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SOUTH CAROLINA'S 2021 REDISTRICTING

SC elections by the numbers

40%

7 congressional districts

46 state senate districts

124 state house districts

793 general elections

533 (67%) unopposed*
general elections

33 “competitive” elections
(result within 10 points)

Overview

- Why do we redraw districts?
- A short history of redistricting in the South and South Carolina.
- Thoughts on the 2021 redistricting.

Why do we redraw districts?

Because the Constitution requires it!

“The conception of political equality from the Declaration of Independence, to Lincoln’s Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—**one person, one vote.**”

Reynolds v. Sims, 377 U.S. 533, 558 (1964) (holding legislative districts must be roughly equal in population).

Some quick history...





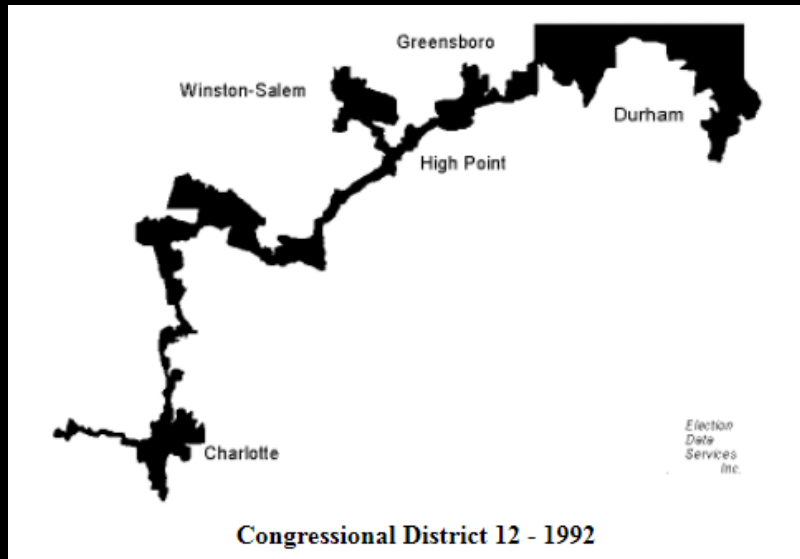
Section 2 of VRA

(52 U.S.C. § 10301)

- Applies nationwide.
- Prohibits denial or abridgement of the right to vote on account of race or color.
- Violation where protected class has “less opportunity ... to participate in the political process and **to elect representatives of their choice.**”

Equal protection claims

(Shaw v. Reno, 509 U.S. 630 (1993) and progeny)

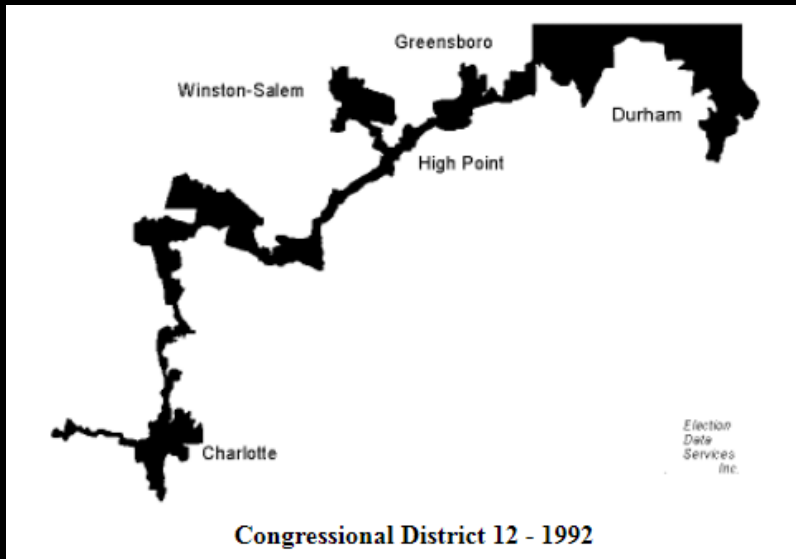


“...This Court never has held that race-conscious state decisionmaking is impermissible in all circumstances. What appellants object to is redistricting legislation that is so **extremely irregular on its face** that it rationally can be viewed only as an effort to segregate the races for purposes of voting, without regard for traditional districting principles and without sufficiently compelling justification.”

Shaw, 509 U.S. at 642.

Equal protection claims

(Shaw v. Reno, 509 U.S. 630 (1993) and progeny)



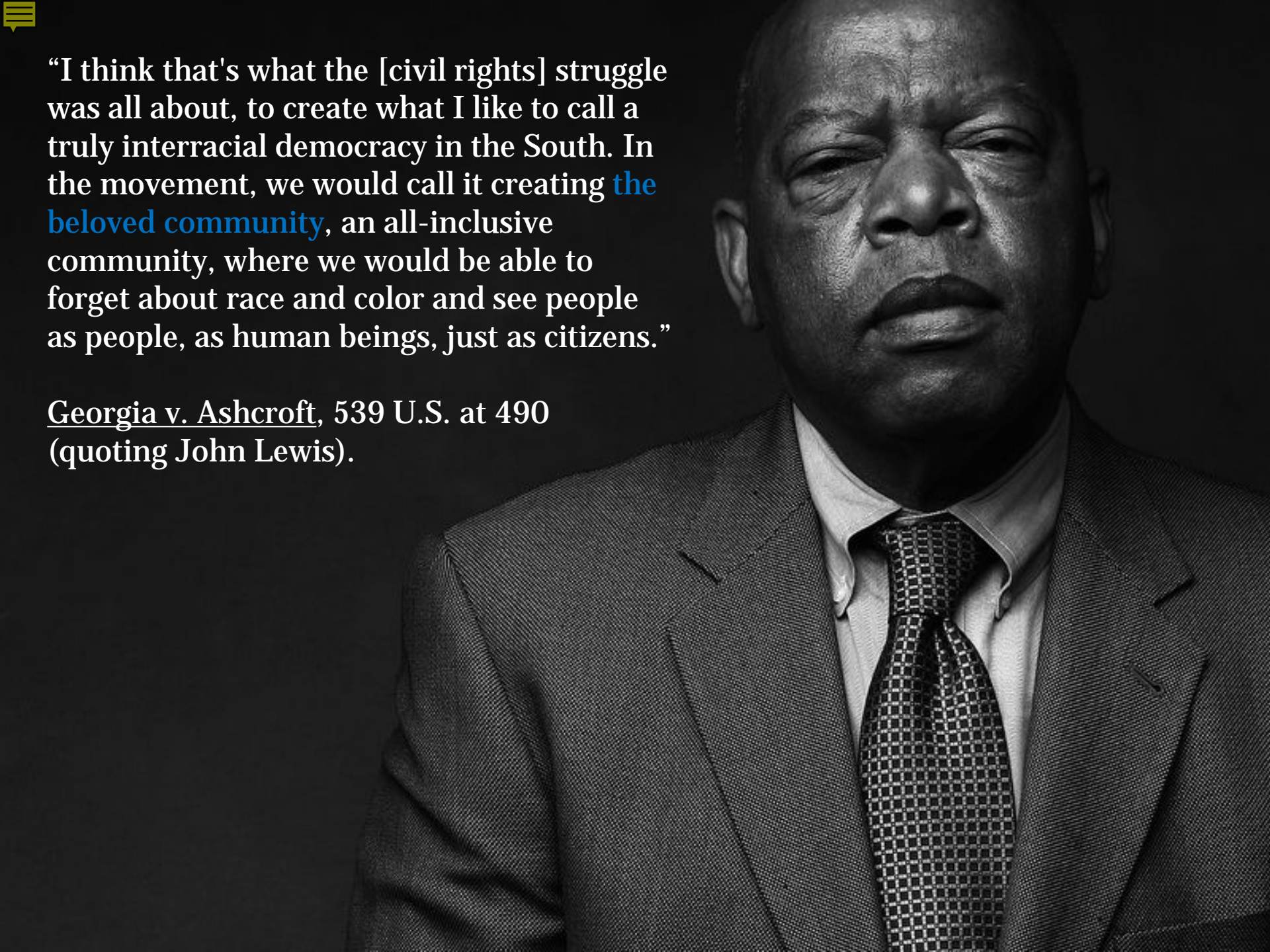
“The plaintiff’s burden is to show, either through **circumstantial evidence** of a district’s **shape** and **demographics** or **more direct evidence** going to legislative **purpose**, that race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district. To make this showing, a plaintiff must prove that the legislature subordinated traditional race-neutral districting principles”

Miller v. Johnson, 515 U.S. 900, 916 (1995).

Coalition districting

(Georgia v. Ashcroft, 539 U.S. 461 (2003))

- State senate plan unpacked majority-minority districts and created new influence districts.
- Purpose of plan was **to increase black voting strength** and ensure continued Democratic majority.
- “[S]trategy has the potential to increase ‘substantive representation’ in more districts, by creating coalitions of voters who together will help to achieve the electoral aspirations of the minority group. ... Section 5 gives States the flexibility to choose ...”
Georgia, 539 U.S. at 481–82.



“I think that's what the [civil rights] struggle was all about, to create what I like to call a truly interracial democracy in the South. In the movement, we would call it creating **the beloved community**, an all-inclusive community, where we would be able to forget about race and color and see people as people, as human beings, just as citizens.”

Georgia v. Ashcroft, 539 U.S. at 490
(quoting John Lewis).

2006 Reauthorization of the VRA

- Amends § 5 to prohibit *any* change with purpose or effect of diminishing minority ability to elect *along strictly racial lines*.
- Abrogates Georgia v. Ashcroft
- No change to preclearance coverage formula (§ 4).

Public Law 109–246
109th Congress

An Act

To amend the Voting Rights Act of 1965.

July 27, 2006
[H.R. 9]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006”.

SEC. 2. CONGRESSIONAL PURPOSE AND FINDINGS.

(a) PURPOSE.—The purpose of this Act is to ensure that the right of all citizens to vote, including the right to register to vote and cast meaningful votes, is preserved and protected as guaranteed by the Constitution.

(b) FINDINGS.—The Congress finds the following:

(1) Significant progress has been made in eliminating first generation barriers experienced by minority voters, including increased numbers of registered minority voters, minority voter turnout, and minority representation in Congress, State legislatures, and local elected offices. This progress is the direct result of the Voting Rights Act of 1965.

(2) However, vestiges of discrimination in voting continue to exist as demonstrated by second generation barriers constructed to prevent minority voters from fully participating in the electoral process.

(3) The continued evidence of racially polarized voting in each of the jurisdictions covered by the expiring provisions of the Voting Rights Act of 1965 demonstrates that racial and language minorities remain politically vulnerable, warranting the continued protection of the Voting Rights Act of 1965.

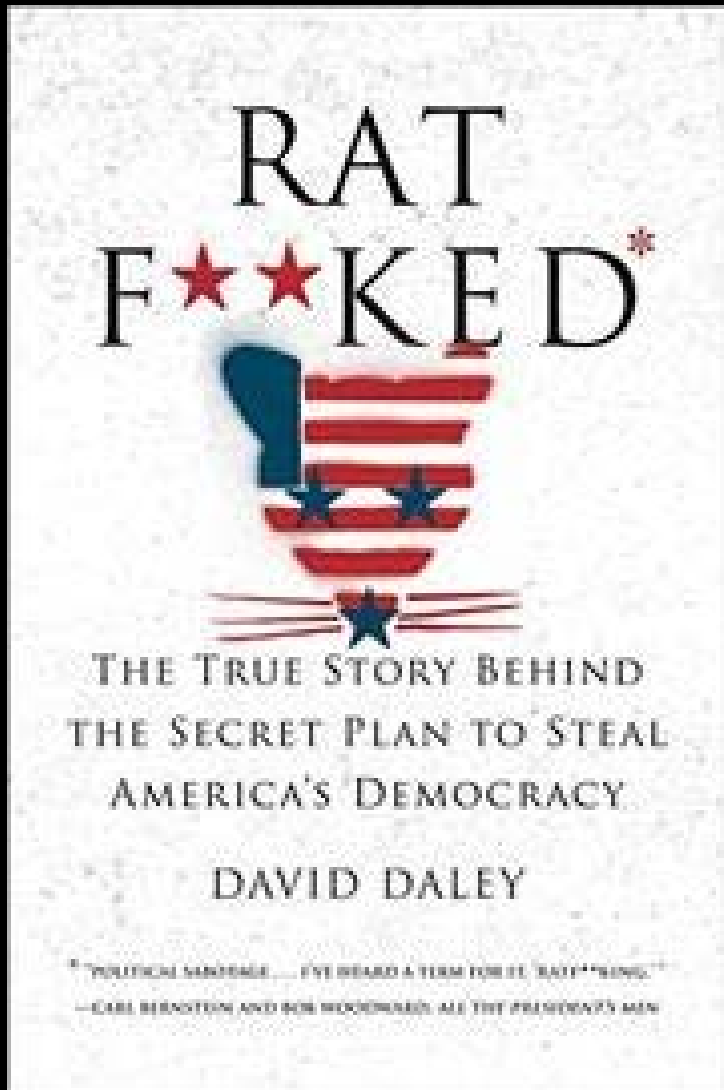
(4) Evidence of continued discrimination includes—

(A) the hundreds of objections interposed, requests for more information submitted followed by voting changes withdrawn from consideration by jurisdictions covered by the Voting Rights Act of 1965, and section 5 enforcement actions undertaken by the Department of Justice in covered jurisdictions since 1982 that prevented election practices, such as annexation, at-large voting, and the use of multi-member districts, from being enacted to dilute minority voting strength;

(B) the number of requests for declaratory judgments denied by the United States District Court for the District of Columbia;

Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006.
42 USC 1971 note.
42 USC 1973 note.

2010 midterms



- RSLC and REDMAP initiative
- 680 new Republican statehouse seats
- Supermajorities for conservative policies in blue and purple states
- Control of 10 of 15 state legislatures slated to add or lose congressional seats
- Power to draw 47 of 70 competitive congressional districts

“We’re having the same conversations we had forty years ago in the South, that black people can only represent black people and white people can only represent white people,” says Mansfield.

...

Ari Berman
“How the GOP Is
Resegregating
the South”
The Nation
January 31, 2012

“The bigger picture is to ultimately make the Democratic Party in the South be represented only by people of color.” The **GOP’s long-term goal is to enshrine a system of racially polarized** voting that will make it harder for Democrats to win races on local, state, federal and presidential levels.

Alabama Legislative
Black Caucus v.
Alabama, 989 F. Supp.
2d 1227, 1348 (M.D. Ala.
2013) (Thompson, J.,
dissenting), vacated and
remanded, 575 U.S. 254
(2015).

“To be sure, conditions 30 years ago or 20 years ago or even a decade ago (in or around 2001) may have justified requiring high percentages of black population in majority-black districts. Indeed, as I now consider Alabama’s and the majority’s argument that the record justifies these high racial percentages, **I feel as if I were in a time warp carried back into the past, with the arguments being the same but with the parties having switched sides.** But, again, the issue here is, What are the conditions today? Not, what they were back then.

Summary of the 30 Majority-Black House Districts Drawn by 2011 Redistricting

House District	BVAP (2000 census) under Act 55 of 2003	Districts represented by black Representatives after 2004 election	Benchmark BVAP (2010 Census under Act 55)	Districts represented by black Representatives after 2010 election	Adopted BVAP	BVAP change from Benchmark to Adopted	Identified as Racial Gerrymander by Plaintiffs' Expert
12	50.37%	Yes	47.96%	Yes	51.01%	3.05%	Yes
23	55.61%	Yes	49.08%	Yes	50.03%	0.95%	Yes
25	56.36%	Yes	56.23%	Yes	55.85%	-0.38%	Yes
31	56.34%	Yes	56.65%	Yes	53.60%	-3.06%	No
41	57.11%	No	57.99%	No	55.19%	-2.80%	No
49	50.00%	Yes	49.14%	Yes	51.95%	2.81%	Yes
50	58.99%	No	58.82%	No	55.46%	-3.36%	No
51	61.28%	Yes	65.18%	Yes	62.28%	-2.90%	No
57	52.14%	No	53.61%	No	51.42%	-2.18%	Yes
59	55.89%	Yes	57.60%	Yes	60.67%	3.07%	Yes
62	58.20%	Yes	59.10%	Yes	54.55%	-4.55%	No
64	50.77%	No	48.46%	Yes	51.98%	3.52%	Yes
66	61.00%	Yes	62.31%	Yes	62.23%	-0.08%	No
70	60.18%	Yes	60.83%	Yes	60.78%	-0.06%	Yes
73	68.90%	Yes	72.96%	Yes	61.72%	-11.24%	No
74	58.27%	Yes	52.91%	Yes	55.34%	2.43%	Yes
76	56.26%	Yes	61.61%	Yes	58.77%	-2.84%	Yes
77	54.87%	Yes	55.13%	Yes	55.87%	0.74%	Yes
79	22.16%	No	34.70%	Yes	51.44%	16.74%	Yes
82	54.22%	Yes	50.45%	Yes	52.52%	2.07%	Yes
91	52.28%	Yes	55.22%	Yes	53.22%	-2.00%	Yes
95	63.28%	Yes	68.55%	Yes	62.64%	-5.92%	No
101	61.40%	Yes	62.33%	Yes	58.45%	-3.88%	No
102	50.96%	Yes	43.85%	Yes	51.70%	7.85%	Yes
103	49.03%	Yes	48.45%	Yes	51.57%	3.12%	Yes
109	55.24%	Yes	53.56%	Yes	51.85%	-1.71%	Yes
111	54.94%	Yes	46.91%	Yes	51.77%	4.86%	Yes
113	49.82%	Yes	53.66%	Yes	51.29%	-2.37%	Yes
121	50.73%	Yes	51.86%	Yes	54.20%	2.34%	Yes
122	53.41%	No	48.91%	Yes	50.83%	1.92%	Yes
Total: 124		24		27			21

* Districts in **bold font** elected black Representatives with majority-white populations.

