote and racial gerrymandering concerns, so long as the Council does not intentionally discriminate on the basis of race in its districting decisions, it is unlikely that a court would overturn the Council’s redistricting if it fell within the 10% relative deviation range among total population for council districts.¹¹ As noted *supra*, a 10% relative deviation is acceptable. Likewise, when evaluating whether a district complies with § 2 of the VRA, both Supreme Court and Eleventh Circuit precedent indicate that “citizen voting age population” is an appropriate metric, but have not expressly prohibited the use of “total population” as the measure.

F) Miscellany

1) Political Gerrymandering

The Council is not required to eliminate political or partisan considerations from its redistricting evaluations. Both Supreme Court case law and Florida law indicate that the Council can consider political parties when drawing districts. In the Supreme Court’s recent 2019 decision of *Rucho v. Common Cause*, the Court ruled that allegations of political gerrymandering were not justiciable and therefore beyond the reach of the federal courts’ jurisdiction. 139 S. Ct. at 2508. The Court did acknowledge that political gerrymandering is problematic, if not “incompatible with

¹¹ This analysis is equally applicable to Duval County School Board districts, as such districts are comprised of two council districts.

democratic principles.” *Id.* at 2506. The Court nonetheless concluded that the federal courts’ attempt to adjudicate such questions represented an unconstitutional extension of judicial power. *Id.* at 2507. As such, the Court indicated that, at least when raised in the federal courts, political gerrymandering claims are unjusticiable.

Florida law has adopted a different approach. In 2010, Florida voters amended the Florida Constitution, and added amendments that command, in part, that “[n]o apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent” FLA. CONST., Art. III, § 20(a), § 21(a). However, these amendments apply only to congressional and legislative district boundaries. *See id.* The amendments’ terms have not been interpreted as applicable to local redistricting efforts. Therefore, when evaluating census and relevant voter data, the Council is not required to take into account voters’ political or partisan affiliations.

2) § 5 of the VRA

Neither the City of Jacksonville, nor the state of Florida, must comply with the commands detailed in § 5 of the VRA. Section 5 requires that specifically identified states and particular voting areas within states must seek preclearance from the federal government before making changes to their voting laws. *See generally Shelby County, Ala. v. Holder*, 570 U.S. 529, 538 (2013); *but see id.* at 557 (holding as unconstitutional the statute’s “coverage formula” used to determine which jurisdictions are subject to the preclearance requirement). Neither Florida, nor the City of Jacksonville, have ever been designated as geographical areas required to seek such preclearance. As such, the Council is not required to comply with this portion of the VRA.

3) Additional Resources

For additional legal resources, please review various materials regarding redistricting provided by the National Conference of State Legislators at their website. *See generally* <https://www.ncsl.org/research/redistricting.aspx>;
<https://www.ncsl.org/searchresults/issearch/false/kwdid/456.aspx>

IV Conclusion

The Council’s redistricting process begins with the designated redistricting committee selecting either consolidated government subject matter experts or a consultant to review voter and census data. Using that data, the committee’s goal is to divide the fourteen council member districts and the five at-large residency requirement districts, along with the seven school board districts, as evenly as possible, taking into account both total population and citizen voting age population. These districts should respect natural and significant man-made boundaries, including political subdivisions wherever reasonably practicable. Additionally, to ensure compliance with the Equal Protection Clause and § 2 of the VRA, the reshaped districts should take into account any population changes in the formerly identified minority/majority voting districts, as well as any population shifts that might warrant the creation of additional such districts. Finally, legal counsel should be present during the redistricting process to provide advice regarding the application of

the legal principles detailed above. Doing so will help avoid litigation and ensure compliance with applicable laws.

APPENDIX A

Jacksonville Ordinance Code, Chapter 18

Chapter 18 - REDISTRICTING OF COUNCIL AND SCHOOL BOARD DISTRICTS

Sec. 18.101. - Legislative findings.

The Council finds and determines as follows:

- (a) Charter Sections 5.02 and 13.03 impose upon the Council the duty and responsibility of redistricting the Council districts and the School Board districts;
- (b) In making this redistricting, the Council is obligated to insure that all districts are as nearly equal in population and are arranged in as logical and compact a geographical pattern as it is possible to achieve and to insure that all federal and state constitutions, laws and requirements are complied with;
- (c) While the Council districts are based upon population with respect to their size, the geographical arrangement and territorial boundaries of the districts must take into consideration other factors, particularly compactness and contiguity, so that the people of the City, and their varied economic, social and ethnic interests and objectives, are adequately represented in the Council; and
- (d) This chapter is enacted in order to set forth legislative policy, to provide for appropriate public input, and to provide for an adequate review of the redistricting plan before it is enacted into law.

Sec. 18.102. - Definitions.

