

ORDINANCE No. 2012-04-277

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, PROVIDING FOR AN AMENDMENT TO SECTION 2.3(C), OF THE CHARTER OF THE CITY OF MIAMI GARDENS, TO AMEND THE BOUNDARY DESCRIPTIONS FOR RESIDENTIAL AREA SEATS ONE AND FOUR TO REPLACE THE REFERENCE TO 191ST STREET IN THE DESCRIPTION OF THE SOUTHERN BOUNDARY OF RESIDENTIAL SEAT ONE TO 178TH STREET AND TO REPLACE THE REFERENCE TO 191ST STREET IN THE NORTHERN BOUNDARY DESCRIPTION OF SEAT FOUR TO 178TH STREET TO REAPPORTION SEATS AS A RESULT OF THE DECENNIAL CENSUS; SUBMITTING THE QUESTION FOR APPROVAL OF THE ELECTORATE OF THE CITY OF MIAMI GARDENS AT THE GENERAL ELECTION TO BE HELD ON AUGUST 14, 2012; PROVIDING FOR THE CALL OF THE ELECTION ON THE ISSUE TO BE PRESENTED ON THE BALLOT; PROVIDING FOR AUTHORITY TO THE CITY ATTORNEY AND CITY CLERK; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, federal law mandates that a census be conducted every ten (10) years, and

WHEREAS, the 2010 census results revealed significant population changes which require the redistricting of Residential Areas One and Four, and

WHEREAS, Section 2.3(C) of the City's Charter, describes the boundaries for the City's residential areas, and

WHEREAS, it is necessary to amend the boundary descriptions for Residential Areas One and Four to ensure that all residents receive equal representation, and

WHEREAS, in accordance with §166.031, Florida Statutes, a municipality may amend its charter by adopting an ordinance and by placing the proposed amendment to a vote of the electors at the next general election held within the municipality or at a special

election called for such a purpose,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. APPROVAL: The City Council hereby amends Section 2.3(C) of the Charter as follows:

(C) *Residential Areas. Seats 1-4.* The City shall be divided into four residential areas. Individually each is a "Residential Area" collectively "Residential Areas." One Council member shall be elected to a Seat from each Residential Area. Council members from Residential Areas are collectively the "Residential Area Council members." Individually each is a "Residential Area Council member." The Residential Areas corresponding to each Seat are formally set forth below:

- | | | |
|--------|--------------------|--|
| Seat 1 | Northern Boundary: | N.W. 215 th Street |
| | Eastern Boundary: | N.W. 27 th Avenue, N.W. 20 th Avenue |
| | Southern Boundary: | N.W. 199 th Street, west to N.W. 37 th Avenue, south to N.W. 494st <u>178th</u> Street, west to N.W. 42 nd Avenue, South to SR 826, west to 47 th Avenue. |
| | Western Boundary: | N.W. 47 th Avenue |
| Seat 2 | Northern Boundary: | N.W. 215 th Street |
| | Eastern Boundary: | N.E. 2 nd Avenue, south to N.W. 199 th Street, west to North Miami Avenue, south to N.W. 183 rd Street |
| | Southern Boundary: | N.W. 183 Street |
| | Western Boundary: | Florida Turnpike, north to N.W. 199 th Street, west to N.W. 27 th Avenue, north to N.W. 215 th Street |

Language deleted is stricken through and language added is underlined.

Seat 3	Northern Boundary:	N.W. 199 th Street, south along Florida Turnpike, to N.W. 183 rd Street, east along N.W. 183 rd Street to North Miami Avenue.
	Eastern Boundary:	North Miami Avenue, South to SR 9, southwest on SR 9 to N.W. 151 st Street
	Southern Boundary:	N.W. 151 st Street to N.W. 27 th Avenue.
	Western Boundary:	N.W. 27 th Avenue
Seat 4	Northern Boundary:	N.W. 199 th Street, west to N.W. 37 th Avenue, south to N.W. 194 st <u>178th</u> Street, west to N.W. 42 nd Avenue, south to SR 826, west to 57 th Avenue.
	Eastern Boundary:	N.W. 27 th Avenue.
	Southern Boundary:	N.W. 151 st Street to N.W. 57 th Avenue.
	Western Boundary:	N.W. 57 th Avenue, north to SR 826, east to N.W. 47 th Avenue, north to N.W. 191 st Street, east to 37 th Avenue, north to N.W. 199 th Street, east to N.W. 27 th Avenue.