SC GOP redistricting policy



Alan D. Clemmons
(R – Horry)
Fmr. Chair Election
Law Subcommittee

“the majority of this Subcommittee has adopted a policy position that we will not reduce black voting age population unless population absolutely demands it.”

Backus v. South Carolina (D.S.C. 2012)
Pls.’ Ex. 66, RWH022017, at 00:48:00-
00:49:10.

SC GOP redistricting policy

This “hard line” policy was cited by then-House Judiciary Chair Jim Harrison as grounds to reject amendments reducing BVAP by .8 and 1.3 percent as “unacceptable under the VRA[.]”

Backus v. South Carolina (D.S.C. 2012)
Pls.’ Ex. 66, RWH02018, at 00:25:50 - 00:26:50 &
RWH022028, at 05:33:50.



Jim Harrison
(R – Richland)
Fmr. Chair House
Judiciary Cmte.

Speaker Bobby Harrell's Preclearance Submission to DOJ



Office of the Speaker

South Carolina House of Representatives

- (n) A statement of the anticipated effect of the change on members of racial or language minority groups.

H. 3991 “neither has the purpose nor will have the effect of denying or abridging the right to vote based on account of race or color.” The enacted redistricting plan does not have any discriminatory purpose and will not “lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.” *Beer v. United States*, 425 U.S. 130, 141 (1976). *See also* 28 C.F.R. § 51.54(a). To the contrary, H. 3991 enhances the position of racial minorities with respect to their effective exercise of the electoral franchise when compared to the redistricting plan currently in effect. *Id. See also Guidance Concerning Redistricting under Section 5 of the Voting Rights Act*, 76 Fed. Reg. 7470 (Feb. 9, 2011).

See also Exhibit No. 8, contained on DVD No. 1 – Explanation of Redistricting Process.

Ex. 8 to Preclearance Submission

As a result of these changes, the House asserts that H. 3991 does not dilute racial or ethnic minority strength and does not have the intent or effect of dispersing or concentrating minority candidates in a manner that prevents minorities from electing their candidates of choice. To the contrary, and in accordance with the VRA, the laws of the United States of America, the laws of the State of South Carolina, and the public policy of this state, the proposed redistricting plan neither has the purpose nor the effect of denying or abridging any U.S. citizen's right to vote on account of race, color, or status as a member of a language minority group. Moreover, the plan does not decrease the absolute the absolute number of representatives which a minority group has a fair chance to elect. Rather, the minority voting strength under H. 3991 enhances the position of racial minorities with respect to their effective exercise of the electoral franchise and, therefore, does not constitute retrogression and does not have the effect of diluting or abridging the right to vote on account of race within the meaning of Section 5.

**House Bill 3991 passed 82-23
with 3 absences and 15 members not voting.**

Agnew, Paul L.Allison, Merita A.Bales, Jimmy C., Ed.D.Battle, James A., Jr.Bowen, Don CarsonBrown, Grady A.Cole, J. Derham, Jr.Crosby, William E.Dillard, Chandra E.Forrester, P. MichaelHardwick, Nelson L.Hayes, Jackie E.Herbkersman, William G.Horne, Jenny AndersonLoftis, Dwight A.Lucas, James H.Merrill, James H.Munnerlyn, Elizabeth R.Neal, James M.Owens, Phillip DraytonPope, Thomas E.Simrill, J. GarySmith, Garry R.Spires, L. KitTallon, Edward R., Sr.Toole, McLain R.White, W. BrianYoung, Tom, Jr.Alexander, TerryAnthony, Michael A.Bannister, Bruce W.Bedingfield, Eric M.Brannon, Norman D.Chumley, William M.Corbin, Thomas D.Daning, Joseph S.Edge, Tracy RussellGambrell, MikeHarrell, Robert William, Jr.Hearn, George M.Hiott, David R.Hosey, LonnieLong, Deborah A.McEachern, Joseph A.Moss, Dennis C.Murphy, ChrisNorman, Ralph W.Patrick, AndyRyan, Kevin R.Skelton, B. R.Smith, J. RolandStavrinakis, Leonidas E.Taylor, BillTribble, David, Jr.Whitmire, William R.Allen, Karl B.Atwater, Todd K.Barfield, Liston DouglasBingham, Kenneth A.Brantley, CurtisClemmons, Alan D.Crawford, Kristopher R.Delleney, F. Gregory, Jr.Erickson, Shannon S.Hamilton, Daniel P.Harrison, James HodgesHenderson, Phyllis J.Hixon, William M.Huggins, ChipLowe, Phillip D.McLeod, Walton J.Moss, V. StephenNanney, Wendy K.Ott, Harry Legare, Jr.Pinson, Lewis EugeneSandifer, William E., IIISmith, G. Murrell, Jr.Sottile, F. MichaelStringer, Tommy M.Thayer, Anne J.Viers, Thad T.Willis, Mark N.

NOT VOTING - 15

Bikas, Eric J.

Cooper, Daniel T.

Knight, Patsy G.

Neilson, Denny Woodall

Quinn, Rick

Branham, Lester P., Jr.

Hodges, Kenneth F.

Limehouse, Harry B., III

Parker, Steve A.

Sellers, Bakari T.

Clyburn, William

Jefferson, Joseph H., Jr.

Neal, Joseph H.

Pitts, Michael A.

Vick, Ted M.

NAYS - 23

Anderson, Carl L.

Brown, Robert L.

Funderburk, Laurie Slade

Hart, Christopher R.

King, John Richard C.

Mitchell, Harold, Jr.

Sabb, Ronnie A.

Whipper, J. Seth

Bowers, William K.

Cobb-Hunter, Gilda

Gilliard, Wendell G.

Howard, Leon

Mack, David J., III

Parks, J. Anne

Smith, James E., Jr.

Williams, Robert Q.

Brown, H. Boyd

Frye, Marion B.

Govan, Jerry N., Jr.

Johnson, Kevin L.

McLeod, Mia S.

Rutherford, J. Todd

Weeks, J. David

Section 5 effectively struck down by U.S. Supreme Court

Shelby Cnty., Ala. v. Holder, 570 U.S. 529 (2013) (striking down § 4, i.e., coverage formula).



Taken from Justin Levitt,
A Citizen's Guide to Redistricting (Ed. 2010)

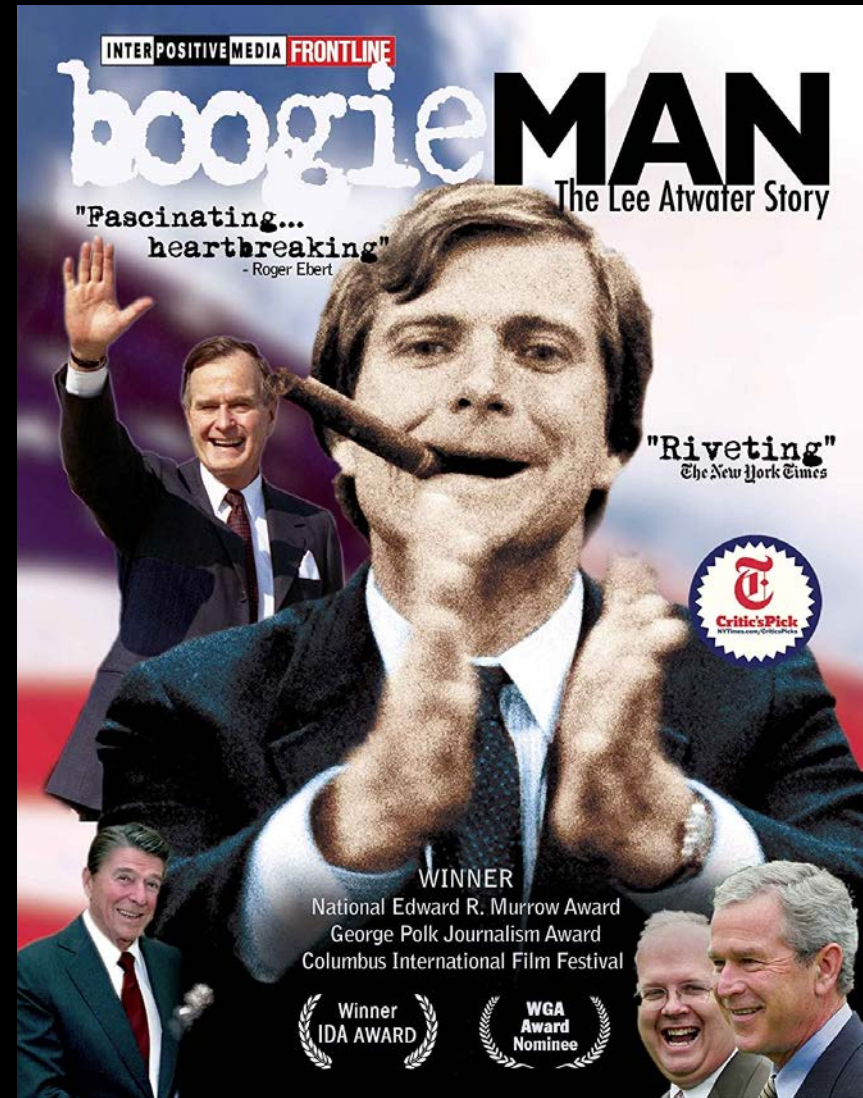
Thoughts on redistricting & the 2021 redraw

1. Competition doesn't matter

“Insulation of the House of Representatives from the changing will of the electorate violates fundamental notions of our constitutional democracy. There is something wrong with a system in which 387 of 435 congressional seats never changed party control after the [last] redistricting. And it is wrong when the winner in more than half of the [last] congressional elections received more than seventy percent of the votes. **Our system is purging itself of competitive elections—precisely the opposite of the Founding Fathers’ designs.**”

Lee Atwater

Altered States: Redistricting Law and Politics in the 1990s, 6 J.L. & Pol. 661, 672 (1990)



Rucho v. Common Cause, 139 S.Ct. 2484 (2019) (partisan gerrymander claims are political questions beyond the reach of federal courts).

1. Competition doesn't matter

2. Shape matters

HD-12



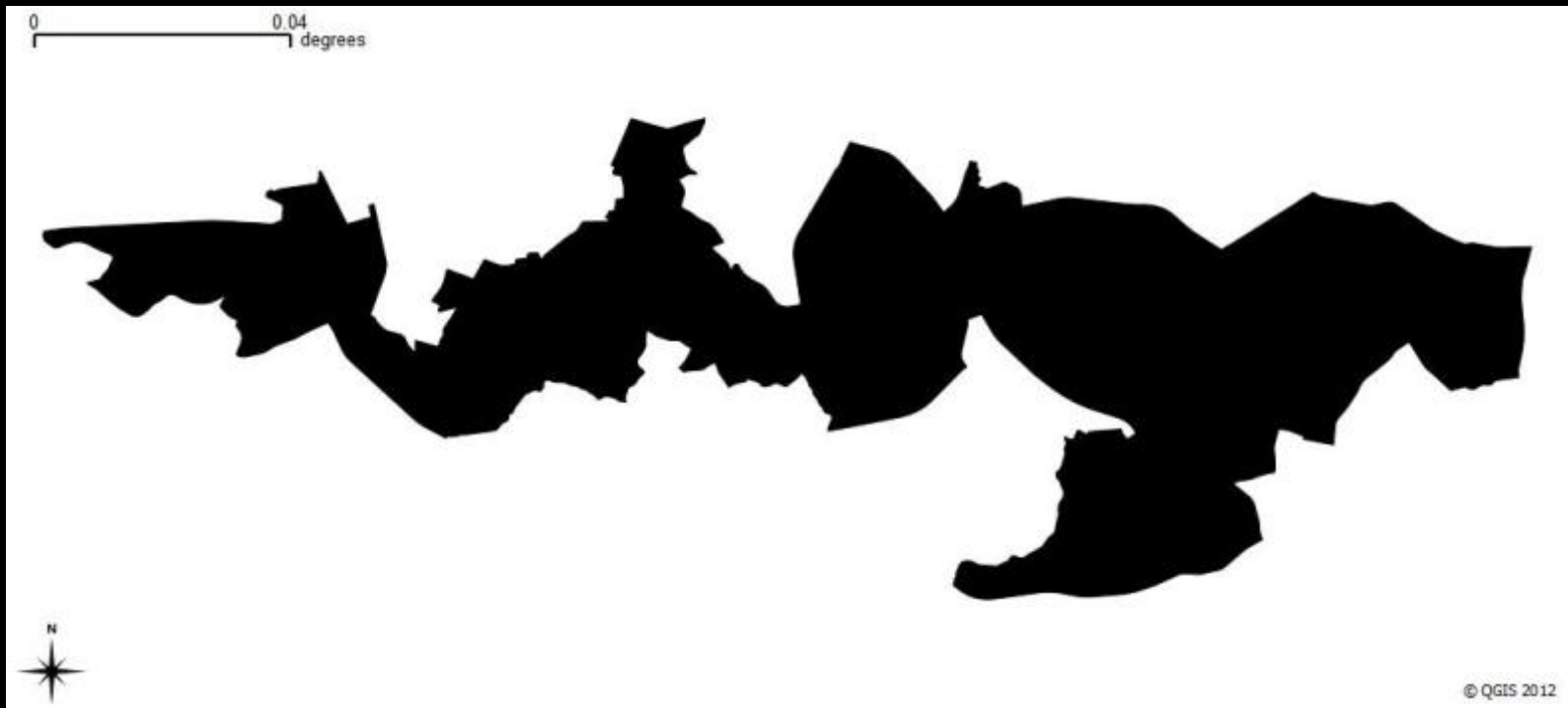
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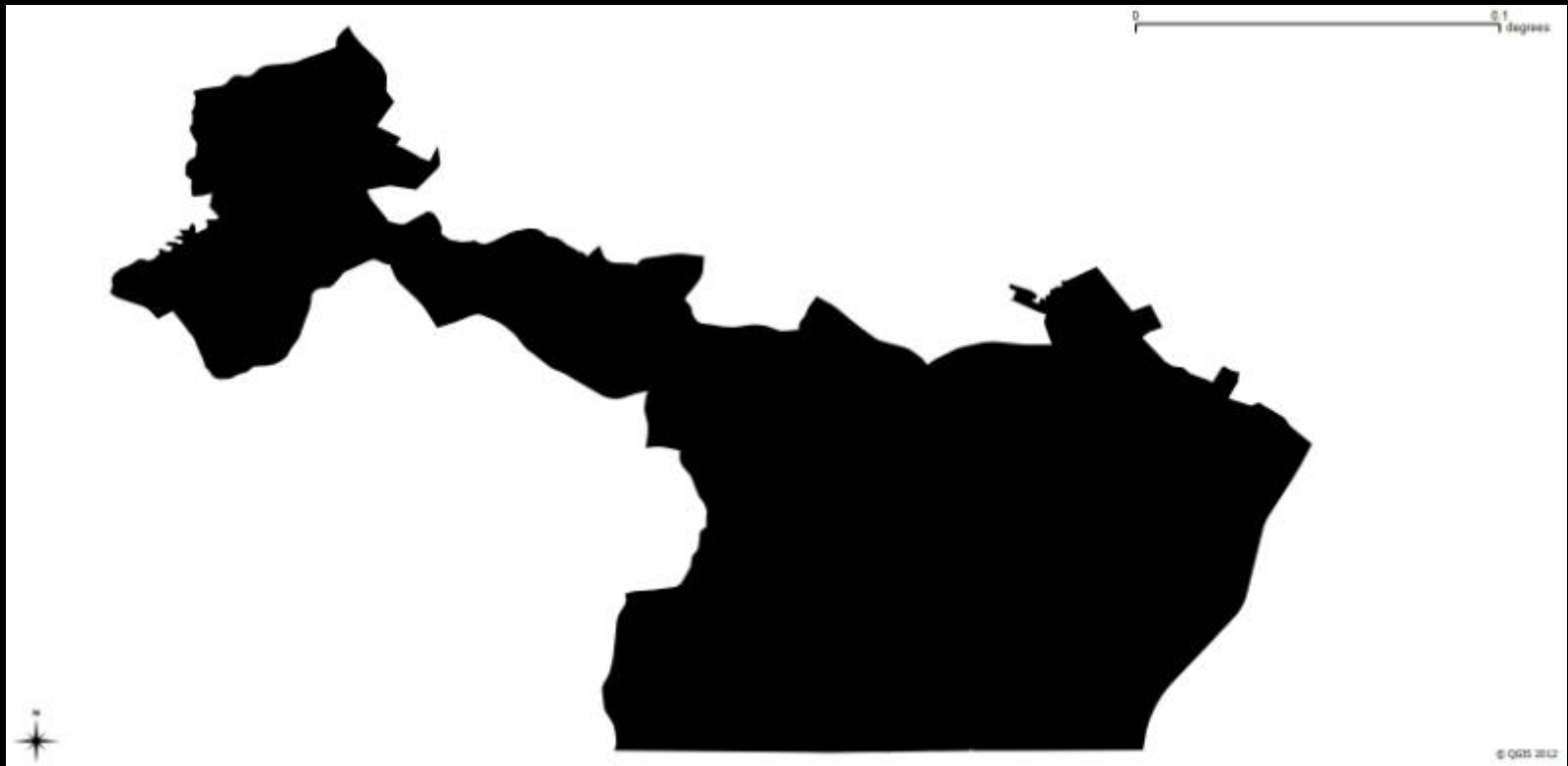
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HD-24