In this chapter, unless the context indicates otherwise:

- (a) *Census* means the official decennial census master enumeration district list published by the Bureau of the Census and containing the population figures for the City.
- (b) *Department* means the Planning and Development Department.
- (c) *Director* means the Director of Planning and Development.
- (d) *District* means one of the 14 Council districts into which the General Services District is required to be divided by Section 5.01 of the Charter.
- (e) *Plan* means a plan or scheme for the redistricting of Council districts, which shall also be a redistricting of School Board districts by operation of Section 13.03 of the Charter.
- (f) *Redistricting Committee* means the committee of the Council appointed by the President to study redistricting and draft a redistricting plan; such committee may be a special committee or a standing committee designated as the Redistricting Committee; such committee's duties will terminate with the submission of a proposed plan to the Council.
- (g) *Redistricting Consultant or Consultant* means the Department or a person, partnership, corporation or entity requested or hired by the Council to assist the Council in drafting a redistricting plan.

Sec. 18.103. - Reserved.

Sec. 18.104. - Preparation of plan.

Whenever the Council President deems appropriate, but no more than six months after the official date for the taking of the decennial census, the President shall appoint a special committee or designate a standing committee to serve as a Redistricting Committee. The Redistricting Committee shall investigate possible persons or entities, including the Planning Department, qualified to serve as a Redistricting

Consultant. If it deems appropriate, the Redistricting Committee shall send out a request for proposals. After it has completed its investigation, the Redistricting Consultant shall present to the Council the names of the persons or entities recommended to be chosen as the Redistricting Consultant. Such selection shall be based on professional qualifications and experience in redistricting. Unless the Department is chosen, the hiring of a Redistricting Consultant shall follow the Purchasing Code, except that the final choice of the Redistricting Consultant shall be made by the Council. In addition, the Redistricting Committee shall adopt a schedule for preparation of a plan to be submitted to the Council. Within 150 days after U.S. Bureau of the Census certification of the final population count for the City, the Redistricting Committee will submit to the Council a final proposed plan pursuant to Section 18.106. The Redistricting Committee shall have available all alternative plans considered but not recommended. If the Department is not requested to be the Redistricting Consultant, the Department shall advise the Council and the Redistricting Committee with regard to any matter the Council deems advisable.

Sec. 18.105. - Reserved.

Sec. 18.106. - Transmission of plan to Council; report.

Not later than 150 days after the census is published, the Redistricting Committee shall transmit to the Council the proposed plan. The plan shall be in the form of an ordinance, introduced by the Redistricting Committee, amending Appendix 1 of the Charter to substitute for the then-existing district boundaries, the proposed district boundaries. The plan shall be accompanied by a report containing the following information:

- (a) A map of the General Services District showing both the existing district boundaries and the proposed district boundaries;
- (b) A table indicating the population of each proposed district and the variations of each such population from the population average for all the districts, with an explanation of the variation in each district;
- (c) A statement of the methodology used in arriving at the particular plan recommended by the Redistricting Committee;
- (d) An appendix of any other redistricting plans considered or created by the Redistricting Committee in the process of creating the recommended plan, with the reasons for rejection of each such redistricting plan; and
- (e) Comments and recommendations deemed necessary or advisable by the Redistricting Committee to explain or illustrate the plan.

Sec. 18.107. - Reference to Rules Committee; public hearings; report.

- (a) As soon as the plan is received by the Council Secretary, it shall be referred to the Rules Committee. The ordinance amending the Charter shall be introduced at the next regular Council meeting following its reception by the Council Secretary, but the Rules Committee may begin consideration of the ordinance as soon as it is referred. It shall not be in order at any time to move for the enactment of the ordinance as an emergency measure. It shall not be in order to move for withdrawal of the ordinance from the Rules Committee, less than 60 days after the ordinance has been referred to the Rules Committee. The ordinance shall be a priority item of business of the Rules Committee, and the Rules Committee shall consider and report the ordinance with all deliberate speed. The Redistricting Consultant shall provide all necessary information and support to the Rules Committee, and the Director shall advise the Rules Committee during its deliberations or provide it with knowledgeable staff personnel.
- (b) The Rules Committee shall hold not less than three public hearings, at three separate places in the City, on the ordinance and the plan. The public hearings shall be advertised and held in accordance with the Council rules, and they shall be held after five p.m. and on any day except Sunday. Copies of the ordinance, the plan and the report of the Redistricting Consultant shall be made available to the public upon request and shall be available at the places where the public hearings are held. Written comments or views submitted by members of the public shall be made a part of the official record of the proceedings. The Rules Committee shall consider the testimony heard and evidence received at the public hearings, but it shall not be bound by them nor confined in its deliberations to them. These public hearings shall be completed not later than 45 days after the ordinance is referred to the Rules Committee.
- (c) As soon as practicable, but not less than 15 days, after the public hearings have been completed, the Rules Committee shall report the ordinance to the Council. If the Council adopts amendments to the ordinance which substantially change the boundary lines of the proposed districts, the ordinance shall be recommitted to the Rules Committee and it shall hold additional public hearings to receive the comments and views of those persons who are or would be affected by the amendments. All such additional public hearings shall be completed not later than 75 days after the ordinance was originally referred to the Rules Committee, and the Rules Committee shall report the ordinance as amended as soon as practicable after the additional public hearings are completed.

