

CLERK'S OFFICE

APPROVED

ANCHORAGE, ALASKA

Date: 12-18-12 AO No. 2012-117

1 AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING THE  
2 BOUNDARIES OF THE DOWNTOWN ASSEMBLY ELECTION DISTRICT  
3 (DISTRICT ONE) AND THE CENTRAL ANCHORAGE ASSEMBLY ELECTION  
4 DISTRICT (DISTRICT FOUR –“MIDTOWN”).  
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6  
7 **WHEREAS**, after the federal census and the State of Alaska's adoption of a final  
8 state redistricting plan, the Assembly declared itself malapportioned (AR 2012-181),  
9 and having determined redistricting will result in properly apportioned districts; and

10  
11 **WHEREAS**, a number of alternatives were explored, keeping in mind the mandates  
12 of federal, state and local law, including principles of “one person, one vote”, equal  
13 protection, and the requirement to maintain compact and contiguous districts  
14 containing as nearly as practicable relatively integrated socioeconomic areas;  
15

16 **WHEREAS**, the Assembly approved AO 2012-108 on November 13, 2012;

17  
18 **WHEREAS**, the Assembly's approval included an amendment to the proposed map  
19 moving all of precinct 520 from District 1 (Downtown) to District 4 (Central  
20 Anchorage); and

21  
22 **WHEREAS**, returning precinct 520 to its traditional division along Debarr Road so  
23 that the North part of the precinct stays in District 1 and the South part of the precinct  
24 stays in District 4 results in a deviation of 2.45%, illustrated as follows:  
25

DISTRICT	Total All Persons	Target	Deviation	Difference
1	26533	26,530	0.01%	3
2	52281	53,059	-1.47%	-778
3	52891	53,059	-0.32%	-168
4	53370	53,059	0.59%	311
5	53578	53,059	0.98%	519
6	53173	53,059	0.21%	114

26  
27 Now, therefore, THE ANCHORAGE ASSEMBLY ORDAINS:

28  
29 **Section 1.** The official Assembly apportionment map approved by AO 2012-108 is  
30 amended as indicated in Exhibit A (attached).

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32 **Section 2.** The revisor of ordinances shall replace the existing map in Anchorage  
33 Municipal Code section 2.25.010 with a map reflecting the changes made by Exhibit  
34 A.  
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**Section 3.** This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 18<sup>th</sup> day of December, 2012.

  
\_\_\_\_\_  
Chair of the Assembly

ATTEST:

  
\_\_\_\_\_  
Municipal Clerk

# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. AM 689-2012

Meeting Date: November 27, 2012

1 **From:** DEBBIE OSSIANDER, ASSEMBLY MEMEBER

2  
3 **Subject:** AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING  
4 THE BOUNDARIES OF THE DOWNTOWN ASSEMBLY ELECTION  
5 DISTRICT (DISTRICT ONE) AND THE CENTRAL ANCHORAGE  
6 ASSEMBLY ELECTION DISTRICT (DISTRICT FOUR –  
7 “MIDTOWN”).  
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9 At the November 13, 2012 Assembly meeting, AO 2012-108 was amended on the  
10 floor before passage and approval. The amendment to the 1 DT Vers 3.1 map  
11 placing all of Precinct 520 into Assembly Election District 4 raised the population  
12 deviation from 5.84% to 8.53%. The Department of Law evaluated this  
13 amendment’s effect and is concerned the resulting increased total deviation will be  
14 significantly difficult to defend if challenged. In the 2001 state redistricting litigation,  
15 the Alaska Supreme Court stated:  
16

17 “We conclude that the [state redistricting] board failed to offer an acceptable  
18 justification for the Anchorage deviations [9.5%]. The board considered and rejected  
19 Anchorage plans with significantly lower maximum deviations, apparently because  
20 these plans did not respect the board's conception of neighborhood boundaries. But  
21 as we held in *Groh v. Egan*, Anchorage neighborhood patterns cannot justify  
22 “substantial disparities” in population equality across Anchorage districts. Anchorage  
23 is by definition socioeconomically integrated, and its population is sufficiently dense  
24 and evenly spread to allow multiple combinations of compact, contiguous districts  
25 with minimal population deviations. Accordingly, the Anchorage deviations are  
26 unconstitutional, and require the board on remand to make a good faith effort to  
27 further reduce the deviations.”  
28