SECTION 3. ELECTION CALL: The Mayor and City Council hereby call for an election to be held concurrent with the special election to be held in the month of August 2012, at such time as may be convenient for, and determined in accordance with the procedure of the Supervisor of Elections in and for Miami-Dade County, Florida, the City Clerk and City Attorney are hereby directed and empowered to do such things as may be necessary and proper in accordance with the laws of the City of Miami Gardens and the laws of the State of Florida to provide for such election on the proposition herein contemplated; and there should be presented to the electorate of the City of Miami Gardens, the question of whether or not to amend Section 2.3(C) of the City Charter to amend the boundary descriptions for Residential Area Seats One and Four to replace the reference to 191st Street in the description of the Southern Boundary of Residential Seat

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One to 178th Street and to replace the reference to 191st Street in the Northern Boundary description of Seat Four to 178th Street to reapportion seats as a result of the decennial census.

SECTION 4. ELECTORATE APPROVAL NECESSARY: There shall be placed on the ballot of the General Election to be held on August 14, 2012, in accordance with the call thereof by the City Council, the following proposition of whether to amend Section 2.3(C) of the Charter to amend the boundary descriptions for Residential Area Seats One and Four to replace the reference to 191st Street in the description of the Southern Boundary of Residential Seat One to 178th Street and to replace the reference to 191st Street in the Northern Boundary description of Seat Four to 178th Street to reapportion seats as a result of the decennial census; providing that each elector shall indicate such elector's approval for the proposition; providing further, that in the event the elector shall indicate both approval for and against such change, such elector's vote and ballot shall not be counted in determining the question presented on such ballot and in such election. One ballot shall be established and made available to each elector, by electronic or other means for the purpose of expression of such elector's approval or disapproval of the proposition and such proposition shall be summarized as follows:

**Amending The Boundary Descriptions For
Residential Areas One And Four**

Shall Section 2.3(C) of the City Charter be amended to replace the reference to 191st Street in the description of the Southern Boundary of Residential Seat One to 178th Street and to replace the reference to 191st Street in the Northern Boundary description of Seat Four to 178th Street to reapportion seats as a result of the decennial census?

YES _____

NO _____

SECTION 5. AUTHORITY: The City Attorney and City Clerk are hereby

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authorized to make any such amendments to the ballot title and/or question based upon the rules, regulations and policies of the Miami-Dade Supervisor of Elections, and is hereby authorized to take all steps necessary to fulfill the intent of this Ordinance.

SECTION 6. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 7. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 8. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that in the event the ballot question presented herein is approved by the electors of the City that the provisions of this Ordinance shall become and be made a part of the Charter as included in the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed

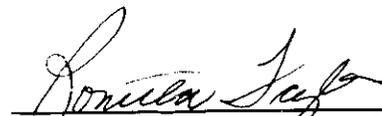
SECTION 9. EFFECTIVE DATE: This Ordinance shall become immediately upon its passage.

PASSED ON FIRST READING ON MARCH 14, 2012.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON MARCH 28, 2012


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: RONETTA TAYLOR, MMC, CITY CLERK AND
SONJA K. DICKENS, ESQ., CITY ATTORNEY

MOVED BY: Vice Mayor Gilbert
SECONDED BY: Councilwoman Davis

VOTE: 7-0

Mayor Shirley Gibson	<u>X</u> (Yes)	___ (No)
Vice Mayor Aaron Campbell	<u>X</u> (Yes)	___ (No)
Councilman David Williams Jr.	<u>X</u> (Yes)	___ (No)
Councilwoman Lisa Davis	<u>X</u> (Yes)	___ (No)
Councilman Andre' Williams, Jr.	<u>X</u> (Yes)	___ (No)
Councilwoman Felicia Robinson	<u>X</u> (Yes)	___ (No)
Councilman Oliver Gilbert, III	<u>X</u> (Yes)	___ (No)