Sec. 18.108. - Enactment of ordinance; effective date of redistricted districts.

The ordinance amending Appendix 1 of the Charter shall be enacted by the Council according to its rules, except as provided in Section 18.107. The ordinance shall become effective at the time therein stated, but the redistricted districts shall not become effective for the purpose of electing members of the Council until the next general Consolidated Government election which occurs at least nine months after the enactment of the ordinance.

Sec. 18.109. - Redistricting by Circuit Court.

If the Council has not enacted a plan within eight months after the official publication of the census, the Council Secretary shall certify this fact to the General Counsel. The General Counsel shall forthwith petition the Circuit Court for the Fourth Judicial Circuit to make the redistricting required by the Charter and this chapter. An order of the Circuit Court making the redistricting shall be considered the same as an ordinance amending Appendix 1 of the Charter, and shall be given the same effect under this chapter. The redistricting order shall be included in the printed Charter in the same manner as an ordinance amending Appendix 1 thereof.

Sec. 18.110. - Effect on School Board districts.

The redistricting of the 14 Council districts shall automatically redistrict the School Board districts, as provided in Section 13.02 of the Charter. The description of the School Board districts contained in Appendix 2 of the Charter shall determine the Council districts comprising each School Board district. The Council may, by ordinance, amend Appendix 2 of the Charter, to change the Council districts comprising

each School Board district, subject to the requirements of Section 13.03 of the Charter, which shall also be considered a redistricting. Any redistricting of School Board districts shall not affect any term of office in existence at the time the redistricting becomes effective, but shall be applicable at the next School Board election which occurs at least nine months after the redistricting.

Sec. 18.111. - Effect on appointive offices.

A change in the division of the City into districts shall not vacate or otherwise affect the office of any member of an appointed board, commission or independent agency who is serving at the time the redistricting becomes official and who was appointed by reference to a district as it existed at the time such member was appointed. A member shall continue to represent the district in which he resided at the time of his appointment until the expiration of his term or until he resigns from the board, commission or independent agency, notwithstanding that, as a result of the redistricting, the member no longer resides in the district from which he was appointed.

Sec. 18.112. - Post-enactment of Redistricting.

The Council Secretary/Director shall comply with the post-redistricting enactment requirements of F.S. § 124.02 (Notice of change of boundaries of district to be given by publication), § 124.03 (Description of district boundaries to be furnished Department of State), and § 1001.36 (District school board member residence areas), as may be amended from time to time.

APPENDIX B

City Charter, Art. 5.02

Section 5.02. - Redistricting of council districts and residence areas.

- (a) Within 8 months after publication of each official federal census of the City of Jacksonville (Duval County), the council shall redistrict the 14 council districts and 5 at-large residence areas so that all districts and at-large residence areas are as nearly equal in population and are arranged in a logical and compact geographic pattern to the extent possible. If the council shall be unable to complete the redistricting of the council districts within 8 months after the official publication of the census, the general counsel shall petition the circuit court for the fourth judicial circuit to make such redistricting. Any redistricting of the council districts or at-large residence areas made pursuant to this section shall not affect any term of office in existence at the date of such redistricting, but shall be applicable beginning with the next succeeding general consolidated government election which occurs at least 9 months after the effective date of the redistricting.
- (b) The council shall establish the initial 5 at-large residence areas according to the same considerations for reapportioning the existing council and school districts as are established in chapter 18 of the Ordinance Code. Establishment of the initial 5 at-large residence areas by the council shall be accomplished no later than 9 months prior to the opening of the qualifying period for candidates seeking election in the 1995 consolidated government elections. Subsequent reapportionment of the residence areas shall be accomplished in the same manner provided for in the Ordinance Code for the reapportionment of council and school board districts. The 5 council members elected countywide in the general consolidated government election occurring in 1995 and thereafter shall each qualify from 1 of the 5 residence areas.

APPENDIX C

City Charter, Art. 13.02-03

Section 13.02. - School board districts.

Members of the school board shall be elected from one of the seven school board districts hereby created and established. Each school board district shall be composed of two adjoining council districts as set forth in appendix 2 of this charter.

S13.03. - Redistricting of school board districts.

Within 8 months after publication of each official federal census of Duval County, the council shall redistrict the seven school board districts so that all districts are as nearly equal in population as practicable. In the event that the council shall be unable to complete the redistricting of the school board districts within 8 months after the publication of that census, the city's general counsel shall petition the circuit court for the judicial circuit having jurisdiction over Duval County to make such redistricting. Any redistricting of the school board districts made pursuant to this section shall not affect any term of office in existence at the date of such redistricting but shall be applicable only to the next succeeding school board election.

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