29 The deviation created by the amendment to AO 2012-108 may not withstand a legal  
30 challenge because there is insufficient evidentiary support in the record for the  
31 change increasing the total deviation, when measured against the Alaska  
32 constitutional requirement to try to have as low a deviation as practical. While one  
33 assembly member spoke in general terms to the importance of that precinct and its  
34 minority population, there was no evidence about how that precinct’s retention in  
35 District 4 was necessary to meet any federal, state or municipal law requirement,  
36 such as a showing of minority composition or minority voting history for Voting  
37 Rights Act (VRA) purposes.  
38

39 According to the available 2010 Census data, the South part of the precinct, which  
40 has historically been in District 4, is predominately white. The North part of the

1 precinct, which has historically been in District 1, is predominately comprised of  
2 minorities, particularly Alaska Natives. The census data shows the amendment  
3 placing the whole precinct in District 4 resulted in decreasing the percentage of  
4 Alaska Natives of voting age in District 1 by 1.37% from the Benchmark, compared  
5 to a 0.84% decrease in the 1 DT Vers 3.1 plan. In District 4 the amendment  
6 increased the percentage of voting age Alaska Natives by 0.38% over the  
7 Benchmark, compared to a 0.83% increase in the 1 DT Vers 3.1 plan. The  
8 fractional percentages affecting Alaska Natives voting strength are insufficient to  
9 justify the increase in the total deviation from the ideal for the “one person, one  
10 vote” rule. Compared to the historical district map (or “Benchmark” districts) that  
11 has been in place since 2002, the amendment essentially moves the North part of  
12 the precinct into District 4. Thus, the North part of the precinct, which is  
13 predominately comprised of minority groups, has had no bearing on the success of  
14 minority candidates in District 4, while the South part of the precinct, which has  
15 been part of District 4 and is predominately white, cannot be said to have prevented  
16 minority candidates from being elected in District 4. On the other hand, it is clear  
17 that moving the North part of the precinct from District 1 to District 4 arguably  
18 diminishes the voting strength of Alaska Natives in District 1 by more than 1%.

19  
20 The factors the DOJ considers to determine whether a reapportionment plan  
21 complies with Section 5 of the VRA includes: (1) whether minority voting strength is  
22 reduced; (2) whether minority concentrations are fragmented among different  
23 districts; (3) whether minorities are over-concentrated in one or more districts; (4)  
24 whether alternative plans satisfying legitimate governmental interests exist and were  
25 considered; (5) whether the reapportionment plan departs from objective  
26 redistricting criteria applicable to the MOA, or ignores relevant factors such as  
27 compactness and contiguity, or disregards available natural or artificial boundaries;  
28 and (6) whether the plan is inconsistent with MOA’s reapportionment standards.

29  
30 The DOJ does not rely on any fixed demographic percentage in making this  
31 assessment. Instead, it is a functional analysis of electoral behavior that looks at  
32 electoral participation within portions of a population, election history, voting  
33 patterns, voter registration and turnout, and other information important to this  
34 determination. A reapportionment plan that preserves current minority voting  
35 strength is entitled to preclearance. A plan that reduces voting strength in specific  
36 districts is not retrogressive if it can be shown those losses are offset by gains in  
37 other districts in the overall plan. Finally, it is not considered retrogressive when a  
38 plan adjusts minority group numbers in specific districts so they reflect the  
39 percentage of minorities in the area overall.

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41 In total, based on the federal standards described above, the evidence does not  
42 tend to support the amendment. Still, even if the Assembly’s record had supporting  
43 data suggesting that moving the North part of the precinct into District 4 was  
44 necessary under federal law, we have not explored all options to, at the same time,  
45 make sure we meet the state constitutional law requirement to establish a low  
46 deviation so that the Districts are as close as possible to the target population for  
47 proportionality. In redistricting, compliance with Equal Protection – “one person,  
48 one vote” – is a primary objective, which should only be compromised to the extent  
49 necessary to comply with the VRA or other requirements such as avoiding split  
50 precincts.