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City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	March 14, 2012		Item Type:	Resolution	Ordinance	Other	
			<i>(Enter X in box)</i>		X		
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading	
	X				X		
			Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes	No
					X		
Funding Source:	City Clerk – General Fund		Advertising Requirement: <i>(Enter X in box)</i>	Yes		No	
						X	
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:	N/A			
		X					
Strategic Plan Related <i>(Enter X in box)</i>	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: <i>(list the specific objective/strategy this item will address)</i> N/A			
		X					
Sponsor Name	Sonja K. Dickens, City Attorney and Ronetta Taylor, City Clerk		Department:	<i>Office of the City Attorney and Office of the City Clerk</i>			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, PROVIDING FOR AN AMENDMENT TO SECTION 2.3(C), OF THE CHARTER OF THE CITY OF MIAMI GARDENS, TO AMEND THE BOUNDARY DESCRIPTIONS FOR RESIDENTIAL AREA SEATS ONE AND FOUR TO REPLACE THE REFERENCE TO 191ST STREET IN THE DESCRIPTION OF THE SOUTHERN BOUNDARY OF RESIDENTIAL SEAT ONE TO 178TH STREET AND TO REPLACE THE REFERENCE TO 191ST STREET IN THE NORTHERN BOUNDARY DESCRIPTION OF SEAT FOUR TO 178TH STREET TO REAPPORTION SEATS AS A RESULT OF THE DECENNIAL CENSUS; SUBMITTING THE QUESTION FOR APPROVAL OF THE ELECTORATE OF THE CITY OF MIAMI GARDENS AT THE SPECIAL ELECTION TO BE HELD ON AUGUST 14, 2012; PROVIDING FOR THE CALL OF THE ELECTION ON THE ISSUE TO BE PRESENTED ON THE BALLOT; PROVIDING FOR AUTHORITY TO THE CITY ATTORNEY AND CITY CLERK; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

**ITEM I-1) ORDINANCE
SECOND READING/PUBLIC HEARING
Residential Boundary Amendment**

Staff Summary:

Public Law (P.L.) 94-171, enacted by Congress in December 1975, requires the U.S. Census Bureau to provide state legislatures with the small area census population tabulations necessary for legislative redistricting. This redistricting data from the 2010 U.S. Census has also been provided to cities and counties for their use in analyzing and potentially redistricting to insure proper and fair apportionment of voting districts.

Because of the 2010 Census, City Planning and Zoning staff undertook an analysis of the Census numbers to determine population growth in the City. Section 2.3(C) of the City of Miami Gardens Charter provides for four (4) Residential Areas. The boundaries for those Residential Areas are designated in the Charter. An analysis of the 2010 Census results has indicated that the population for those seats is currently as follows:

Seat 1 – 24,427
Seat 2 - 27,531
Seat 3 – 26,066
Seat 4 – 29,143

There is what has been referred to as the ten percent (10%) rule to be used by governments when deciding whether to redistrict. This is not a statutory requirement; however, this rule has been developed in case law as one of the benchmarks to analyze when determining to redistrict. Ideally, districts should be as close in population to each other as possible.

A staff analysis has indicated, that there is a disparity between the sizes of Residential Area 1 and 4. Based upon staff analysis, Area 4 is “too big by 2,348 people”, and Area 1 is “too small by 2,368 people”.

While the ten percent analysis is a guide, there are other considerations when determining whether to undertake the redistricting process. State and local governments have been given more leeway by the federal courts when determining whether to redistrict, than the federal government. The decision to redistrict or not is likely to be upheld, so long as the City Council considers principles such as protecting incumbents, community of interests, compactness, and respect for existing political subdivisions (not dissecting a municipality unless necessary).

Historically, redistricting was required because of the Voting Rights Act. The purpose of the Act was to ensure that voters were not being discriminated and the votes of certain racial groups were not diluted. This does not appear to be an issue for the City of Miami Gardens in that each voter in the City votes for the same number of persons. In addition, the City’s boundaries were drawn in the Charter when the City was first created, and as mentioned above, compactness, respecting municipal boundaries, and preserving the core of prior districts can be considered when deciding whether to redistrict. Moreover, the City is a majority-minority City. These are all issues that can be considered by the City Council in determining whether it wants to redistrict.

In addition, there is no statutory mandate in the State of Florida for the City to undertake redistricting. It is purely an operation of case law. In the event, the City Council chooses not to undertake the redistricting process, the districts as currently laid out in the Charter will remain

the same. Any group seeking to challenge the current boundaries based upon the fact that they have been discriminated against could still seek redress in court. If there were a challenge based upon a racial disparity, the City would be required to show that the decision does not dilute any voting rights. If there was such a challenge, and the parties prevail, the court would then review and approve a proposed redistricting plan.

In the event the City Council proposes to redistrict, the proposed Ordinance upon approval would be transmitted to the Miami Dade County Supervisor of Elections and the voters in the City of Miami Gardens will have to vote on this matter during the next regularly scheduled General Election on August 14, 2012.

Proposed Action:

That the City Council approves the attached Ordinance.

Attachment: