

**CHAPTER 36**

**REDISTRICTING**

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**CHAPTER 36****REDISTRICTING****Article 1. Definitions.****Section 36-1. Definitions.**

As used in this chapter:

“Bizarre council district shape” means a council district that is drawn to have a very odd or grotesque shape, that has absurdities or is ridiculous in design, may cause grotesque projections into another district, may add an area that defies logic as to why it was included, or is so weird on its face that it is unexplainable on grounds other than gerrymandering.

“Commission” means the redistricting commission.

“Commissioner” means one of the nine members of the commission, duly appointed in the manner prescribed in section 13-4 of the Charter.

“Community of interest” or “community of common interest” means a group defined by actual shared interests.

“Council district deviation” means the number of percentage points plus or minus 4.99 percent that a population assigned to a council district differs from that of an ideal council district’s population.

“Fracturing” or “cracking” means drawing council district lines so that a minority population is broken up and spread among as many council districts as possible, keeping them a minority in every council district, rather than permitting them to concentrate their strength enough to elect representatives in some council districts.

“Gerrymander” means the process of drawing council districts with odd or bizarre shapes to create an unfair advantage.

“Ideal council district’s population” means the total number of the County’s permanent residents divided by the number of council districts.

“Minority population” means a group with similar demographics or characteristics that may share but not be limited to: ethnicity, political preferences, a socio-economic group, or a community of interest or community of common interest.

“One person, one vote” means using a benchmark against which the residents of the County may measure democracy; the vote of each resident shall be as equally powerful as practicable and the population shall be divided as equally as practicable as to the County’s permanent resident population so that each person and each interest has an equal amount of representation in government.

“Packing” means drawing council district boundary lines so that the members of the minority population are concentrated, or “packed,” into as few council districts as possible, resulting in a super-majority of that minority population in the packed council district.

“Permanent resident” for census purposes means a person who is domiciled in the County for other than a temporary or transitory purpose. No person shall be deemed to have gained or lost a residence simply because of a person’s presence or absence in compliance with military or naval orders of the United States, or while engaged in aviation or navigation, or while a student at any institution of learning.

“Plan” means a redistricting plan proposed by the commission or any alternative plan submitted by the public.

“Practicable” means reasonably capable of being accomplished, possible or feasible.

“Redistricting” means establishing the boundaries of the council districts, which shall have approximately equal resident populations as required by applicable constitutional provisions.

“Redistricting cycle” means that period of time when the United States Census Bureau conducts a census of the population of the United States of America in the census year followed by redistricting in the redistricting year, and culminates with the next general election following redistricting.

“Region” means one of six geographical areas which includes: Puna, comprised of Upper and Lower Puna; Kona, comprised of North and South Kona; Kohala, comprised of North and South Kohala; Hilo, comprised of North and South Hilo; Ka‘ū; and Hāmākua.

“Socio-economic group” means a group that shares both economic and social characteristics.

“Standard of fairness principles” means that the commission shall use honesty, morality, and fairness in its decisions regarding redistricting.

“Total deviation” means the overall range used to measure the population equality of a plan; the difference between the council district with the most negative percentage deviation and the council district with the most positive percentage deviation.

“United States census year” means those years ending in the numeral zero such as 2010, 2020, etc.

“Vote dilution” means the limitation of the effectiveness of a particular group’s vote by political gerrymandering.

(2011, ord 11-29, sec 2.)

## **Article 2. Training.**

### **Section 36-2. Training.**

Commissioners shall be trained in redistricting law and the code of ethics by the office of the corporation counsel or its designated agent, and may be provided any other training by appropriate personnel to enable the commission to be efficient and educated on this topic.

(2011, ord 11-29, sec 2.)

**Article 3. Redistricting Criteria.****Section 36-3. Established criteria.**

The commission shall adhere to the criteria in establishing boundaries of the council districts set forth in section 3-17, subsection (g) of the Charter. (2011, ord 11-29, sec 2.)

**Section 36-4. Additional criteria.**

In addition to the established criteria, the commission shall also adhere to the following criteria in establishing boundaries of the council districts:

- (1) Council districts shall have approximately equal, permanent, resident populations, as required by applicable constitutional provisions to prevent vote dilution to the maximum degree practicable.
- (2) Nonresident military personnel, nonresident military dependents, nonresident students, and foreign nationals or aliens shall be excluded from the permanent, resident population base used to calculate each proposed council district's population and its deviations from an ideal council district's population, if practicable.
- (3) An ideal council district's population number shall be used to determine by what percentage each council district's population deviates from the population of an ideal council district.
- (4) The number of council districts to which a region is entitled shall be determined by adding together the permanent resident population according to the United States census for the applicable United States census year within each region and dividing that number by an ideal council district's population.
  - (A) Fractional portions of such districts shall be rounded to the nearest integer to determine the number of council districts required for that region.
  - (B) Numbers from 0.10 to 0.49 shall be rounded down to the nearest integer. Numbers from 0.50 to 0.99 shall be rounded up to the nearest integer.
- (5) There shall be no partisanship or racism in drawing council district boundaries.
- (6) No council district shall be drawn to unduly favor or penalize an incumbent.
- (7) Council district boundaries shall be drawn without regard to any incumbent's residential location, any incumbent's ability to run for re-election in that incumbent's current council district, or whether any incumbent faces another incumbent for re-election.
- (8) Community of interest or community of common interest shall be respected and be kept together in the plan, if practicable.
- (9) Council districts shall be drawn to be as compact as practicable while maintaining the community or communities of interest.