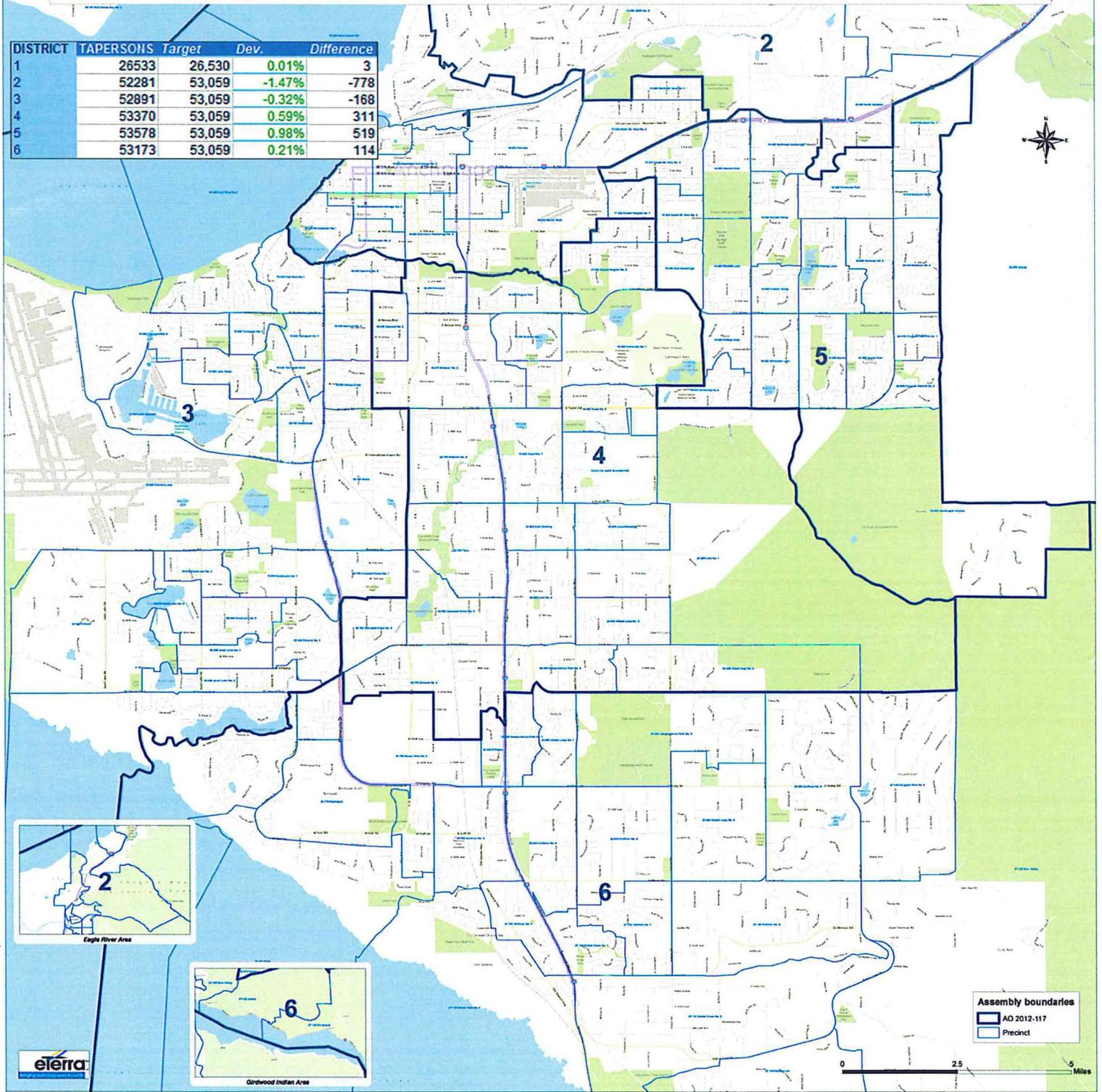
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2 The proposed ordinance would return Precinct 520 to its previous configuration in  
3 the Benchmark boundaries as a split precinct, retaining the North half of the precinct  
4 in District 1. The result is more favorable to Alaska Natives of voting age than both  
5 the 1 DT Vers 3.1 plan and the adopted plan with the amendment: it decreases the  
6 percentage of Alaska Natives of voting age in District 1 by only 0.53% and increases  
7 it in District 4 by 0.33%. This ordinance minimizes the effect on Alaska Native  
8 voting strength and at the same time it places the Equal Protection constitutional  
9 requirements as the highest priority in this reapportionment, demonstrated by the  
10 2.45% total deviation. All other data being equal, this arrangement is entitled to  
11 preclearance under federal law and better meets the state constitutional law  
12 requirements to be as near as practicable to the "one person, one vote" standard.

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14 Prepared by: Dennis A. Wheeler, Municipal Attorney  
15 Respectfully submitted: Debbie Ossiander, Assembly Member



# Official Assembly Election District Map (AO 2012-108, as amended; AO 2012-117)

DISTRICT	TAPERSONS	Target	Dev.	Difference
1	26533	26,530	0.01%	3
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Assembly boundaries  
 AO 2012-117  
 Precinct

0 2.5 5 Miles