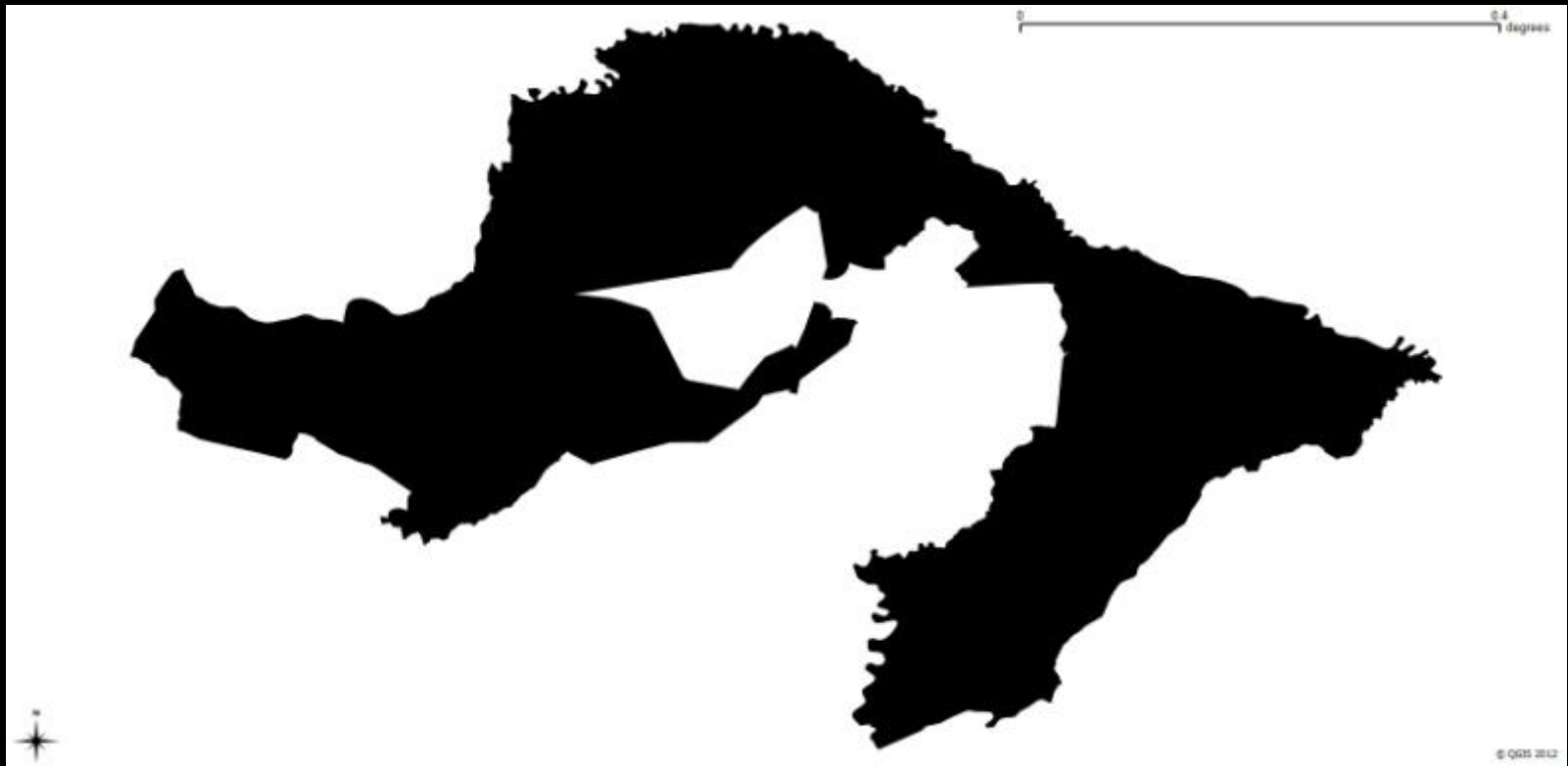
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HD-100

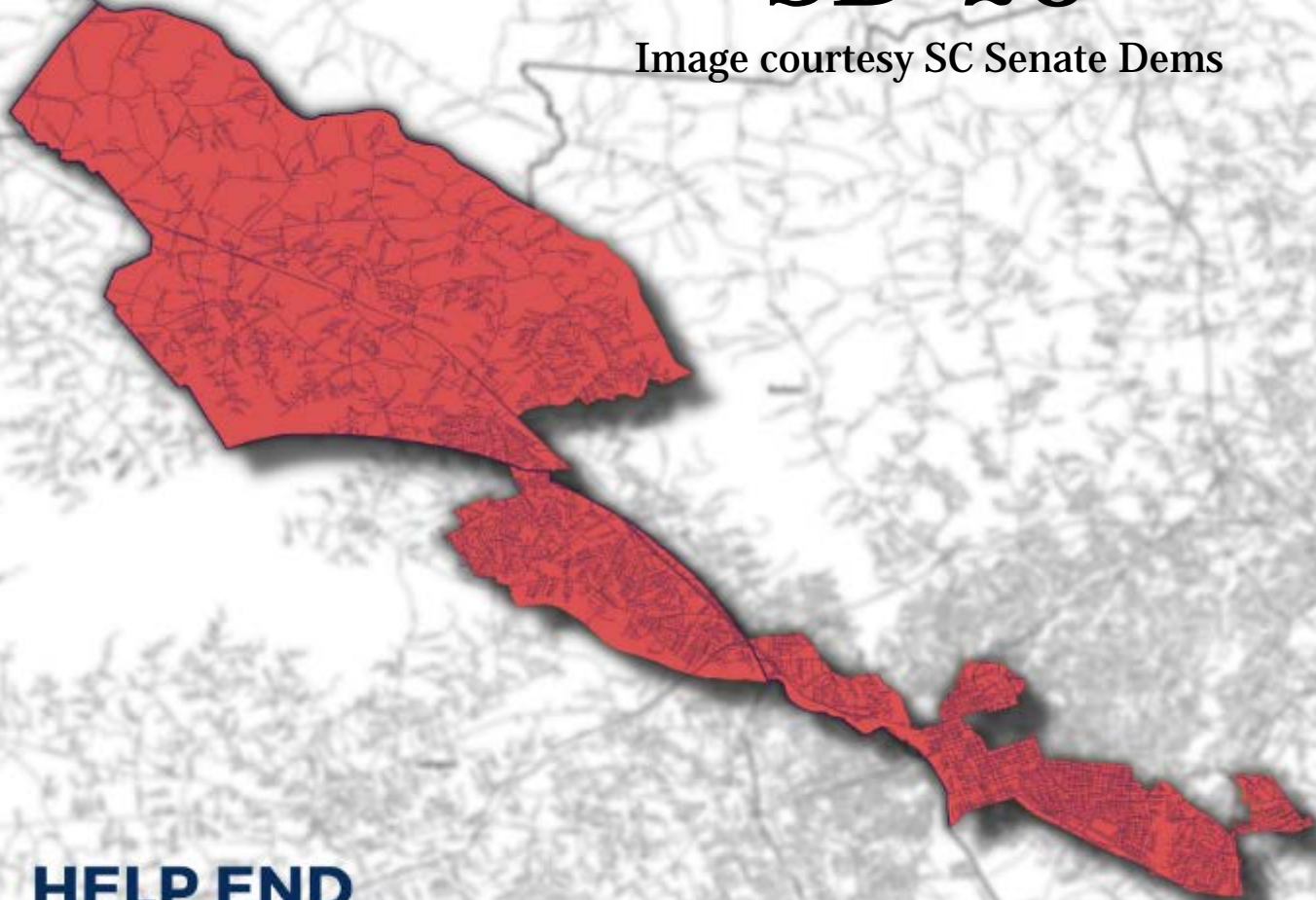


HD-102



SD-20

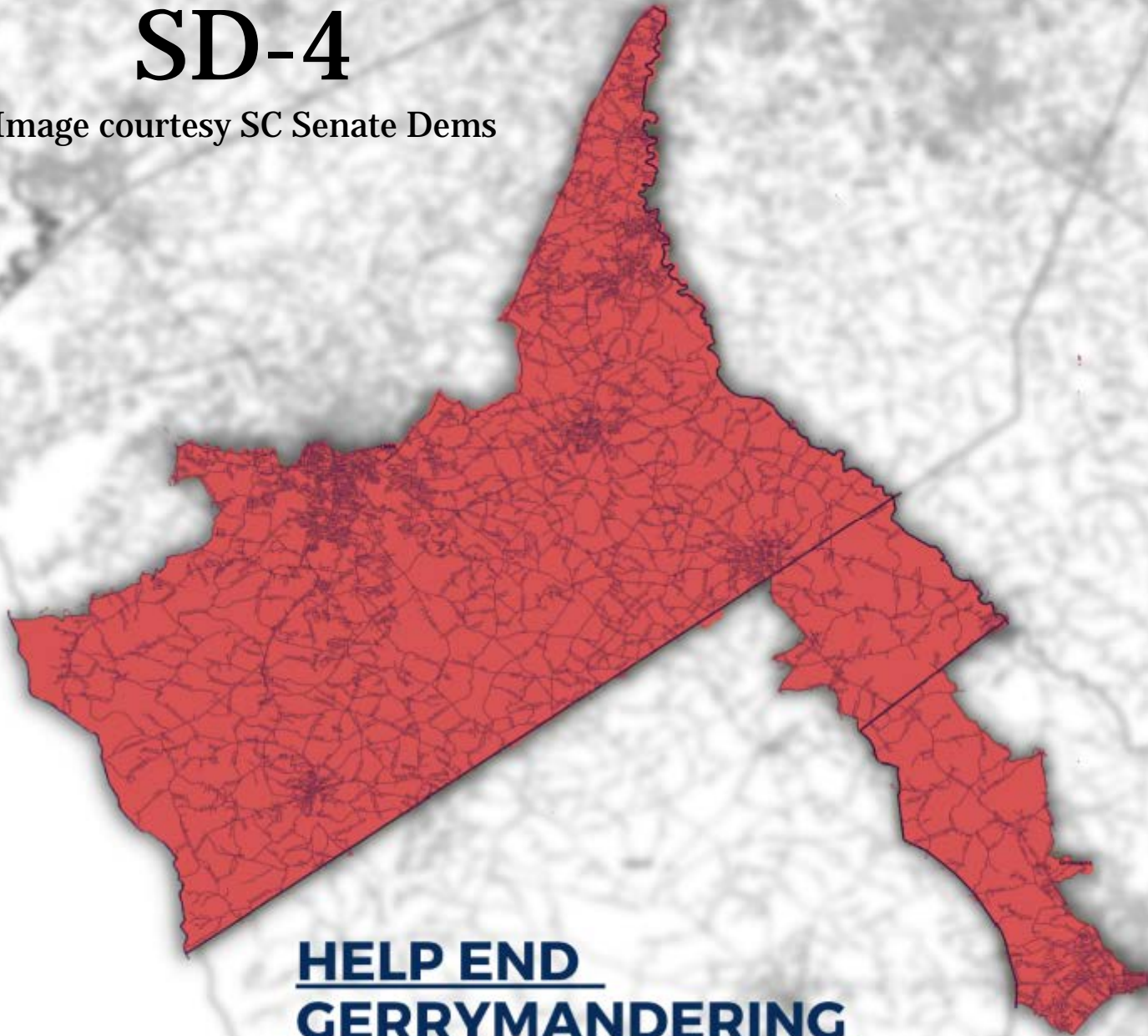
Image courtesy SC Senate Dems



HELP END
GERRYMANDERING
IN SOUTH CAROLINA

SD-4

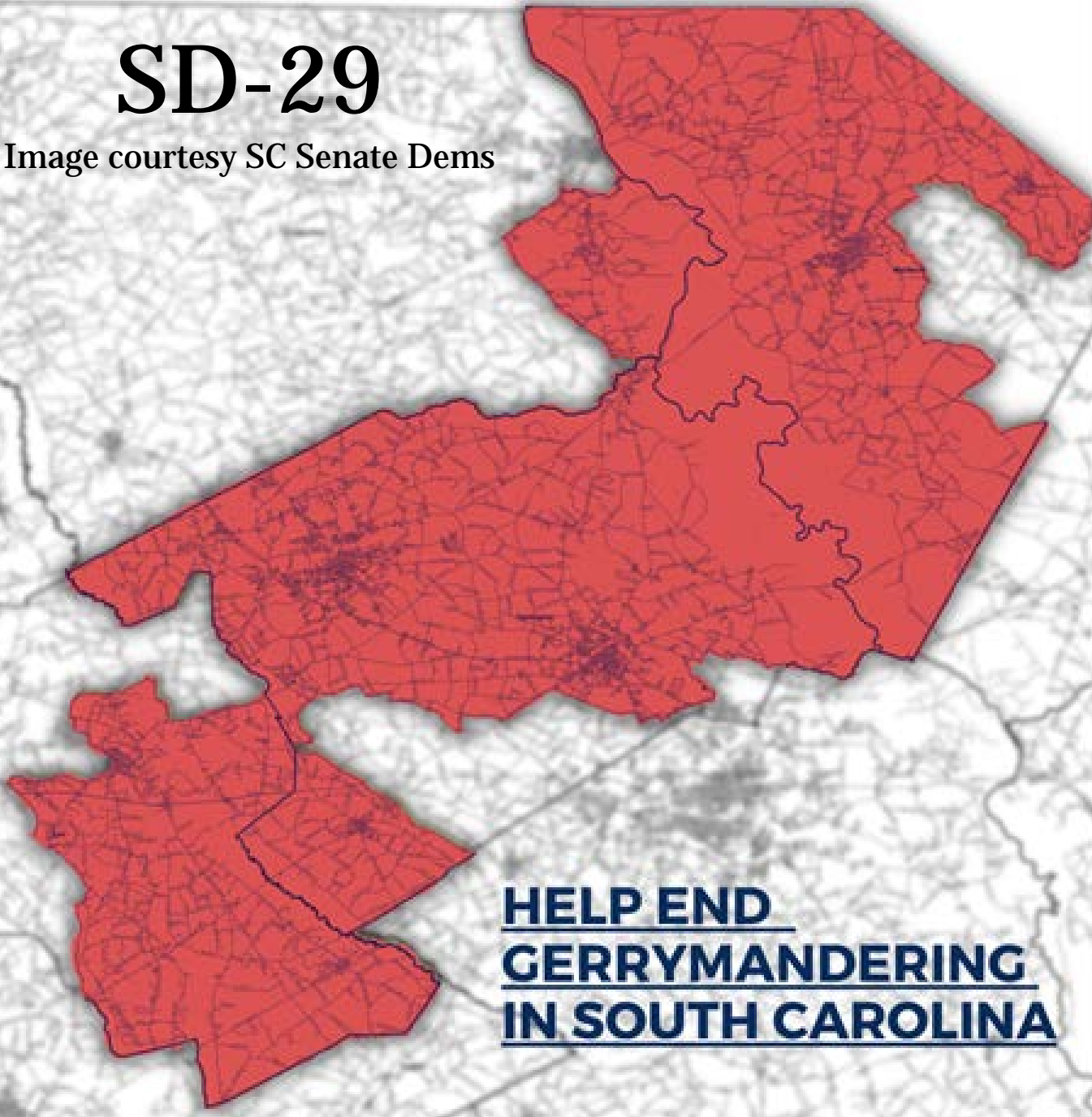
Image courtesy SC Senate Dems



HELP END
GERRYMANDERING
IN SOUTH CAROLINA

SD-29

Image courtesy SC Senate Dems

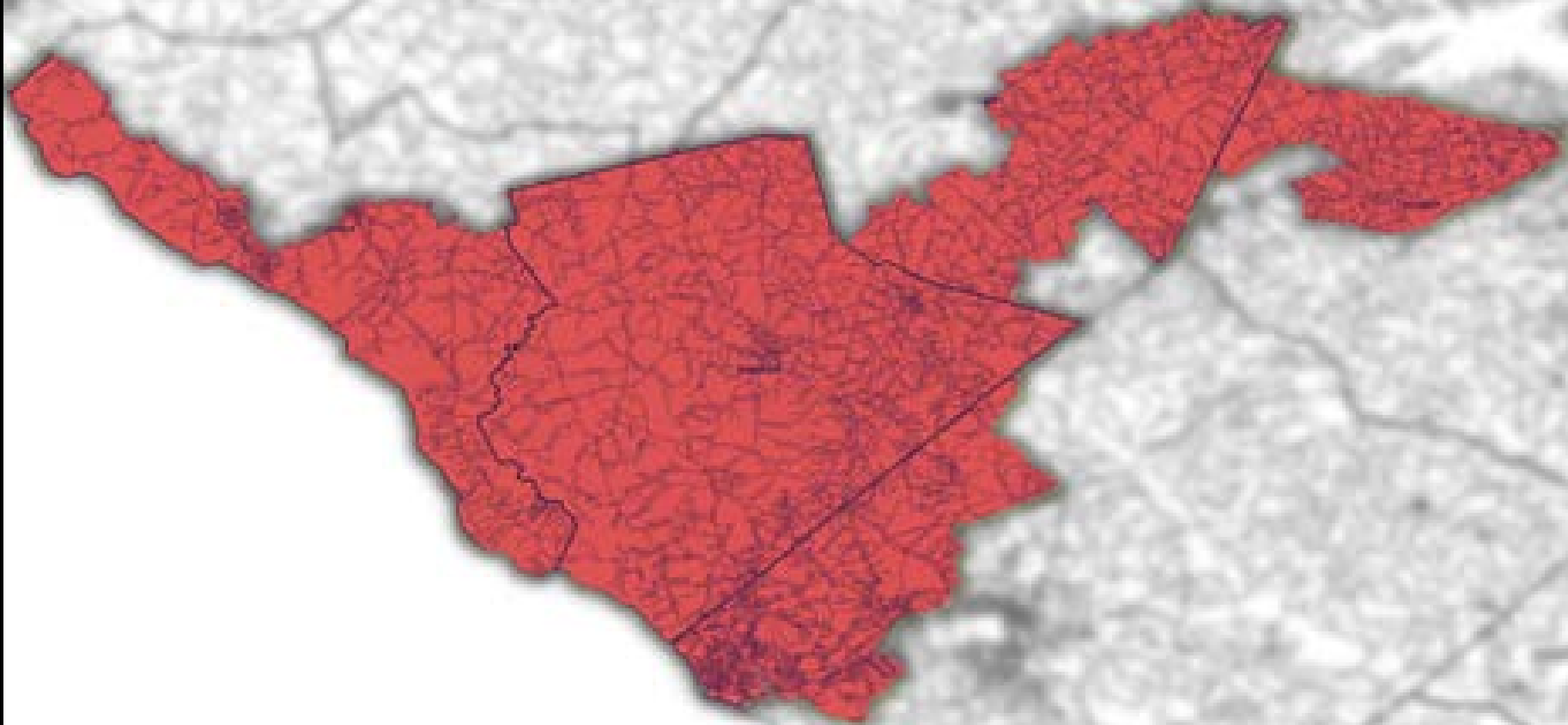


HELP END
GERRYMANDERING
IN SOUTH CAROLINA

SD-25

Image courtesy SC Senate Dems

HELP END
GERRYMANDERING
IN SOUTH CAROLINA

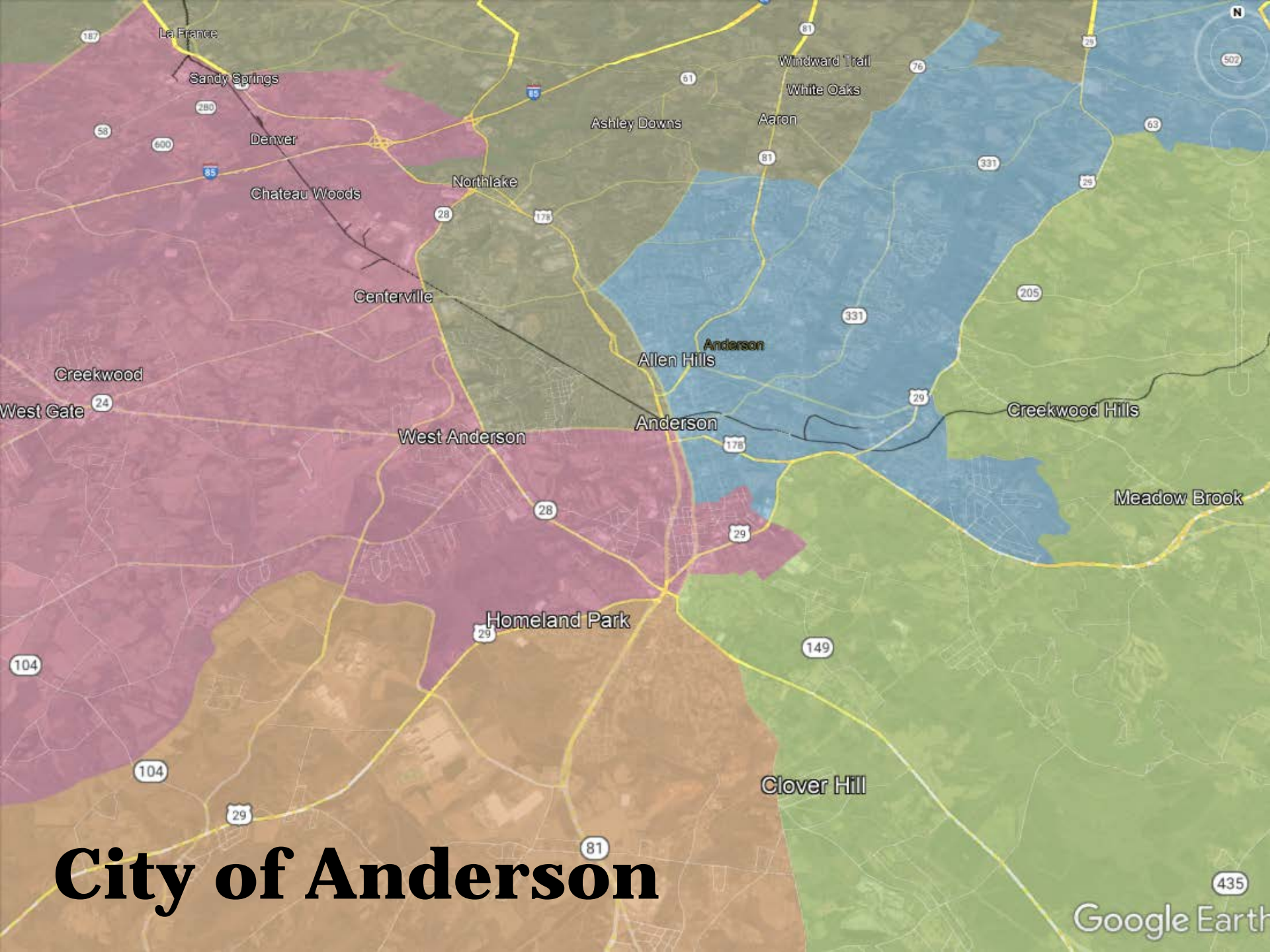


CD-6

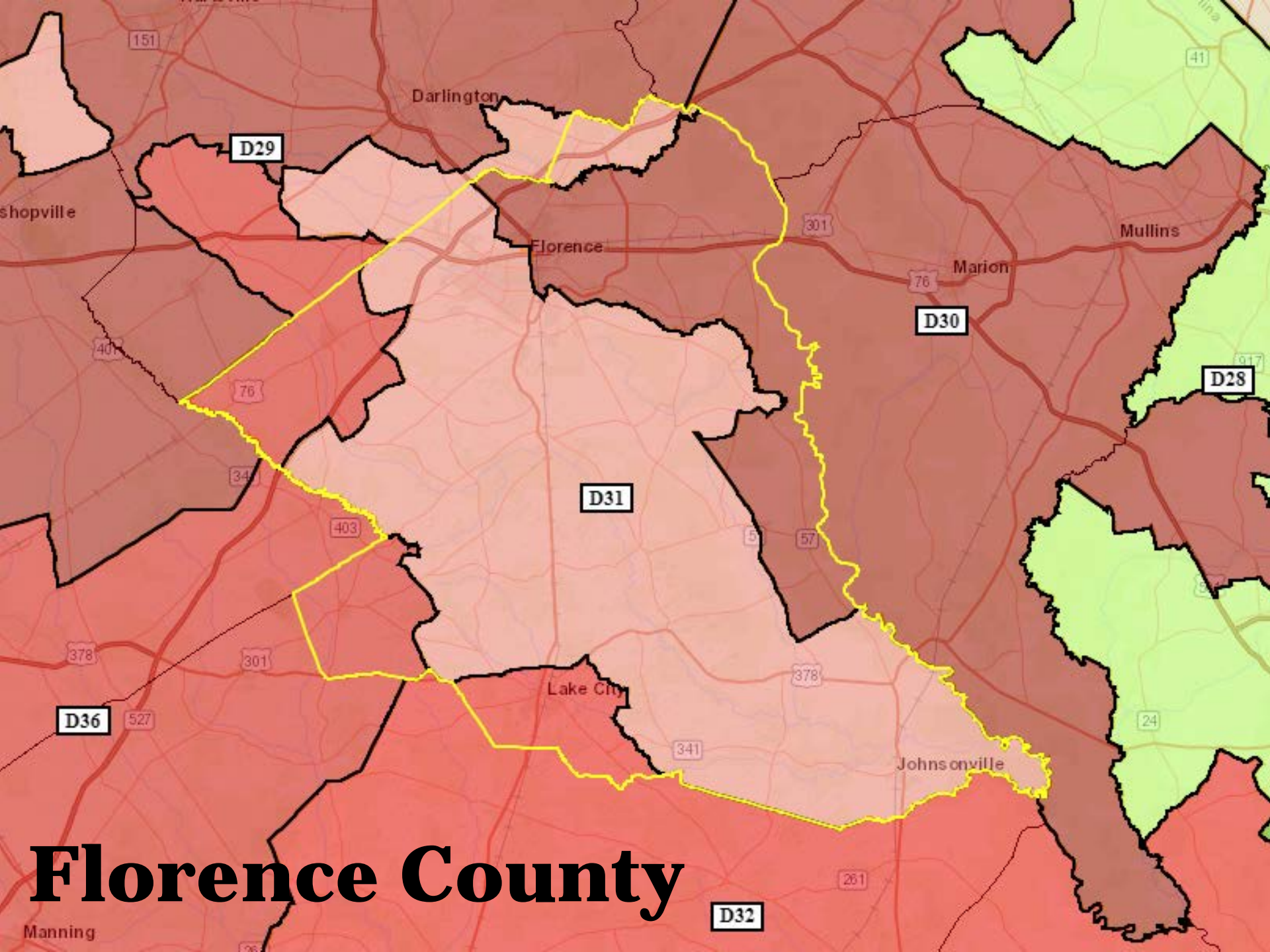


2. Shape matters

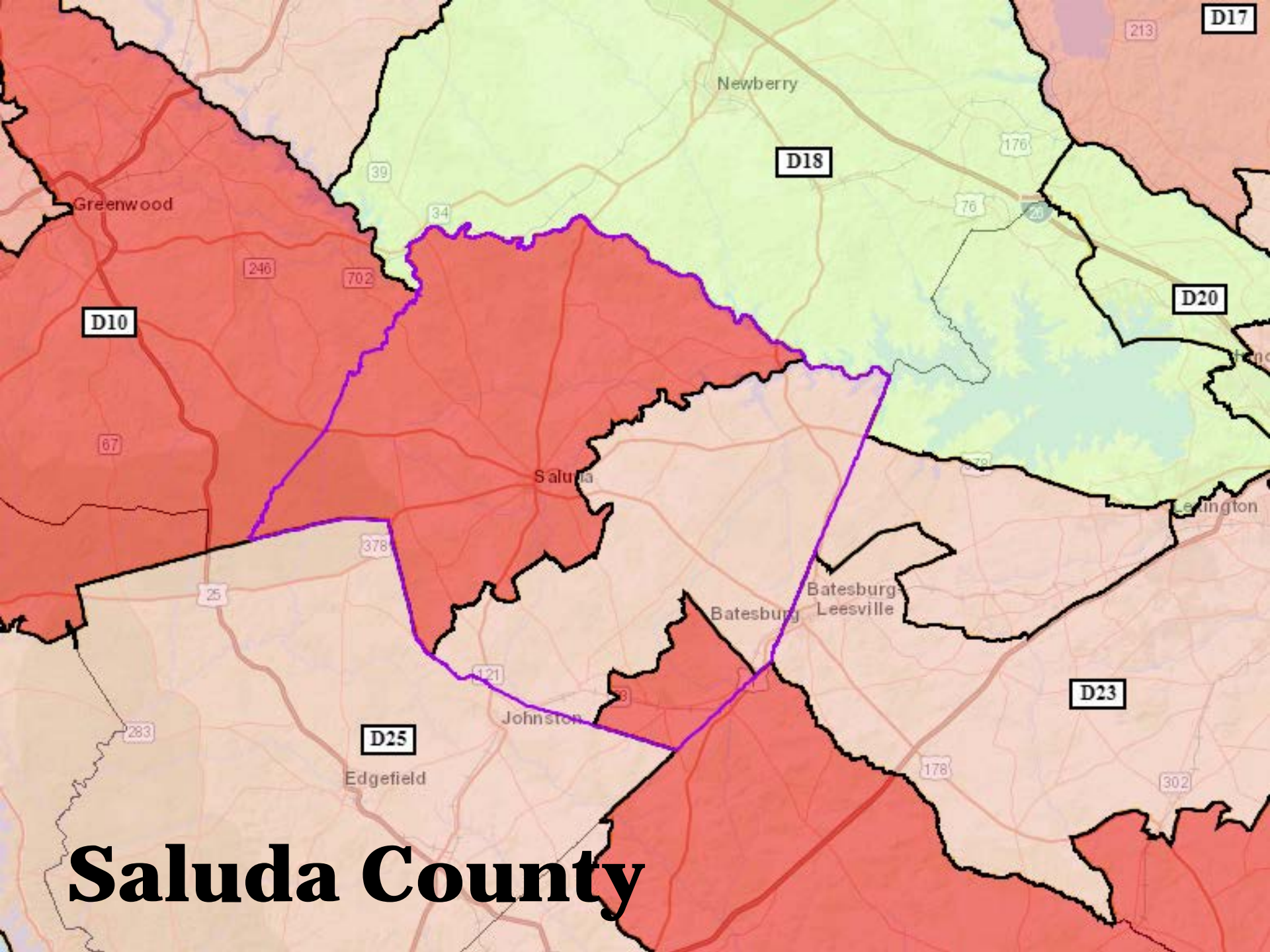
**3. Keep counties,
cities, and towns whole
(to the greatest extent possible)**



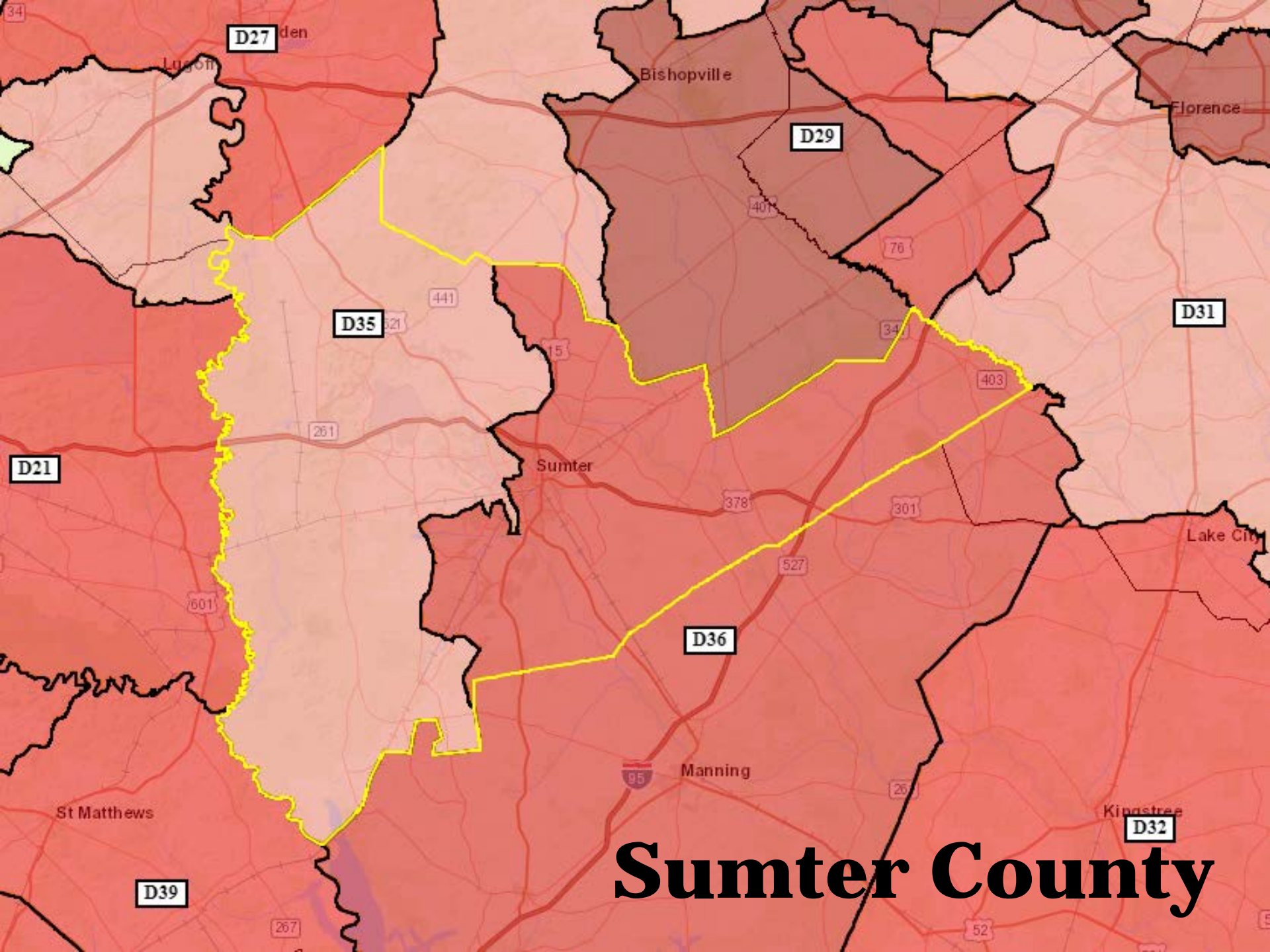
City of Anderson



Florence County



Saluda County



D27

D29

D31

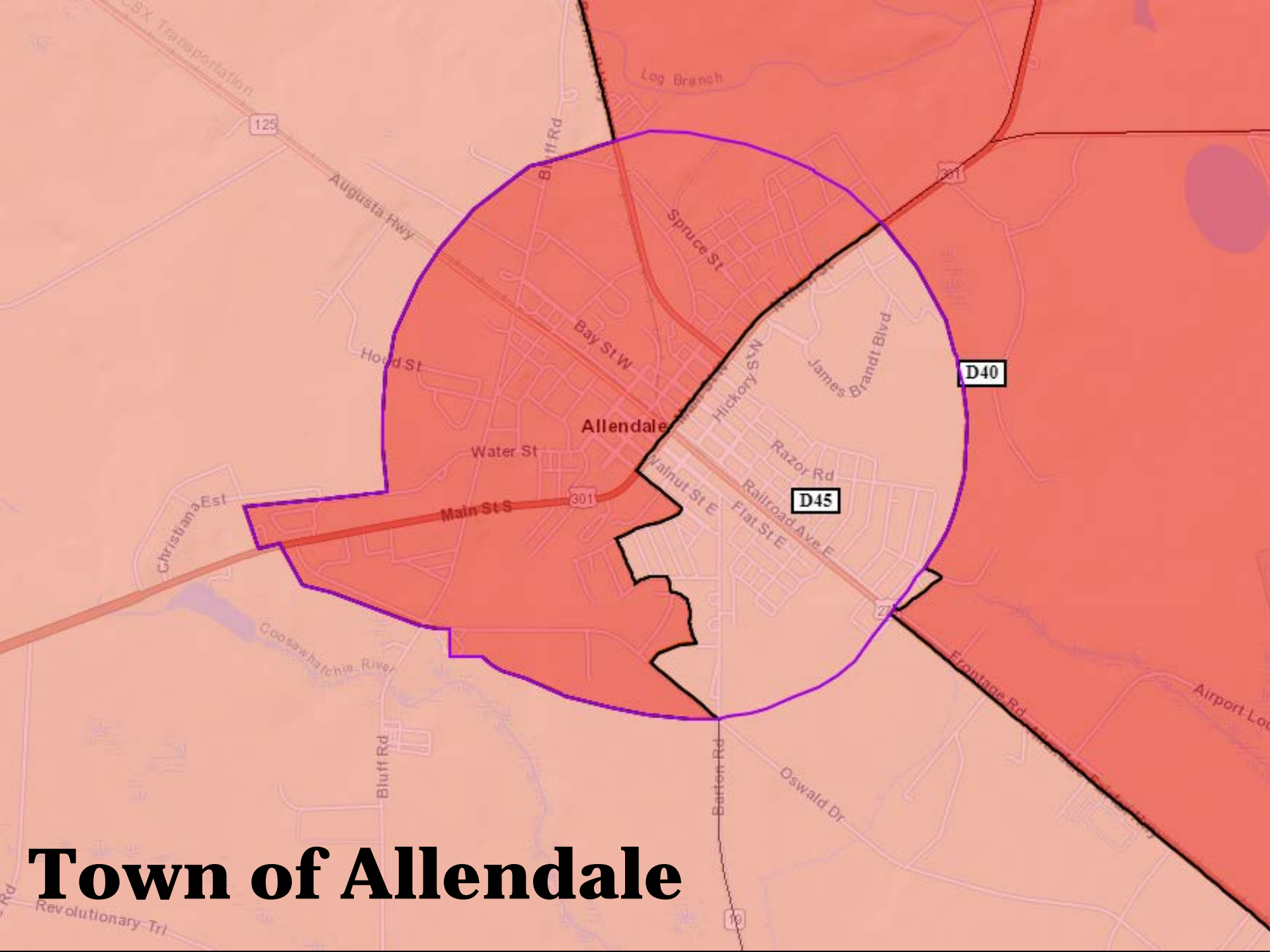
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D36

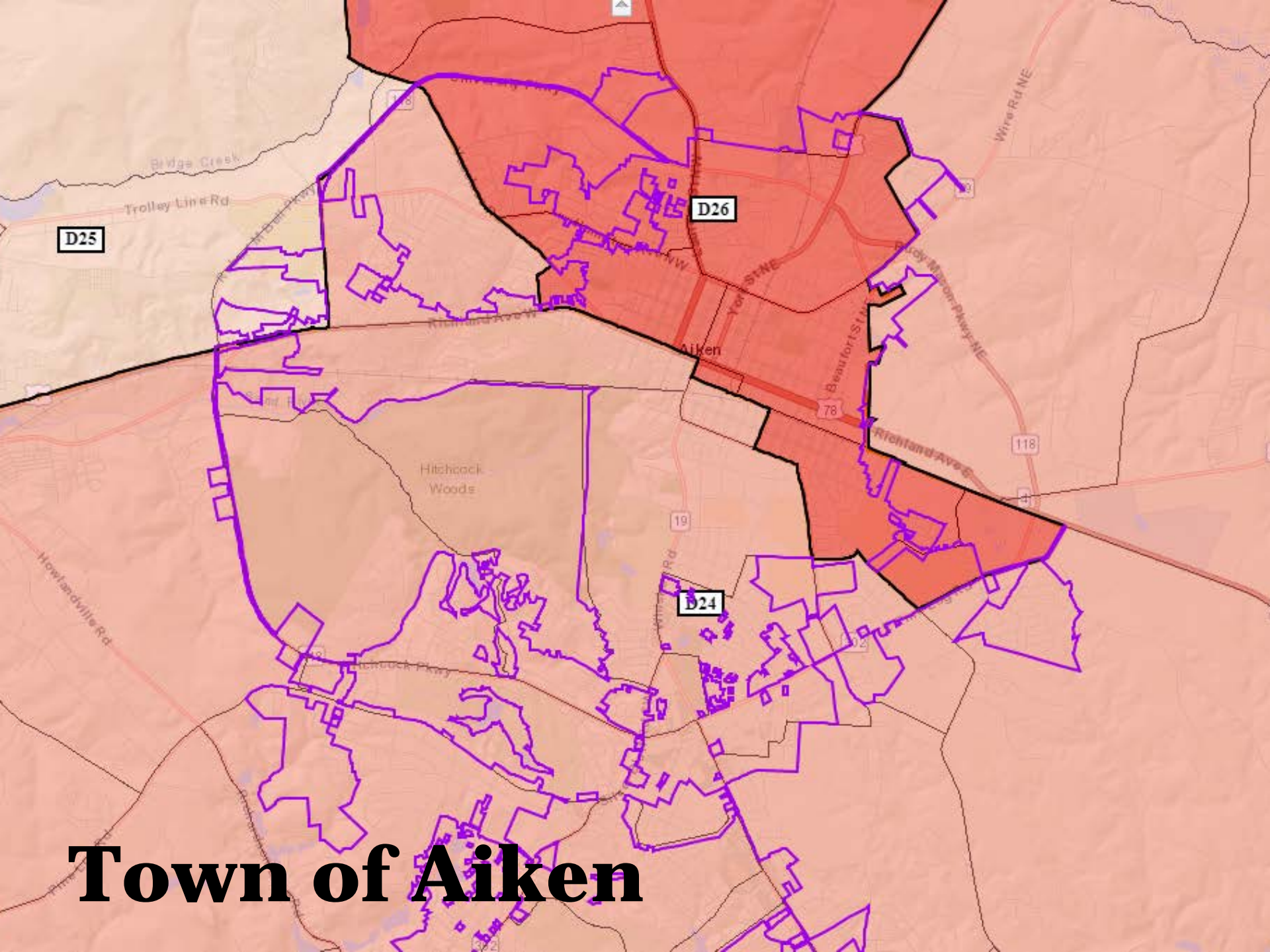
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D39

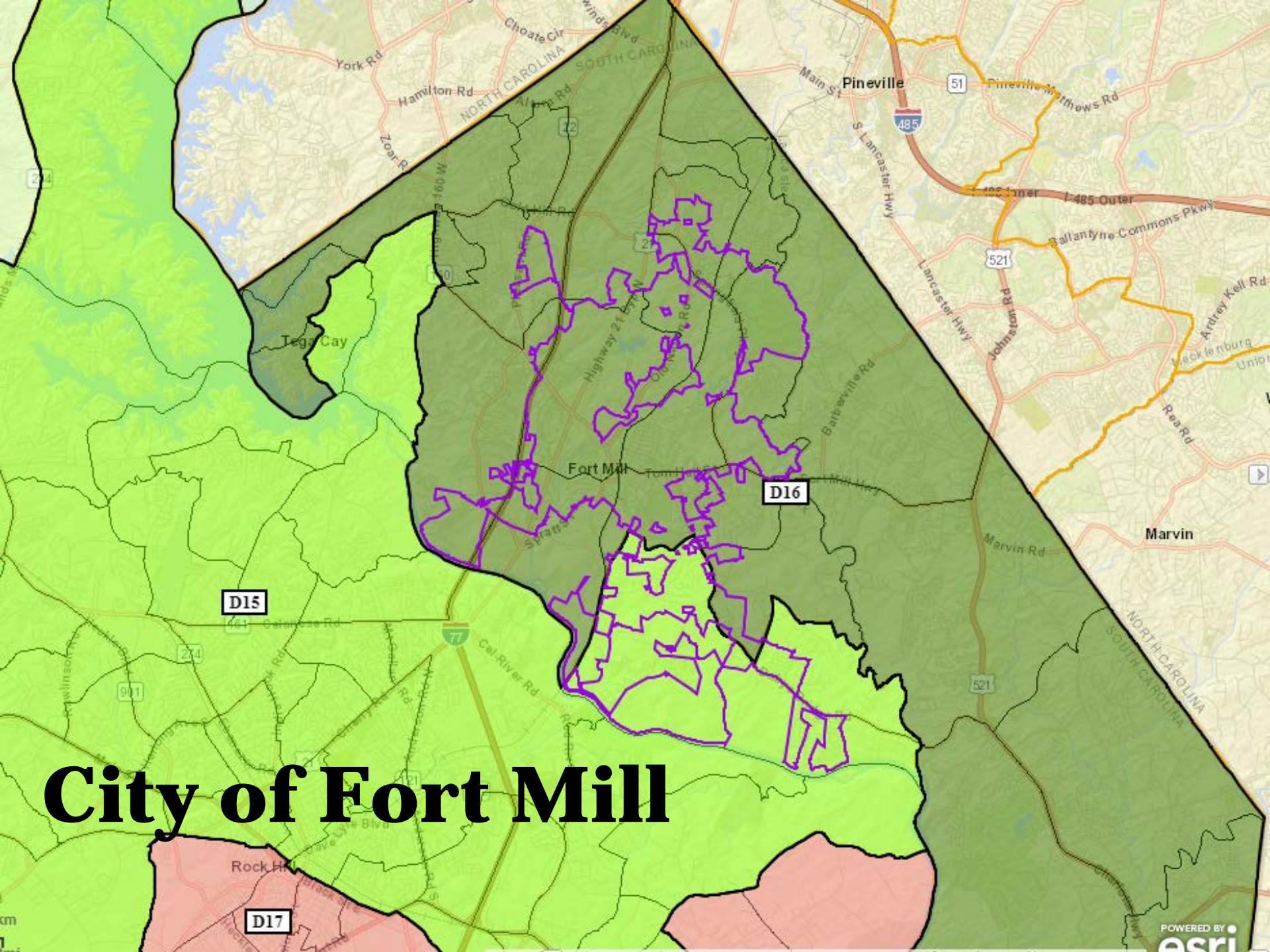
Sumter County



Town of Allendale

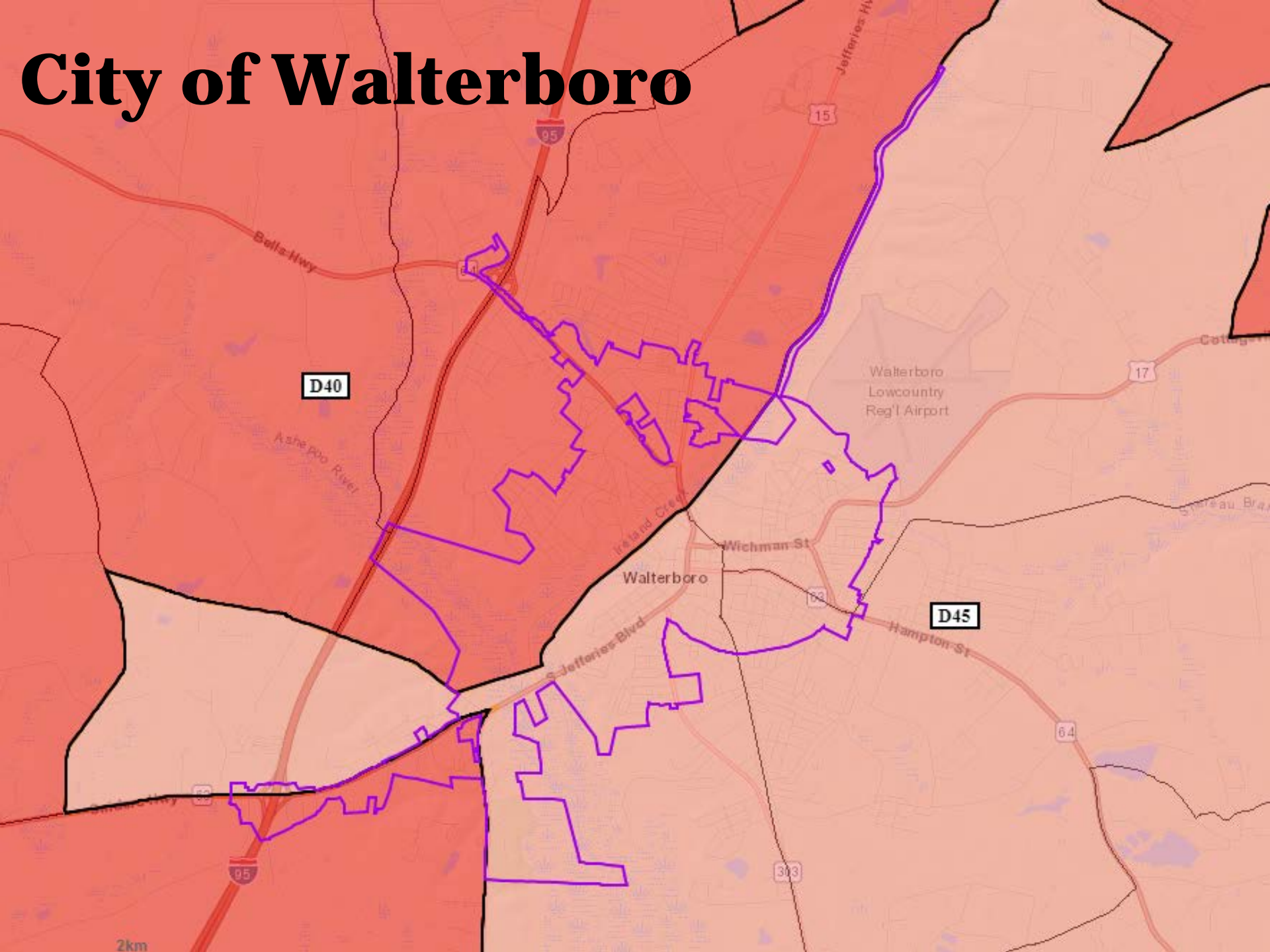


Town of Aiken



City of Fort Mill

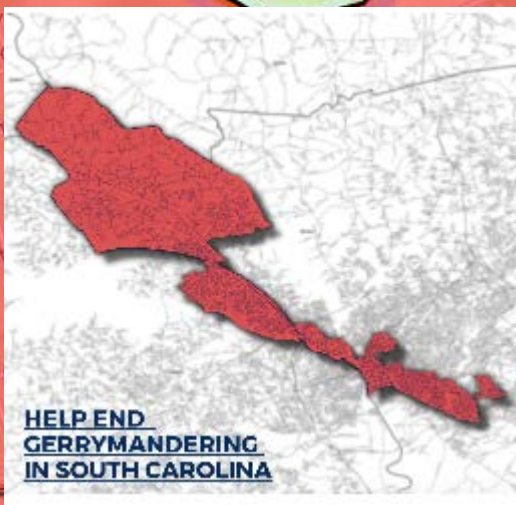
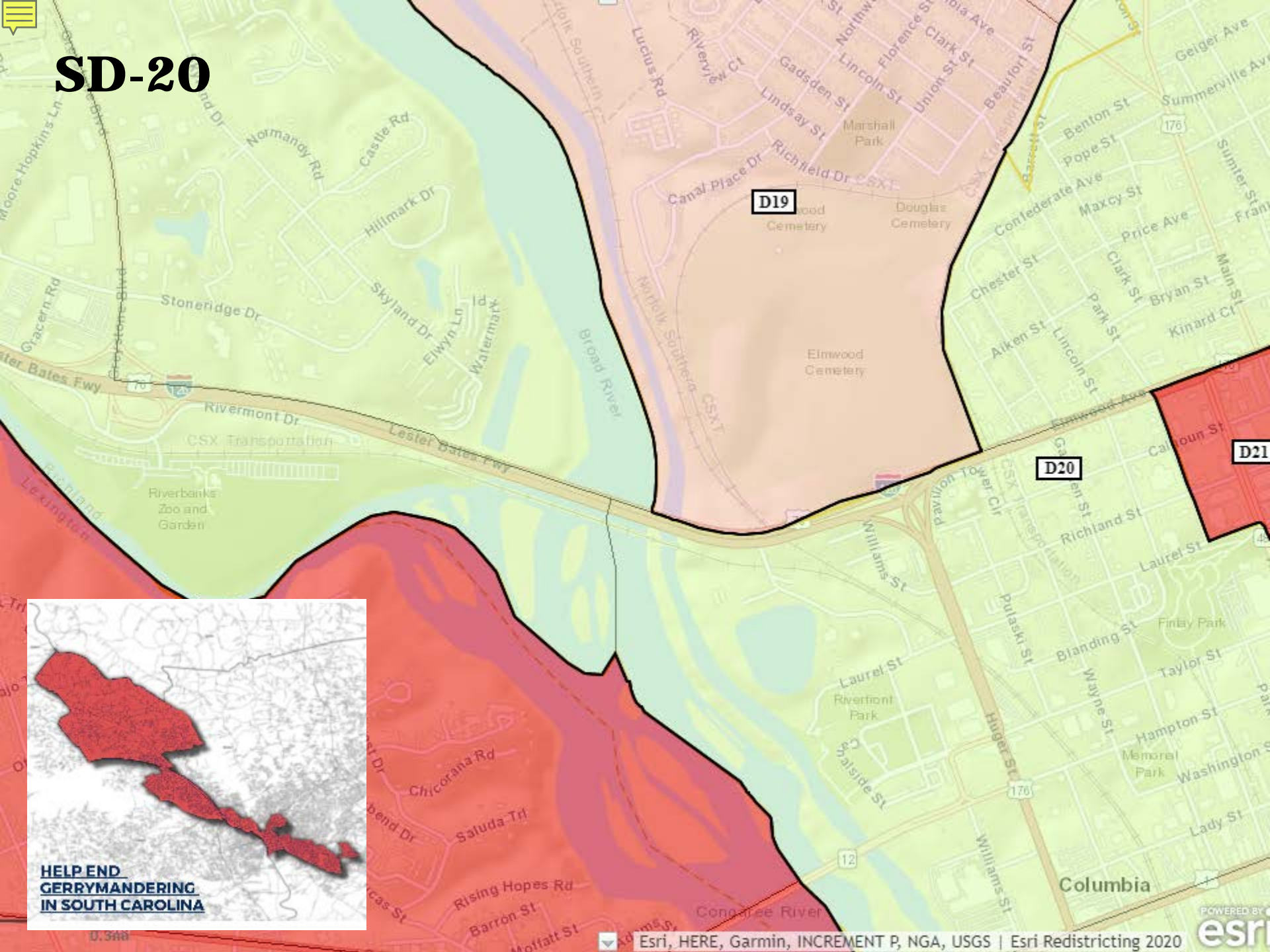
City of Walterboro



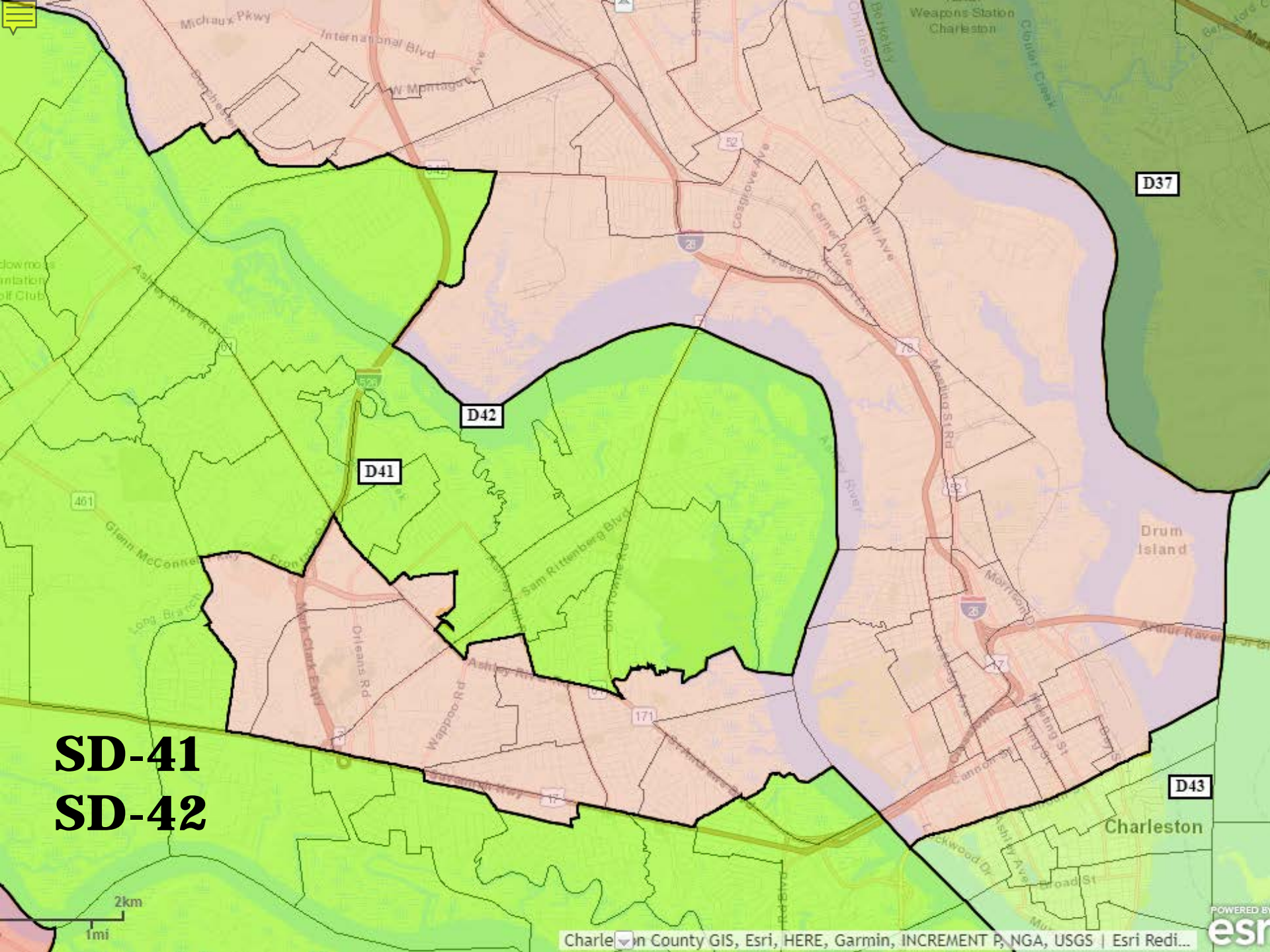
**3. Keep counties,
cities, and towns whole
(to the greatest extent possible)**

4. Follow natural geography
(i.e., rivers)

SD-20



**HELP END
GERRYMANDERING
IN SOUTH CAROLINA**



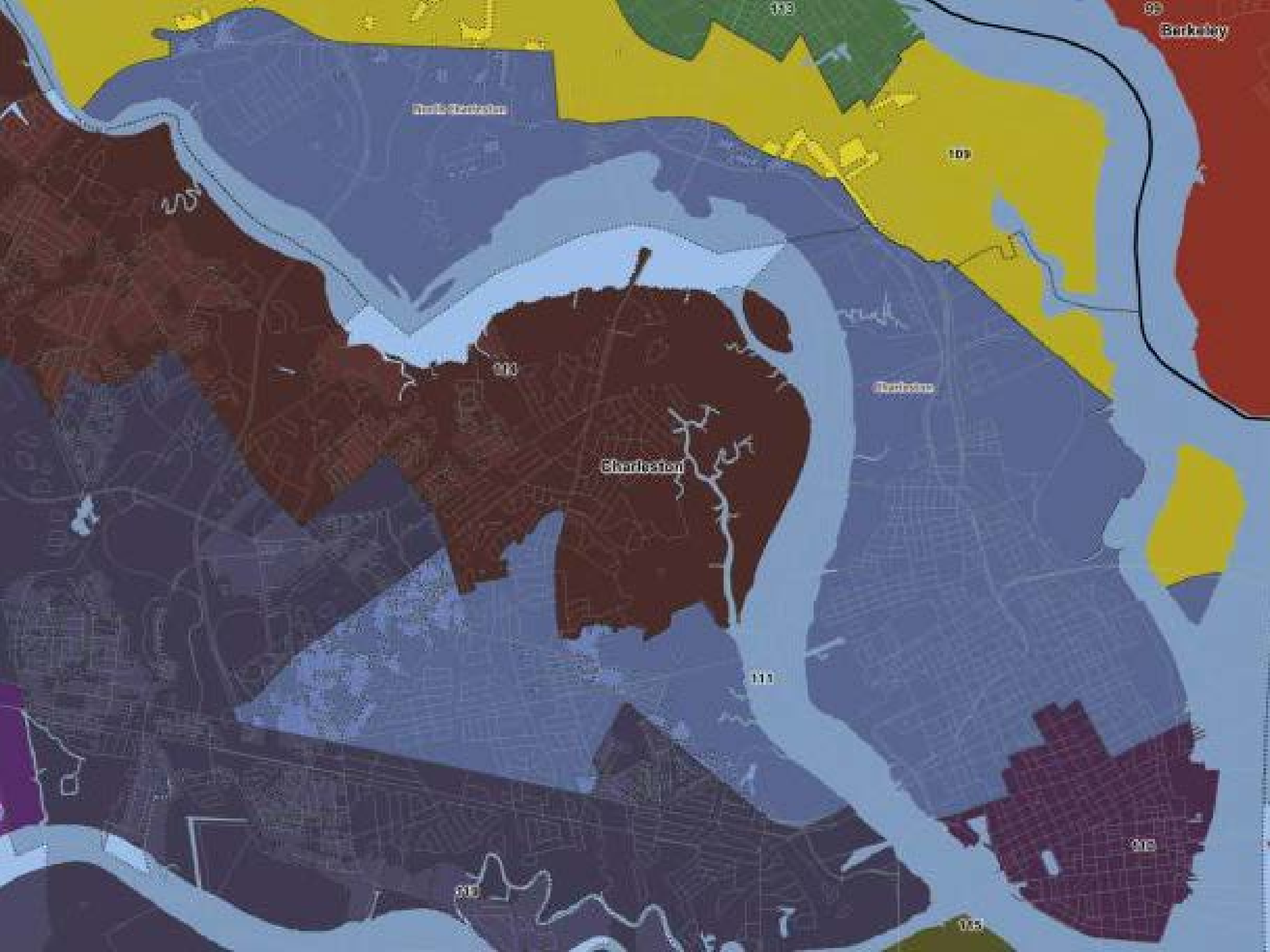
SD-41
SD-42

D37

D41

D42

D43



Berkeley

Berkeley

109

Berkeley

Berkeley

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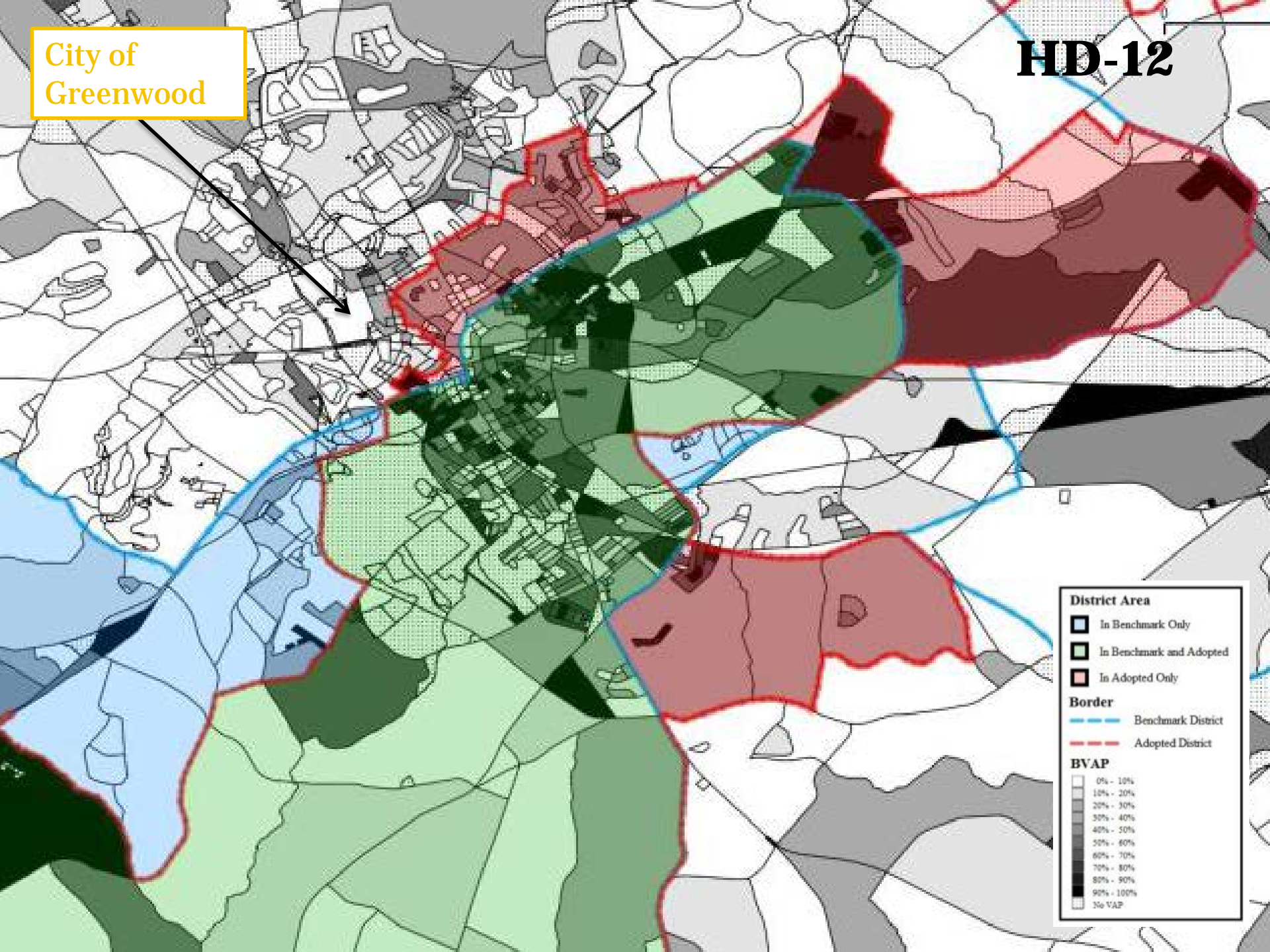
125

4. Follow natural geography
(i.e., rivers)

**5. Stop dividing communities
along racial lines**

City of
Greenwood

HD-12



District Area

- In Benchmark Only
- In Benchmark and Adopted
- In Adopted Only




Border

- Benchmark District
- Adopted District












BVAP

- 0% - 10%
- 10% - 20%
- 20% - 30%
- 30% - 40%
- 40% - 50%
- 50% - 60%
- 60% - 70%
- 70% - 80%
- 80% - 90%
- 90% - 100%
- No VAP

District Area

-  In Benchmark Only
-  In Benchmark and Adopted
-  In Adopted Only

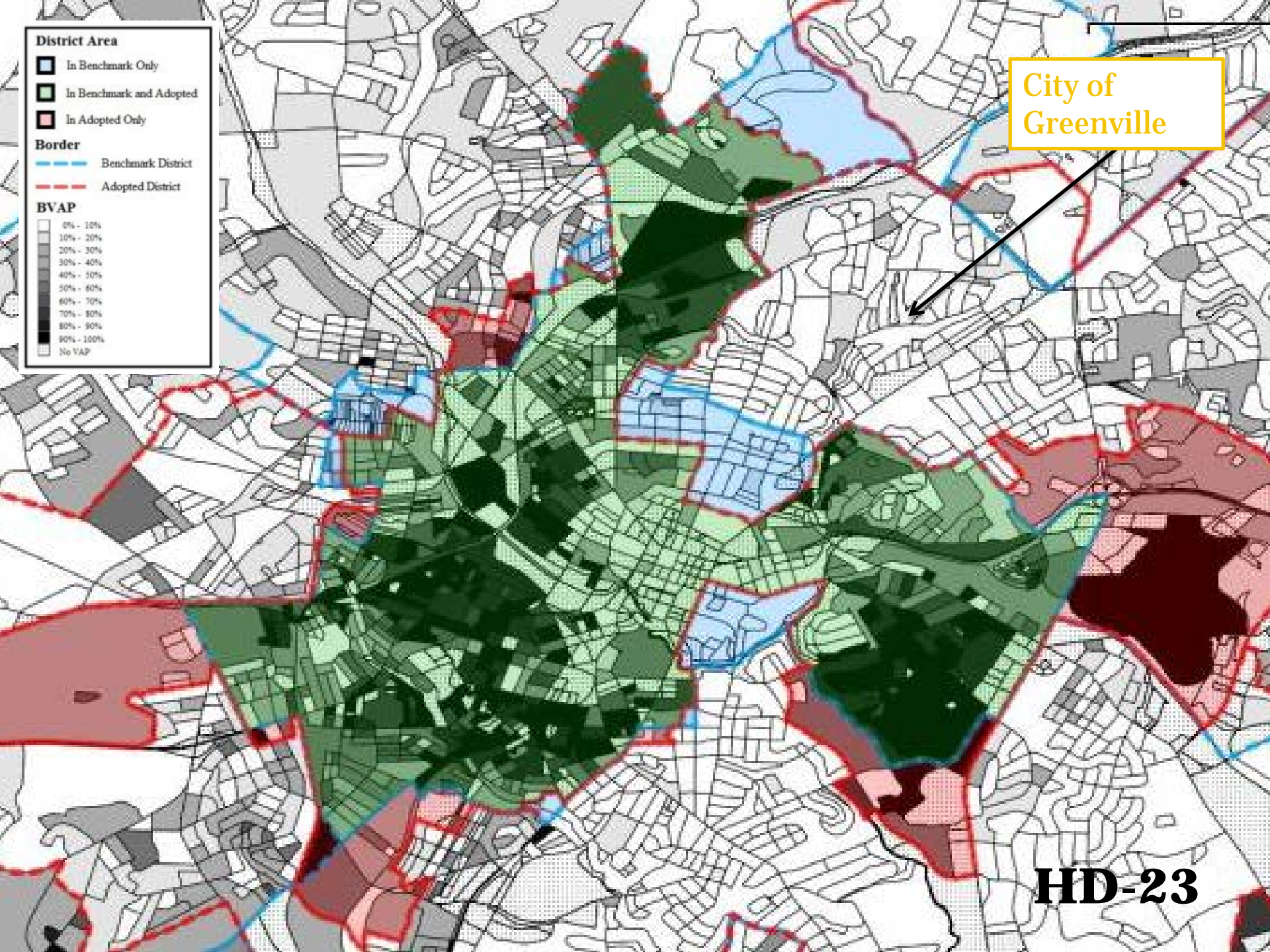
- Border**
-  Benchmark District
 -  Adopted District

- BVAP**
-  0% - 10%
 -  10% - 20%
 -  20% - 30%
 -  30% - 40%
 -  40% - 50%
 -  50% - 60%
 -  60% - 70%
 -  70% - 80%
 -  80% - 90%
 -  90% - 100%
 -  No VAP

City of
Greenville



HD-23



City of Aiken

HD-82

District Area

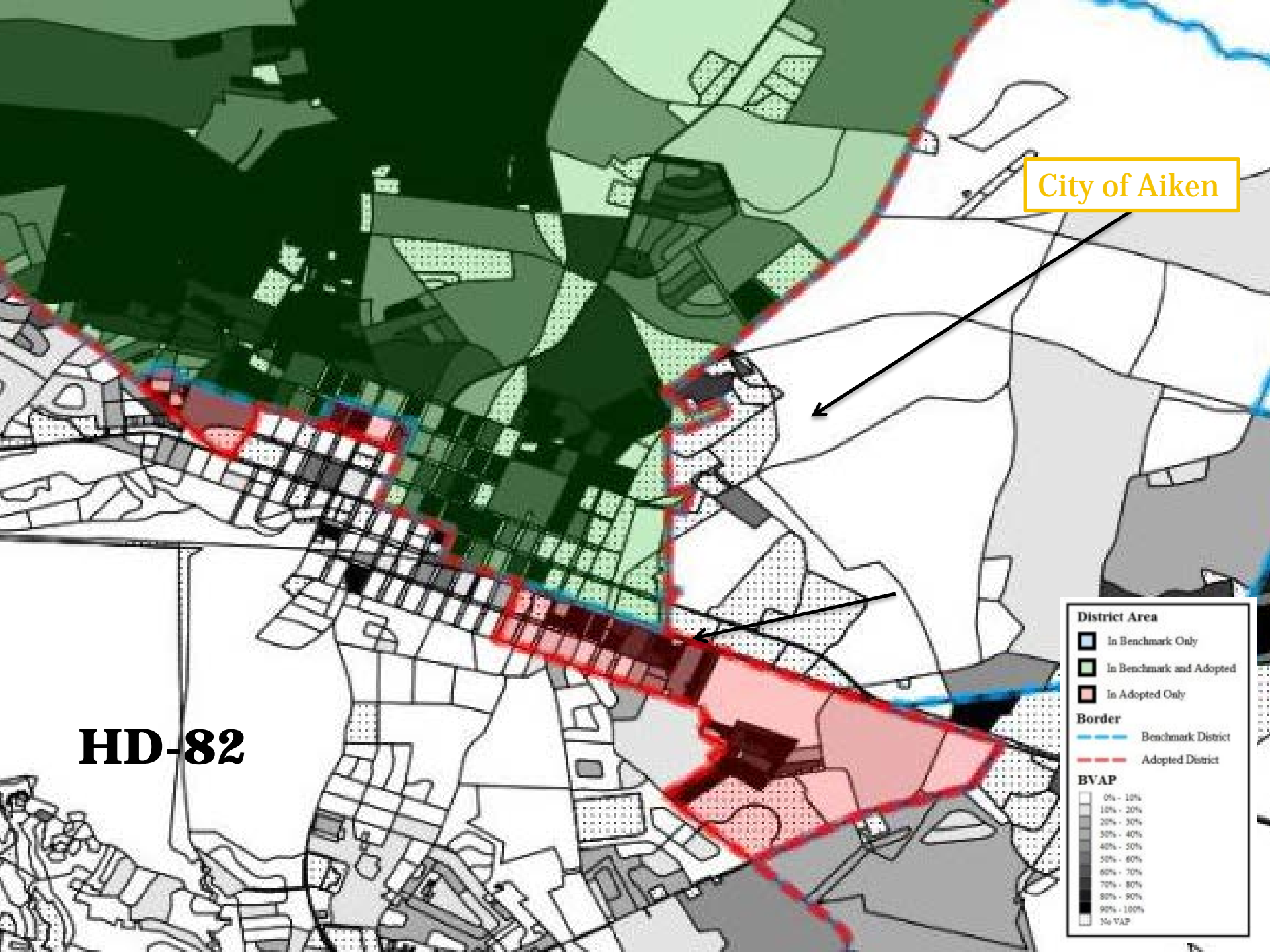
- In Benchmark Only
- In Benchmark and Adopted
- In Adopted Only

Border

- Benchmark District
- Adopted District

BVAP

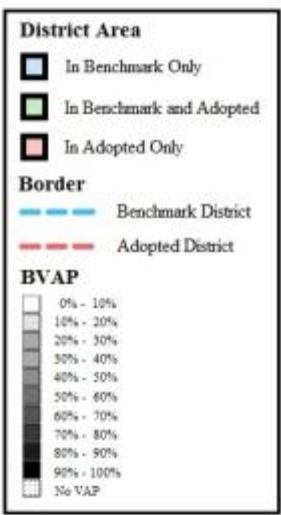
- 0% - 10%
- 10% - 20%
- 20% - 30%
- 30% - 40%
- 40% - 50%
- 50% - 60%
- 60% - 70%
- 70% - 80%
- 80% - 90%
- 90% - 100%
- No VAP

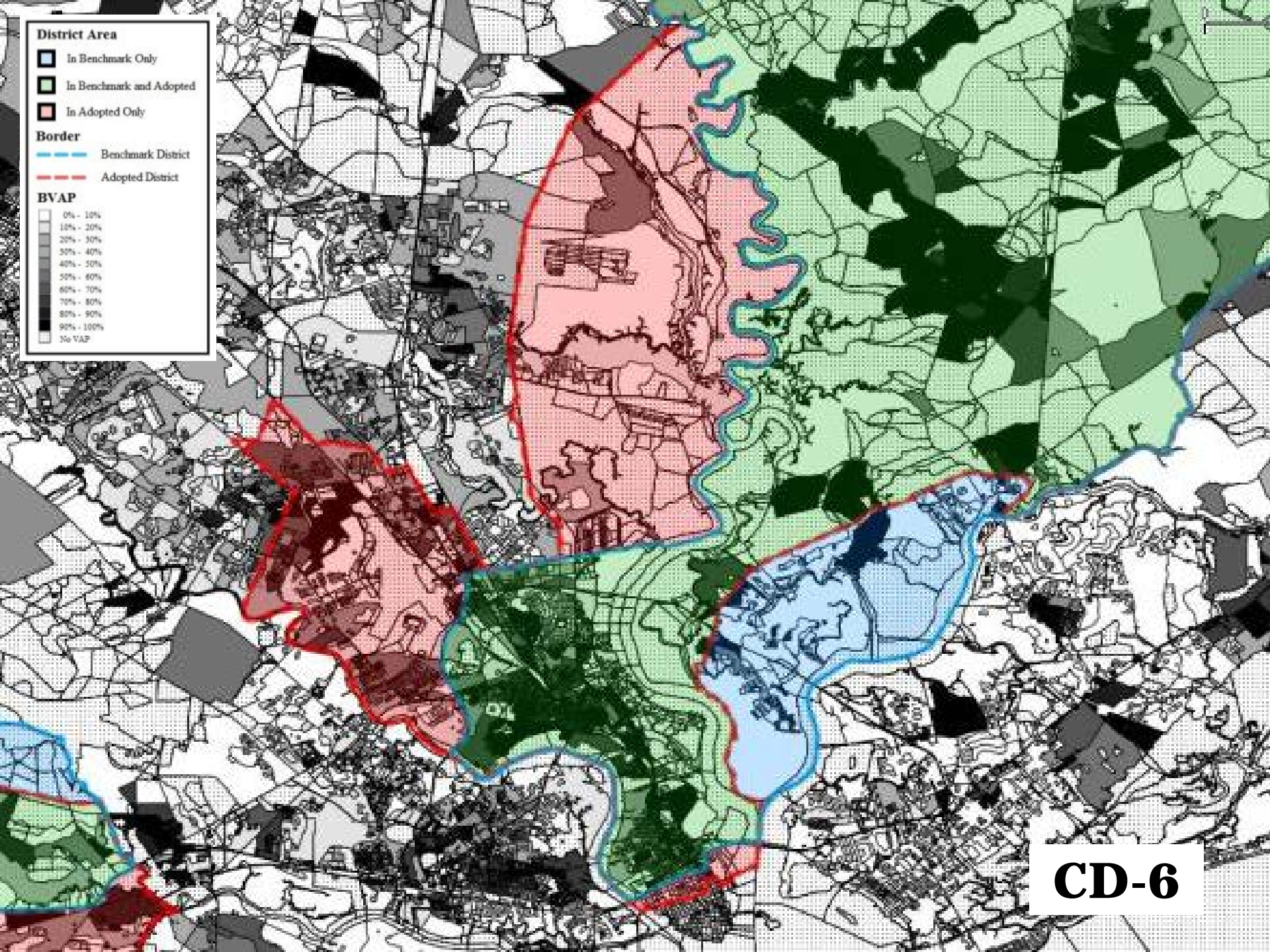


City of Beaufort



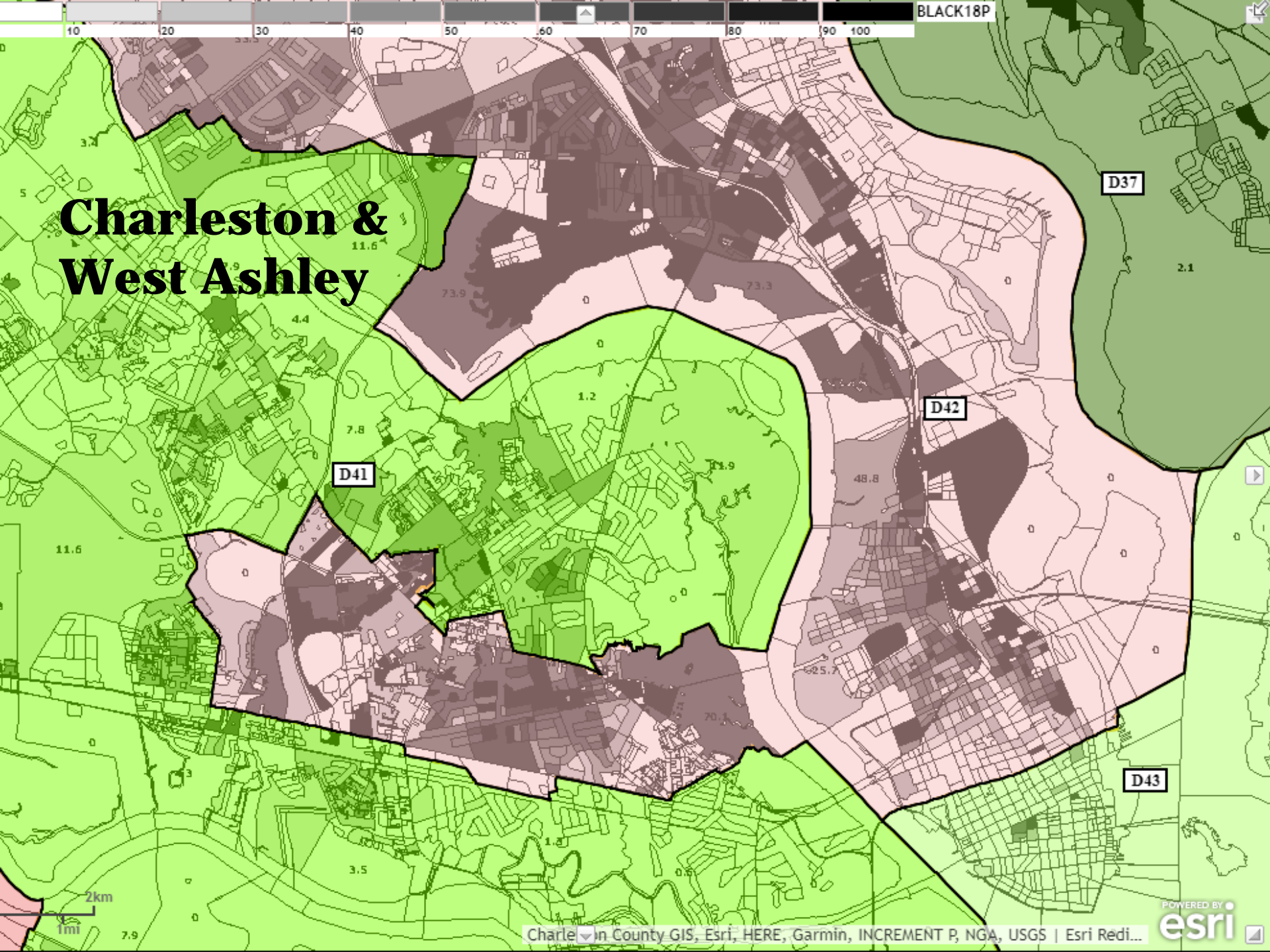
HD-121



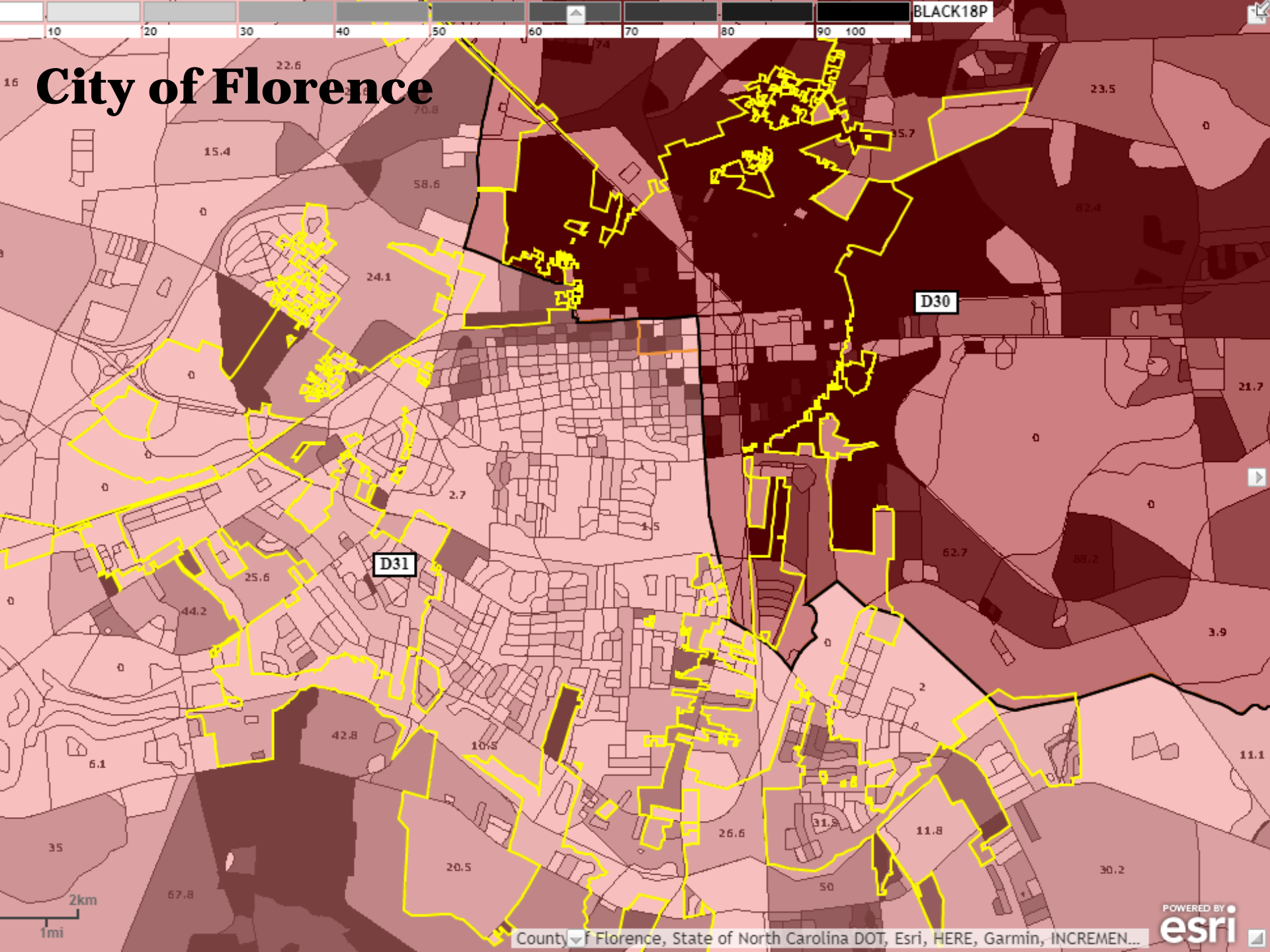


CD-6

Charleston & West Ashley



2km
1mi



City of Florence

D30

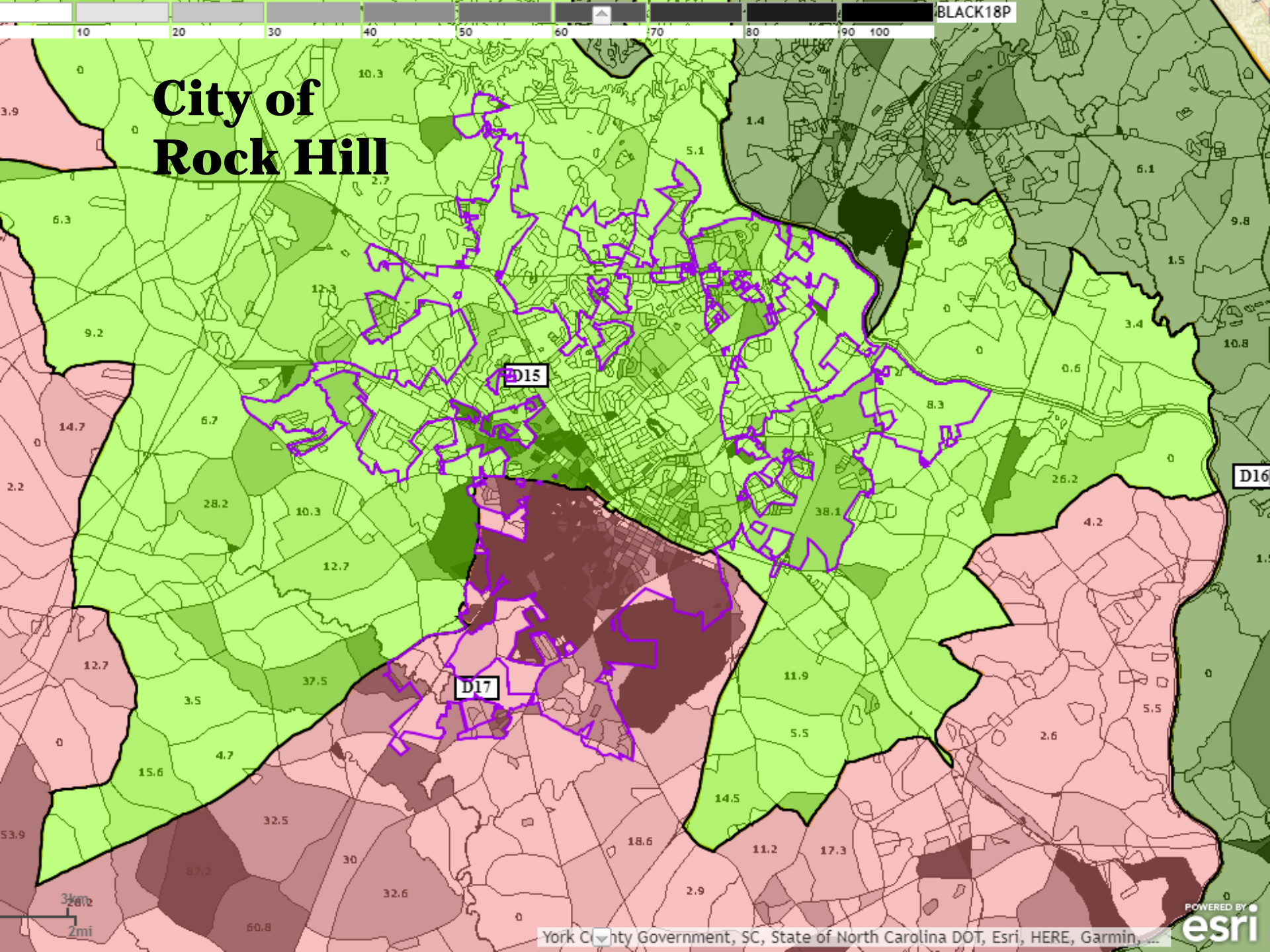
D31

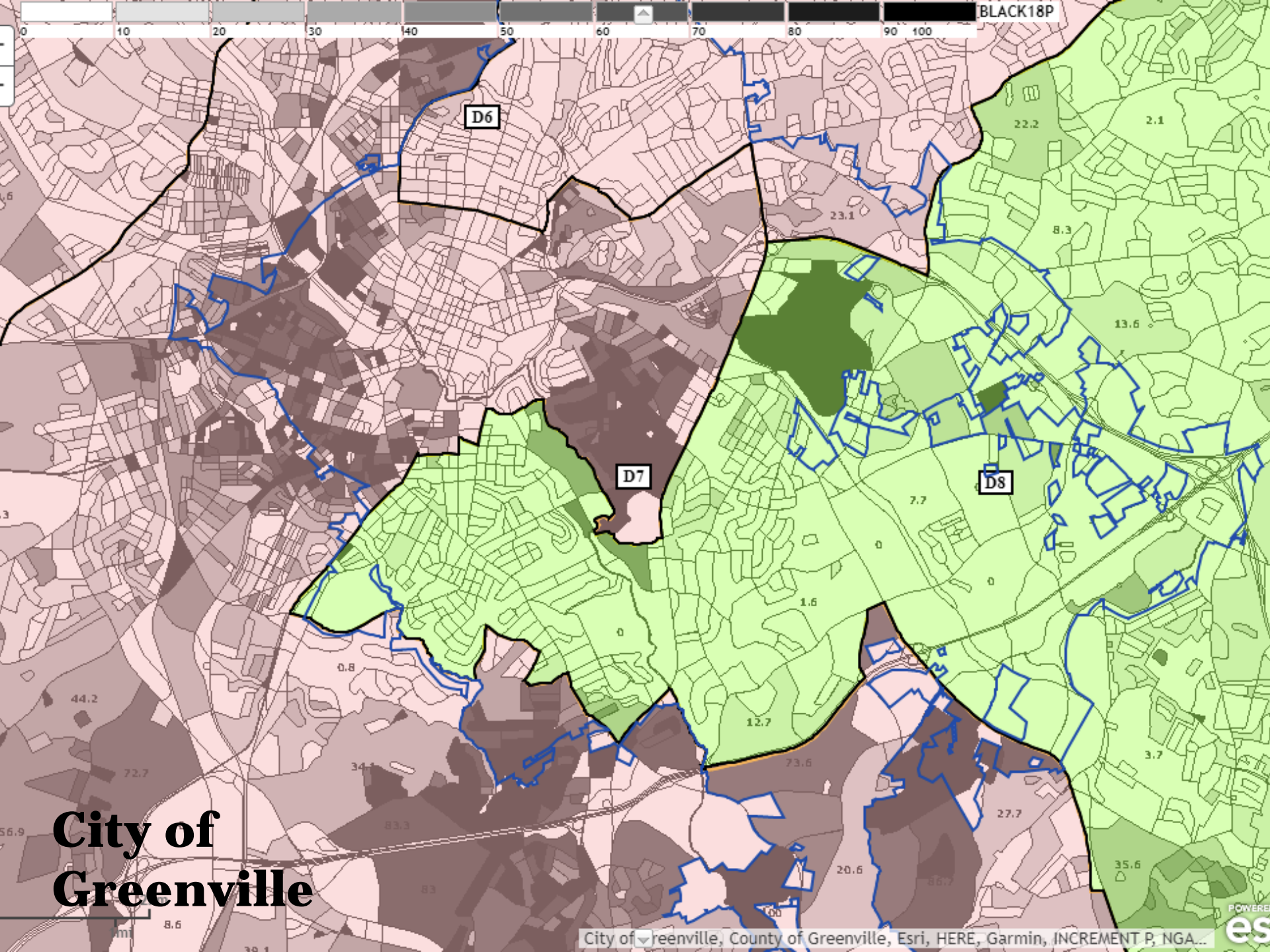
BLACK18P

POWERED BY
esri

County of Florence, State of North Carolina DOT, Esri, HERE, Garmin, INCREMEN...

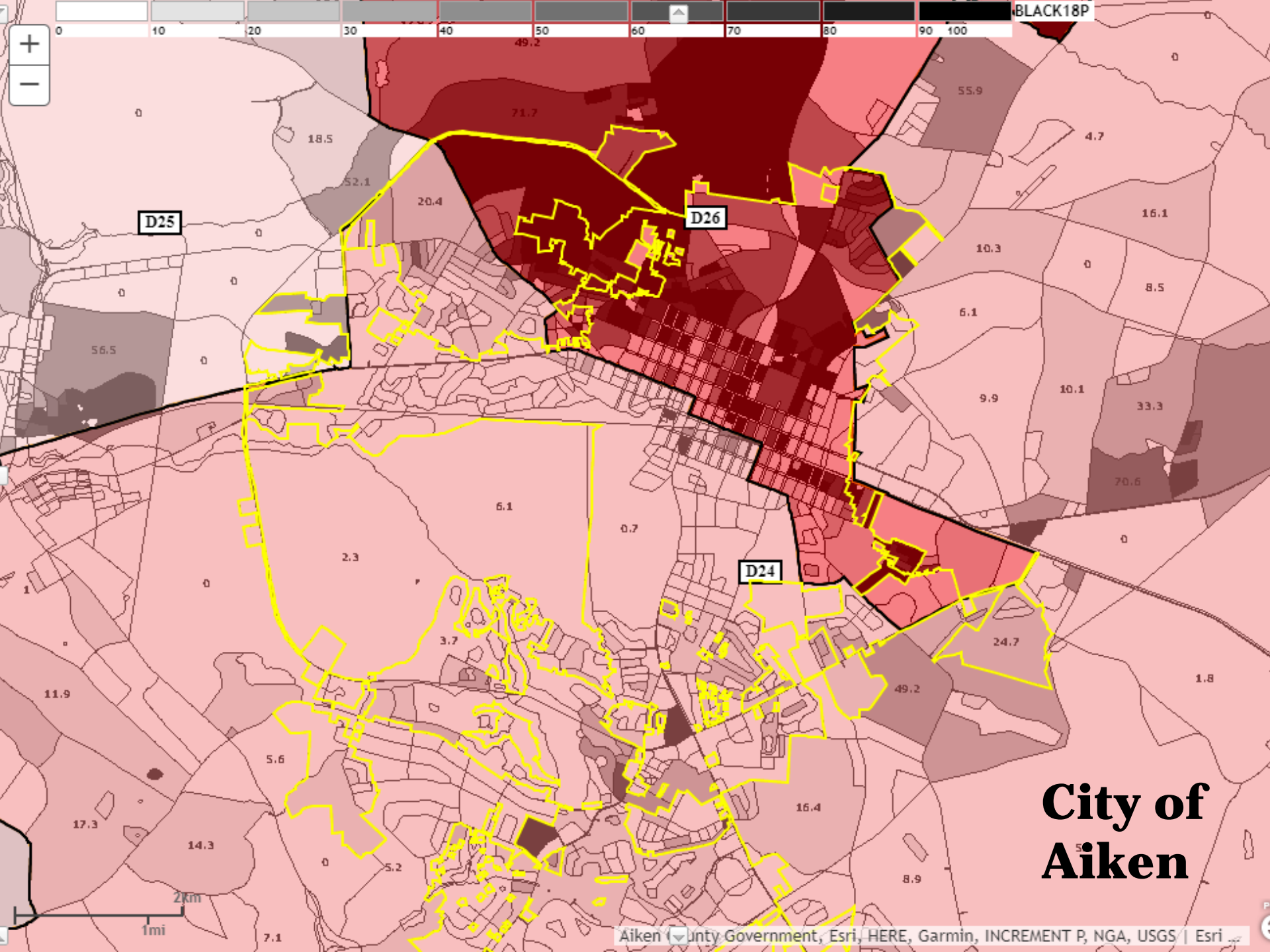
City of Rock Hill



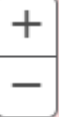


City of Greenville





BLACK18P



D25

D26

D24

City of Aiken

**5. Stop dividing communities
along racial lines**

Final thoughts

Shape matters

Keep counties,
cities, and towns
whole

Observe natural
geography

No racial
gerrymandering

Avoid vague
buzzwords like
“communities
of interest”

SC Senate subcommittee

<https://redistricting.scsenate.gov/meetinginfo.html>

SC House subcommittee

<https://redistricting.schouse.gov/>

SHARE YOUR VIEW!

Questions?

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SOUTH CAROLINA'S 2021 REDISTRICTING