- (10) The County shall use to the extent possible a reasonably current computer mapping program and shall make the program accessible to the public, if practicable.
  - (11) All parts of each council district shall be contiguous to the council district and be reachable by roads internal to the council district.
  - (12) There shall be no gerrymandering for any reason.
  - (13) The drawing of bizarre council district shapes shall be avoided even if a previous plan was designed using an odd, unusual, or illogical shape.
  - (14) There shall be no fracturing, packing, or cracking of council districts, if practicable.
  - (15) The one person, one vote principle shall be used.
  - (16) If the commission establishes criteria in addition to those enumerated in the Charter and this chapter, the commission shall use impartial criteria that meet standard of fairness principles.
  - (17) If practicable, socio-economic criteria used in developing the plan, not specifically set forth in this chapter, shall be identified, documented, and approved by majority vote of the commission, before drawing proposed council district boundaries. If practicable, socio-economic groups shall be kept together.
- (2011, ord 11-29, sec 2.)

**Article 4. Plan Deviations.**

**Section 36-5. Total deviation.**

- (a) The total deviation for the entire plan shall be less than ten percent.
- (b) If a population of permanent residents must be assigned to a different council district to ensure that the total deviation is less than ten percent and such equalization involves reassigning any portion of a subdivision, the entire subdivision shall be moved as a unit, if practicable.

(2011, ord 11-29, sec 2.)

**Section 36-6. Maximum council district deviation.**

- (a) The maximum council district deviation for a proposed council district shall not exceed plus or minus 4.99 percent of an ideal council district's population.
- (b) If practicable, documented, high-growth areas shall be drawn to receive the most negative council district deviation percentage in the final plan so that as a high growth area or district continues to increase in population between census years, the council district's deviations may be equalized.

(2011, ord 11-29, sec 2.)

**Article 5. Alternate Plan.****Section 36-7. Plan proposed by the public.**

- (a) Any resident or group of residents of the County shall have the right to propose an alternate plan to the commission for review.
- (b) The deadline for the submission of an alternate plan or plans shall be determined by the fourth meeting of the commission and that date shall be publicly announced.
- (c) Any proposed alternate plan shall be submitted to the commission at least eight weeks prior to the deadline for the draft plan.

(2011, ord 11-29, sec 2.)

**Section 36-8. Alternate plan consideration.**

- (a) To be considered for commission review, the alternate plan shall include a computerized map of the proposed council districts, the total population number used to devise the plan, the total deviation not to exceed ten percent, and the deviation for each council district not to exceed plus or minus 4.99 percent.
- (b) An alternate plan shall be provided to the commission for discussion at public hearings unless the commission formally rejects the alternate plan for just cause.
- (c) Any alternate plan submitted for consideration that the commission has not formally rejected for just cause during public hearings shall continue to be considered by the commission for the remaining public hearings and meetings until a final plan is selected.

(2011, ord 11-29, sec 2.)

**Section 36-9. Alternate plan requirements.**

An alternate plan:

- (1) Shall conform to the criteria described in this chapter and in the Charter, and any other criteria adopted by the commission.
- (2) Having a lower total deviation than the commission's plan while not exceeding plus or minus 4.99 percent in any council district nor having a total deviation in excess of ten percent shall be selected for the final plan unless the commission can alter its plan to achieve an equal or lower total deviation than the alternate plan offered.
- (3) Shall include written justification for any divergence from the established criteria.

(2011, ord 11-29, sec 2.)

**Article 6. Final Plan.****Section 36-10. Written report.**

- (a) The commission shall submit a written report to the county clerk transmitting the final plan chosen by the commission.

- (b) The written report shall include:
- (1) The final vote of the commission as to its choice of plan;
  - (2) The total permanent, resident population base used by the commission;
  - (3) The total deviation of the final plan;
  - (4) Each proposed council district's population and its associated deviation;
  - (5) Maps of each council district and a written description of each council district's boundary;
  - (6) A map of the island with all proposed council districts included;
  - (7) Justification for any divergence from any of these requirements or criteria or any criteria added by the commission and, in addition:
    - (A) Divergence from or adding additional redistricting criteria shall require formal adoption by the commission. The commission shall justify the divergence or addition to the redistricting criteria at a duly noticed and scheduled public meeting. Such justification and public meeting is to be held prior to the commission's selection or determination of any council district boundaries and before the deadline for filing an alternate plan or plans, as the case may be;
    - (B) Written justification for divergence, criteria changes, and meeting minutes shall be included with the submission of the final plan and shall set forth the commission's rationale for divergences from or additions to the redistricting criteria.
  - (8) Minutes of all meetings and hearings associated with the commission;
  - (9) Documentation in the commission's final report stating the reason any alternate plan, whether accepted or not, was selected or rejected; and
  - (10) Any other data used by the commission in its deliberations.
- (2011, ord 11-29, sec 2.)

**Section 36-11. Challenges to the plan.**

In the event of a successful court challenge of a plan, the commission shall continue in operation and may assist the court in formulating a new plan unless a court of competent jurisdiction determines otherwise.

(2011, ord 11-29, sec 2.)