

STRAFFORD COUNTY

STATE OF NEW HAMPSHIRE

SUPERIOR COURT

219-2022-CV-00224

CITY OF DOVER,
CITY OF ROCHESTER,
DEBRA HACKETT,
ROD WATKINS,
KERMIT WILLIAMS,
EILEEN EHLERS,
JANICE KELBLE,
ERIK JOHNSON,
DEBORAH SUGERMAN,
SUSAN RICE,
DOUGLAS BOGEN, and
JOHN WALLACE

v.

DAVID M. SCANLAN,
in his official capacity as the New Hampshire Secretary of State

&

THE STATE OF NEW HAMPSHIRE

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

The Defendants, David Scanlan, in his official capacity as the New Hampshire Secretary of State, and the State of New Hampshire, through counsel, move for summary judgment on the Plaintiffs' complaint for declaratory and injunctive relief.

I. **Introduction:**

1. Part II, Article 11 of the State Constitution requires the Legislature to provide a single-member district to every town, ward, and place with a population within a reasonable deviation from the ideal population for one or more representative seats. However, it is indisputably impossible to create a redistricting plan for the New Hampshire House of Representatives that

provides a single-member district to every eligible town, ward, and place while complying with all other constitutional redistricting criteria. Because it is not possible to provide all eligible towns and wards with single-member districts, the Legislature's exercise of its constitutional redistricting authority necessarily involves making political decisions regarding the use of single-member, multi-member, and floterial districts, including the decision as to which eligible towns and wards receive single-member districts and which eligible towns and wards do not. The Legislature did so in enacting HB 50, and the Plaintiffs cannot carry their burden of proving that HB 50 lacked a rational or legitimate basis.

2. Nevertheless, the Plaintiffs ask this Court to substitute its judgment for the political judgment of the Legislature—the branch of government to which the constitution commits redistricting authority. The Plaintiffs ask this Court to strike down the Legislature's duly-enacted redistricting law—to redistribute single-member districts from municipalities that are not party to this lawsuit to the Plaintiffs' preferred towns and wards. The Court should not do so because the Court's role is only to determine whether HB 50 passes constitutional muster—not to determine not whether a better plan could be crafted. Furthermore, deciding which towns and wards receive the political benefit of a single-member district in a redistricting process that cannot possibly give every eligible town and ward its own single-member district is necessarily a political decision, and the Court should therefore dismiss the Plaintiffs' claims as nonjusticiable.

II. **Statement of Undisputed Facts:**

3. The New Hampshire Legislature reapportioned the 400 State House of Representatives districts following the 2020 federal Census through House Bill 50 ("HB 50"). See RSA 662:5 (eff. Mar. 23, 2022); see also *Bill Docket – HB50*, N.H. Gen. Court, *available at* http://gencourt.state.nh.us/bill_Status/billinfo.aspx?id=610&inflect=2.

4. The individual plaintiffs reside in the City of Dover Ward 4, the City of Rochester Ward 5, the Town of Barrington, the Town of Hooksett, the Town of Lee, the Town of New Ipswich, or the Town of Wilton. See Pls. Compl., ¶¶6-15.

5. RSA 662:5, as amended by HB 50, does not provide a single-member district to Dover Ward 4, Rochester Ward 5, Barrington, Hooksett, Lee, New Ipswich, or Wilton. See RSA 662:5 (eff. Mar. 23, 2022).

6. According to the United States Census for 2020, Dover Ward 4 had a population of 5,439. Pls. Compl., ¶60; Defs. Ans., ¶60.

7. According to the United States Census for 2020, Rochester Ward 5 had a population of 5,419. Pls. Compl., ¶62; Defs. Ans., ¶62.

8. According to the United States Census for 2020, Lee had a population of 4,520. Pls. Compl., ¶64; Defs. Ans., ¶64.

9. According to the United States Census for 2020, Barrington had a population of 9,326. Pls. Compl., ¶66; Defs. Ans., ¶66.

10. According to the United States Census for 2020, New Ipswich had a population of 5,204. Pls. Compl., ¶70; Defs. Ans., ¶70.

11. According to the United States Census for 2020, Wilton had a population of 3,896. Pls. Compl., ¶72; Defs. Ans., ¶72.

12. According to the United States Census for 2020, Hooksett had a population of 14,871. Pls. Compl., ¶77; Defs. Ans., ¶77.

13. According to the United States Census for 2020, the State of New Hampshire had a population of 1,377,529. See Defs. App'x at 14.

14. The Plaintiffs “have not asserted a stand-alone cause of action on” the basis of “the population deviation of the enacted plan exceed[ing] 10%.” Defs. App’x at 70-71.
15. The Plaintiffs’ Complaint included proposed redistricting maps created by Map-A-Thon (the “Map-a-Thon Redistricting Plan”). See Defs. App’x at 12-33.
16. The Map-a-Thon Redistricting Plan generated redistricting maps county by county. Defs. App’x at 62.
17. No county map in the Map-a-Thon Redistricting Plan depended on the maps for other counties. Defs. App’x at 62-63).
18. HB 50 did not provide a single-member district to every town and city ward with a population greater than or within a reasonable deviation of 3,444. See Defs. App’x at 34-55.
19. The Map-a-Thon Redistricting Plan did not provide a single-member district to every town and city ward with a population greater than or within a reasonable deviation of 3,444. See Defs. App’x at 12-33.
20. It is not possible to create a New Hampshire House of Representatives redistricting map that provides at least one single-member district to every town or ward with a population greater than or within a reasonable deviation of 3,444. Defs. App’x at 68, Line 11 to 69, Line 4.
21. Under HB 50, each of Dover Ward 4, Rochester Ward 5, Barrington, Hooksett, Lee, New Ipswich, and Wilton did not receive a single-member district. See Defs. App’x at 46 (Hillsborough County), 49 (Merrimack County), 56 (Strafford County).
22. Under the Map-a-Thon Redistricting Plan, Dover Ward 4, Rochester Ward 5, Barrington, Hooksett, Lee, New Ipswich, and Wilton each received a single-member district. See Defs. App’x at 24 (Hillsborough County), 27 (Merrimack County), 32 (Strafford County).

23. The Map-a-Thon Redistricting Plan did not provide a single-member district to every municipality that had a single-member district under HB 50. Compare Defs. App'x at 21, 32 (Map-a-Thon Redistricting Plan does not provide Durham (population of 15,490) or Campton (population of 3,343) with single-member districts) with Defs. App'x at 43, 54 (HB 50 provides Durham and Campton with single-member districts).

24. According to the United States Census for 2020, Durham had a population of 15,490. Defs. App'x at 54.

25. Durham's 2020 population of 15,490 is more than 60% bigger than the next most populous town or ward in Strafford County. See Defs. App'x at 32, 54.

III. **Summary Judgment Standard of Review:**

26. Summary judgment is appropriate if the evidence in the record demonstrates “that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” RSA 491:8-a, III. When reviewing a motion for summary judgment, the Court must “consider the affidavits and other evidence, and all inferences properly drawn therefrom, in the light most favorable to the non-moving party.” Jeffery v. City of Nashua, 163 N.H. 683, 685 (2012). “The adverse party may not rest upon mere allegations or denials of his pleadings, but his response, by affidavits or by reference to depositions, answers to interrogatories, or admissions, must set forth specific facts showing that there is a genuine issue for trial.” Id. (cleaned up) (quoting RSA 491:8-a, IV). If the Court's review “discloses no genuine issue of

material fact, and if the moving party is entitled to judgment as a matter of law,” then summary judgment must be entered in that party’s favor. Frost v. Delaney, 168 N.H. 353, 359 (2015).

IV. Argument:

27. The Plaintiffs allege that HB 50 unconstitutionally violates Part II, Article 11 of the State Constitution because HB 50 did not provide a single-member district to Dover Ward 4, Rochester Ward 5, Barrington, Hooksett, Lee, New Ipswich, and Wilton (collectively the “Plaintiff Districts”), despite each of the Plaintiff Districts having a population greater than 3,444 persons.¹ Pls. Compl., ¶92.

28. The Plaintiffs’ claims fail because HB 50, which is presumed to be constitutional, complies with Part II, Articles 9, 11, and 11-a of the State Constitution, and Part II, Article 11 cannot be read as requiring a redistricting plan to provide a single-member district to every town, ward, and place with a sufficient population because it is not possible to do so. Because it is not possible to enact a redistricting plan that provides every eligible town, ward, and place with a single-member district, the Legislature’s exercise of its constitutional redistricting authority necessarily involves making political decisions regarding how to provide single-member districts, multi-member districts, and floterial districts to the towns, wards, and places across the State. Although the Map-a-Thon Redistricting Plan provides marginally more single-member districts, the Plaintiffs can’t prove that the Legislature lacked a rational or legitimate basis in enacting HB 50, including prioritizing providing single-member districts to larger municipalities and minimizing the number and size of floterial districts.

¹ The Plaintiffs’ Complaint uses 3,444 as the “ideal population.” Dividing the total population of New Hampshire (1,377,529) by the maximum number of representatives in the House of Representatives (400) results in 3,444 (rounded to the nearest whole number). A town with a population as few as 3,272 would be within 5% of 3,444.

A. Standard of Review for Redistricting Plan Challenges:

29. Legislatively enacted redistricting plans, such as HB 50, are presumed to be constitutional, and the Plaintiffs bear the burden of proving that HB 50 is unconstitutional. See City of Manchester v. Secretary of State, 163 N.H. 689, 698 (2012). To prevail, the Plaintiffs “must establish that the Plan was enacted without a rational or legitimate basis.” Id. (quotation omitted). The Court reviews challenges to redistricting plans based on alleged violations of Part II, Article 11 under “a standard of review akin to the well-established rational basis standard.” Id.

30. “Our State Constitution vests the authority to redistrict with the legislative branch, and for good reason.” Id. at 697 (cleaned up). “Reapportionment is primarily a matter of legislature consideration and determination.” Below v. Gardner, 148 N.H. 1, 5 (2002) (quotation omitted). A court must “tread lightly in this political arena, lest [the court] materially impair the legislature’s redistricting power.” City of Manchester, 163 N.H. at 697 (cleaned up). “Both the complexity in delineating state legislative district boundaries and the political nature of such endeavors necessarily preempt judicial intervention in the absence of a clear, direct, irrefutable constitutional violation.” Id. (quotation omitted).

31. Thus, the Court “will not reject a redistricting plan simply because the petitioners have devised one that appears to satisfy constitutional and statutory requirements to a greater degree than the plan approved by the Legislature.” Id. at 698 (quotation omitted); see also Gaffney v. Cummings, 412 U.S. 735, 750-51 (1973) (explaining that a redistricting plan is not unconstitutional simply because some “resourceful mind” has come up with a better plan). The Plaintiffs’ burden “is not to establish that some other preferable plan exists, but to demonstrate the absence of a rational or legitimate basis for the challenged plan’s failure to satisfy

constitutional or statutory criteria.” City of Manchester, 163 N.H. at 698. (quotation omitted).

In reviewing the Plaintiffs’ arguments, the Court “must consider not only the specific violations claimed, but also those claims within the context of the entire plan, keeping in mind the difficulties in satisfying the various legal requirements statewide.” Id. (quotation omitted).

“[W]hen doubts exist as to the constitutionality of a redistricting plan, those doubts must be resolved in favor of its constitutionality.” Miles Brown v. Secretary of State, __ N.H. __, 2023 N.H. LEXIS 220, at *12 (Nov. 29, 2023). The burden at all times rests with the Plaintiffs to establish that the Legislature acted without a rational basis in enacting the challenged redistricting plan. See City of Manchester, 163 N.H. at 698.

B. The Plaintiffs lack standing to assert claims on behalf of certain towns.

32. The Plaintiffs are or are located in the seven following municipalities: Barrington, Dover, Hooksett, Lee, New Ipswich, Rochester, Wilton.

33. In Paragraph 81 of their complaint, the Plaintiffs appear to assert claims on behalf of the following additional municipalities: Chesterfield, Hinsdale, Canaan, Hanover, Bow, Plaistow, and Milton. See Pls. Compl., at 17, ¶81 (listing these municipalities as “other affected towns”); Pls. Compl., at 20, ¶¶92-93 (requesting relief as to “all affected towns/wards stated in this Complaint”).

34. “[S]tanding under the New Hampshire Constitution requires parties to have personal legal or equitable rights that are adverse to one another, with regard to an actual, not hypothetical, dispute, which is capable of judicial redress.” Duncan v. State, 166 N.H. 630, 642-43 (2014). “In evaluating whether a party has standing to sue, we focus on whether the party suffered a legal injury against which the law was designed to protect.” Teeboom v. City of Nashua, 172 N.H. 301, 307 (2019) (quotation omitted). “Neither an abstract interest in ensuring

that the State Constitution is observed nor an injury indistinguishable from a generalized wrong allegedly suffered by the public at large is sufficient to constitute a personal, concrete interest.”

Id. (quotation omitted). “Rather, the party must show that its own rights have been or will be directly affected.” Id. (quotation omitted).

35. The Towns of Chesterfield, Hinsdale, Canaan, Hanover, Bow, Plaistow, and Milton are not parties to this case, and no plaintiff resides in these municipalities. Thus, the Plaintiffs’ own rights have not been and cannot be affected by the Legislature allegedly violating Part II, Article 11 of the State Constitution by not provide these other municipalities with single-member districts. Because none of the Plaintiffs reside in these municipalities, the alleged injury to these other municipalities is no more than a generalized wrong suffered by the public at large.

36. Accordingly, the Plaintiffs lack standing to assert alleged violations to the constitutional rights of the Towns of Chesterfield, Hinsdale, Canaan, Hanover, Bow, Plaistow, and Milton.

C. The Plaintiffs do not allege that HB 50’s total population deviation discriminates against the Plaintiffs in violation of Part II, Article 9 and the Fourteenth Amendment.

37. The Plaintiffs’ Complaint does not allege that HB 50’s total population deviation discriminates against the Plaintiffs in violation of Part II, Article 9 of the State Constitution and the Fourteenth Amendment to the Federal Constitution. See Pls. Compl., at 17-21. Rather, the Plaintiffs claim that HB 50 violates Part II, Article 11 of t the State Constitution by not providing their wards and towns with single-member districts. See Pls. Compl., at 20, ¶93. In fact, the Plaintiffs sent a letter expressly stating that they were not bringing a discrimination claim against the Defendants based on the total population deviation of HB 50. See Defs. App’x at 70-71.

38. Nor could the Plaintiffs assert such a claim. Although the total population deviation in HB 50 is 10.13%, which marginally exceeds 10%, the deviation exceeds 10% because of an error

with Keene Ward 5, in Cheshire County. See Defs. App'x at 36, 40 (showing Keene Ward 5 as the only district with a population deviation above 5.00%; Defs. App'x at 8-11 (showing the Legislature initially dividing the population of Keene evenly among each of the city's wards); Defs. App'x at 36, 40 (showing the final populations of Keene's wards after ward redistricting). The deviation for Keene Ward 5 is 5.18%, meaning the votes of residents of that district effectively have slightly less weight than the votes of voters in other districts. The effect on Keene Ward 5 does not and cannot harm the Plaintiffs, none of whom reside in Keene Ward 5, and all of whom reside in communities that have population deviations within 5% of the ideal population for one representative seat. See Defs. App'x at 24, 27, 32 (Population Deviations for Plaintiffs' communities: New Ipswich (1.46%); Wilton (1.46%); Hooksett (-2.14%); Dover Ward 4 (0.43%); Rochester Ward 5 (-4.17%); Lee (0.43%); Barrington (4.97%).

39. Furthermore, Keene Ward 5 is located within Cheshire County, none of the Plaintiffs reside in Cheshire County, and correcting the issue in Cheshire County would result in the total population deviation for HB 50 being 9.94%--the same as the total population deviation in the Map-a-Thon Redistricting Plan. See Defs. App'x at 36 (depicting minimum and maximum population deviation for each county in HB 50); Defs. App'x at 64-67 (Mr. Andrews agreeing that if the map for Cheshire County were changed, the total population deviation for HB 50 would be 9.94%--the same as the total population deviation for the Map-a-Thon Redistricting Plan). Similarly, the Map-a-Thon Redistricting Plan created maps separately for each county—meaning any error with respect to Keene Ward 5 had no impact on the Map-a-Thon Redistricting Plan with respect to the counties in which the Plaintiffs reside. See Defs. App'x at 62-63. Taken together, HB 50's total population deviation exceeds 10% because of an error for one ward in

Cheshire County, and that error does not harm and has no impact on the Plaintiffs' right to representation that is "as equal as circumstances will admit." See N.H. CONST., Pt. II, Art. 9.

D. HB 50 complies with all constitutional and statutory redistricting requirements, when those requirements are read in conjunction with each other:

40. The State Constitution sets forth numerous requirements that the Legislature must follow when redistricting House districts following the decennial federal census. See N.H. CONST., Pt. II, Arts. 9, 11, 11-a. These requirements include: (1) requiring the number of representatives to be between 375 and 400 (Pt. II, Art. 9); (2) requiring district representation to be "founded on principles of equality" and "be as equal as circumstances will admit" (Pt. II, Art. 9); (3) not dividing or altering the boundaries of towns, wards, and places, unless requested to be divided by referendum (Pt. II, Arts. 9, 11-a); (4) providing each town and ward with its own single-member district when the town or ward's population "is within a reasonable deviation from the ideal population for one or more representative seats" (Pt. II, Art. 11); (5) providing each town and ward with membership in one non-floterial district (Pt. II, Art. 11); (6) grouping each town, ward, and unincorporated place that does not have sufficient population to entitle it to its own district with other towns, wards, and unincorporated places to form a district collectively entitled to one or more representatives (Pt. II, Art. 11); (7) creating contiguous districts that preserve the boundaries of the towns, wards, and unincorporated places in the district (Pt. II, Art. 11); and (8) optionally creating floterial districts that combine the excess number of inhabitants of one district with the excess number of inhabitants of other districts (Pt. II, Art. 11).

41. Perfect, simultaneous compliance with each of these separate requirements is not possible. See See Defs. App'x at 68-69; see also City of Manchester, 163 N.H. at 702 (noting that the plaintiffs in that case "concede that perfect compliance with the Federal Constitution and Part II, Article 11 is impossible" and "admit that the legislature could not have adopted a plan

with an overall deviation of under 10% in which every town, ward[,] or place having a population within a reasonable deviation the ideal population has its own district” (quotation omitted)).

42. Nevertheless, the Plaintiffs throughout their Complaint allege that each instance of a ward or town with a population of at least 3,444 not receiving a single-member district in HB 50 constitutes a “violation” of the Constitution. See, e.g., Pls. Compl., at 10, ¶35.; see also N.H. CONST., Pt. II, Art. 11 (providing, in part, that “When the population of any town or ward, according to the last federal census, is within a reasonable deviation from the ideal population for one or more representative seats, the town or ward shall have its own district of one or more representative seats”). This interpretation of Part II, Article 11 is not reasonable.

43. If it is not possible to perfectly comply with Part II, Article 11 while meeting the other constitutional redistricting requirements, then the single-member district requirement cannot be absolute. If the single-member district requirement were absolute, then the Legislature could never lawfully fulfill its constitutional obligations by enacting a constitutional reapportionment plan. If the single-member district requirement were absolute, HB 50, the Map-a-Thon Redistricting Plan, and every other conceivable redistricting plan would be unconstitutional. If the single-member district requirement were absolute, the Court would not be able to redress the Plaintiffs’ alleged injuries because it would be impossible for the Court to enact a constitutional remedial redistricting plan. In other words, the Plaintiffs’ interpretation of Part II, Article 11 results in an absurd outcome in which no redistricting plan could pass constitutional muster.

44. The only reasonable way to read Part II, Articles 9, 11, and 11-a in conjunction with each other, giving effect to all redistricting requirements, is that Part II, Article 11’s single-member district requirement is not absolute. In other words, Part II, Article 11 requires the Legislature to

balance the Constitutional preference for single-member districts with these competing redistricting requirements, but the Legislature is not required to mathematically maximize the number of eligible towns, wards, and places receiving single-member districts.

45. Here, the Legislature exercised its constitutional redistricting authority and enacted HB 50, which balanced population equality and single-member district requirements, while also complying with remaining constitutional requirements regarding preservation of town, ward, and place boundaries; contiguous districts; use of multi-member and floterial districts; and providing each town, ward, or place with one non-floterial district. Therefore, the Defendants respectfully request that the Court rule that HB 50 complies with all constitutional redistricting requirements.

E. The Plaintiffs seek to have the Court substitute its judgment for that of the Legislature.

46. The Constitution’s redistricting requirements present a necessary political balancing: it is not possible to redistrict in a manner that provides a single-member district to every town and ward with a sufficient population to have a single-member district, and somebody has to decide which town and wards will receive a single-member district and which towns and wards will not. The Constitution commits the authority to make this political decision to the Legislature—not to the Judiciary. See N.H. CONST., Pt. II, Arts. 9, 11, 11-a.

47. Recognizing that the Constitution commits redistricting authority to the Legislature, the New Hampshire Supreme Court has been clear that the “only role in this process [for State courts] is to ascertain whether a particular redistricting plan passes constitutional muster, not whether a better plan could be crafted.” City of Manchester, 163 N.H. at 698. If the Court accepts the Plaintiffs’ arguments regarding maximizing single-member districts, then the Legislature’s constitutional redistricting authority would effectively be usurped by any “resourceful mind” who could come up with a slightly better redistricting plan. See id. (citing

Gaffney, 412 U.S. at 750-51, for the proposition that a redistricting plan is not unconstitutional simply because some “resourceful mind” has come up with a better plan).

48. Notably, the Map-a-Thon Redistricting Plan does more than simply provide additional municipalities with single-member districts—it also takes away single-member districts that other municipalities have under HB 50. Compare Defs. App’x at 21, 32 (Map-a-Thon Redistricting Plan does not provide Durham (population of 15,490) or Campton (population of 3,343) with single-member districts) with Defs. App’x at 43, 54 (HB 50 provides Durham and Campton with single-member districts). Thus, the Plaintiffs ask this Court to substitute its judgment for the Legislature’s constitutionally-required and necessarily political redistricting decisions, which include determining which towns and wards ultimately receive single-member districts. The Plaintiffs ask this Court to wade into this political arena—to pick new “winners” and new “losers” in a process for which all parties agree that it is impossible to give every otherwise entitled town and ward a single-member district. Put differently, the Plaintiffs argue that their constitutional “right” to a single-member district should prevail over the constitutional “rights” of other municipalities.

F. The Plaintiffs cannot prove that HB 50 lacked a legitimate or rational basis.

49. The Plaintiffs effectively base their claims on their assertion that Part II, Article 11 requires the Legislature to maximize the number of towns, wards, and places that receive single-member districts. See, e.g., Pls. Compl., at 10, ¶¶35-36. Part II, Article 11 contains no such language—it merely provides that towns, wards, and places with sufficient population must be given single-member districts. The Constitution is silent regarding how the Legislature must decide which towns, wards, and places should receive single-member districts when it is not possible to provide every eligible town with a single-member district. The Legislature, in

exercising its constitutional redistricting authority, is therefore free to consider the respective features and populations of each town, ward, and place, the size of multimember districts, and the quantity of floterial districts when making this determination. This includes not just whether a town, ward, or place has a sufficient population to be entitled to a single-member district, but also the extent to which the population of each town, ward, and place exceeds the ideal population size.

50. In Strafford County, for example, HB 50 provides a single-member district to Durham—the single most populous town or ward in the entire County. See Defs. App’x at 54. The Map-a-Thon Redistricting Plan is able to provide single member districts to Dover Ward 4, Rochester Ward 5, Barrington, and Lee only by stripping Durham, the most populous town in the County, of its single-member district. See Defs. App’x at 32. The Legislature could have rationally decided to prioritize giving Durham a single-member district based on Durham being the largest town, ward, and place in the County. Notably, the Map-A-Thon Redistricting Plan’s proposed multi-member district for Durham includes Madbury—a comparatively small town. The Legislature could have rationally decided to prioritize giving Durham a single-member district to prevent a situation where voters of a smaller town, such as Madbury, face a comparatively difficult prospect of electing a representative that will adequately represent Madbury’s interests in a multimember district that includes more than 15,000 Durham voters. The Legislature could also have rationally decided to prioritize giving Durham a single-member district because, unlike other municipalities in Strafford County, Durham contains a large State university. See generally RSA chapter 187-A.

51. Similarly, in Hillsborough County, the Map-a-Thon Redistricting Plan provides only marginally more single-member districts: 33 as opposed to the 31 provided for in HB 50.

Compare Defs. App'x at 24 with Defs. App'x at 46. However, the Map-a-Thon Redistricting Plan does so in part by using more floterial districts (9 as opposed to 7 in HB 50), floterial districts with larger populations (34,066 average population as opposed to 31,859 in HB 50), and floterial districts composed of more towns and wards (4.1 average towns/wards per floterial as opposed to 3.1 in HB 50). Compare Defs. App'x at 24 with Defs. App'x at 46. Although the Constitution authorizes the discretionary use of floterial districts, the Constitution sets forth a clear preference for non-floterial districts by mandating that each town, ward, and place be provided membership in one non-floterial district. See N.H. CONST., Pt. II, Art. 11. The Legislature could have rationally decided to provide marginally fewer single-member districts to help the Legislature minimize the number of floterial districts, the size of floterial districts, and the number of member wards and towns in each floterial district.

52. There is nothing improper about the Legislature balancing the various redistricting criteria and deciding to provide single-member districts to towns, wards, and places other than the Plaintiffs' preferred towns, wards, and places. See City of Manchester, 163 N.H. at 705 (explaining that the Court's "only role in this process is to ascertain whether a particular redistricting plan passes constitutional muster, not whether a better plan could be crafted" (quotation omitted)). In other words, the Plaintiffs cannot prove the "absence of a rational or legitimate basis for the challenged plan's [alleged] failure to satisfy constitutional or statutory criteria" simply because the Legislature chose to provide different eligible towns, wards, and places with single-member districts.

G. The Plaintiffs' claims present a nonjusticiable political question:

53. The Defendants previously moved to dismiss the Plaintiffs' claims on the ground that the claims present a nonjusticiable political question. See Defs. Mot. to Dismiss. On June 23, 2023,

the Court denied the Defendants' motion to dismiss, ruling in part that the Plaintiffs' claims presented a nonjusticiable political question. The Defendants restate and incorporate by reference their prior arguments that the Plaintiffs' claims present a nonjusticiable political question.

54. The Court's order denying the Defendants' motion to dismiss focused on only two of the six political question characteristics—textually demonstrable constitutional commitment of the issue to a coordinate political department, and a lack of judicially discoverable and manageable standards. However, the Supreme Court has recognized other political question characteristics that the Court did not appear to consider in its order. Specifically, cases that raise nonjusticiable political questions may have these additional characteristics: (1) the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; (2) the impossibility of a court undertaking independent resolution without expressing lack of the respect due coordinate branches of government; (3) an unusual need for unquestioning adherence to a political decision already made, and (4) the potentiality of embarrassment from multifarious pronouncements by various departments on one question. See Richard v. Speaker of the House of Representatives, 175 N.H. 262, 267-68 (2022).

55. As described above, it is undisputed that it is not possible for a redistricting plan to provide a single-member district to every town, ward, and place that has a population within a reasonable deviation of the ideal population for receiving one representative seat. Although the Map-a-Thon Redistricting Plan provides marginally more towns and wards with single-member districts, it does so by taking away single-member districts from other towns and wards that were entitled to receive single-member districts. In other words, the Court cannot substitute its judgment for the Legislature's without making a political decision that the Constitution

committed to the Legislature. See Miles Brown, __ N.H. __, 2023 N.H. LEXIS 220, at *17 (recognizing that the “people entrust this decennial [redistricting] exercise to the legislative branch because the give-and-take of the legislative process, involving as it does representatives elected by the people to make necessary political and policy decisions, is preferable to any other” (quotations omitted)); In re Below, 151 N.H. 135, 150 (2004) (recognizing that redistricting is a “purely political, legislative process”).

56. If the Court nevertheless rules that Part II, Article 11’s single-member district requirement presents a justiciable question every time a Plaintiff can show that it was possible for a redistricting plan to provide their community with a single-member district, or every time a “resourceful mind” comes up with a redistricting plan that provides marginally more or different towns and wards with single-member districts, the result would be that the judiciary would usurp the Legislature’s constitutional redistricting authority. See City of Manchester, 163 N.H. at 698. (explaining that the Court “will not reject a redistricting plan simply because the petitioners have devised one that appears to satisfy constitutional and statutory requirements to a greater degree than the plan approved by the Legislature” (quotation omitted)). The Court cannot not do so without making political decisions that express a lack of respect for the Legislature and without creating the potentiality of embarrassment from multifarious pronouncements. Nor does the Constitution provide any judicially discoverable or manageable standards for resolving the question of which eligible towns and wards should receive single-member districts when it is not possible for all constitutionally eligible towns to receive single-member districts.

57. Part I, Article 35 of the State Constitution “recognizes the need for an independent judiciary.” State v. LaFrance, 124 N.H. 171, 177 (1983). “It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial

interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial as the lot of humanity will admit.” N.H. CONST., Pt. I, Art. 35. “Judicial review, coupled with the specified constitutional provisions which keep the judicial branch separate and independent of the other branches of government and with those articles of the constitution that protect the impartiality of the judiciary from public and political pressure, enables the courts to ensure that the constitutional rights of each citizen will not be encroached upon by either the legislative or the executive branch of the government.” LaFrance, 124 N.H. at 178.

58. Consistent with these constitutional principles, this Court has wisely fenced political considerations in redistricting cases out of the judicial process. See, e.g., Norelli v. Secretary of State, 175 N.H. 186, 203 (2022) (“Political considerations ‘have no place in a court-ordered remedial [redistricting] plan.’” (quoting Below, 148 N.H. at 11)); Burling, 148 N.H. at 156 (“While political considerations are tolerated in legislatively-implemented redistricting plans, they have no place in a court-ordered plan.”); City of Manchester, 163 N.H. at 697 (“Both the complexity in delineating state legislative district boundaries and the political nature of such endeavors necessarily preempt judicial intervention in the absence of a clear, direct, irrefutable constitutional violation.” (quotation omitted)).

59. Nevertheless, the Plaintiffs ask this Court to do just that in this case: to decide which towns and wards receive the political benefit of a single-member district in a redistricting process that cannot possibly give every eligible town and ward its own single-member district. The Court cannot do so without deciding political questions, and the Court should therefore decline the Plaintiffs’ request and dismiss the Plaintiffs’ claims as nonjusticiable.

WHEREFORE, the Defendants respectfully request that this Honorable Court:

A. Grant summary judgment in favor of the Defendants.

Respectfully submitted,

DAVID SCANLAN, SECRETARY OF STATE

and

THE STATE OF NEW HAMPSHIRE

By their attorneys,

JOHN M. FORMELLA
ATTORNEY GENERAL

Date: January 10, 2024

/s/ Brendan A. O'Donnell
Brendan A. O'Donnell, No. 268037
Assistant Attorney General
New Hampshire Department of Justice
1 Granite Place
Concord, NH 03301-6397
(603) 271-3658
Brendan.a.odonnell@doj.nh.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was served on all counsel of record through the Court's electronic-filing system.

Date: January 10, 2024

/s/ Brendan A. O'Donnell
Brendan A. O'Donnell

STRAFFORD COUNTY

STATE OF NEW HAMPSHIRE

SUPERIOR COURT

219-2022-CV-00224

CITY OF DOVER, et al

v.

DAVID M. SCANLAN, et al

APPENDIX TO DEFENDANT MOTION FOR SUMMARY JUDGMENT

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219-2022-CV-00224

EXHIBIT 2

**THE STATE OF NEW HAMPSHIRE
SUPREME COURT**

No. 2022-_____

The City of Dover,
Debra Hackett

v.

David Scanlan,
In His Capacity as Secretary of State for New Hampshire

AFFIDAVIT OF DAVID ANDREWS

I, David Andrews, hereby testify and declare under penalty of perjury as follows:

1. I make this affidavit based on my personal knowledge in support of the Petition for Original Jurisdiction being filed by the City of Dover and Debra Hackett in the above-captioned matter, as well as any subsequent briefing or proceedings that may occur in the above-captioned matter.
2. I am a volunteer and a representative of Map-a-Thon, which is a group of individuals who have come together and volunteered their time and expertise to create proposed non-partisan redistricting maps in New Hampshire.
3. While many individuals with individual areas of expertise volunteered with Map-a-Thon, I am the lead mapper for the Map-a-Thon project. A true and accurate copy of my curriculum vitae is attached hereto as Exhibit A. As set forth in Exhibit A, I hold a B.S. in electrical engineering and a business administration minor. My coursework in college including successfully completing courses in statistics and numerous other mathematics classes. I have significant experience with Mapping Software and currently perform data analysis and legislative mapping services for Map-a-Thon. I am also a Data Analyst with the Redistricting Data Hub, a national nonprofit non-partisan

organization working to coordinate and accelerate redistricting data collection efforts as well as ensure the necessary data is widely available.

4. A true and accurate summary of the Map-a-Thon methodology for creating proposed maps for the New Hampshire House of Representatives (“New Hampshire House”), based on 2020 federal census data, is attached hereto as Exhibit B. In terms of substantive criteria, Map-a-Thon used the same substantive methodology as the New Hampshire House and Senate in relation to House Bill 50, though Map-a-Thon used different mapping software. Map-a-Thon used certain software detailed in Exhibit B. A Map-a-Thon technical member named Phil Hatcher, a retired computer science professor whose curriculum vitae is attached hereto as Exhibit C, developed an additional software program Map-a-Thon used to generate New Hampshire House districts by county, taking account of the substantive criteria. Map-a-Thon’s software and supporting data was open for public inspection and review, unlike the software used by the New Hampshire legislature, which was not made publicly accessible in the same manner.
5. On November 2, 2021, Map-a-Thon submitted proposed New Hampshire House redistricting maps to the New Hampshire House based on the methodology in Exhibit B. A true and accurate copy of that submission (including explanatory analyses) is attached as Exhibit D.
6. On November 9, 2021, Map-a-Thon submitted revised, proposed New Hampshire House redistricting maps to the New Hampshire House based on the methodology in Exhibit B. A true and accurate copy of that submission (including explanatory analyses) is attached as Exhibit E.
7. On February 1, 2022, Map-a-Thon submitted proposed New Hampshire House redistricting maps to the New Hampshire Senate based on the methodology in Exhibit B. A true and accurate copy of that submission (including explanatory analyses) is attached as Exhibit F.

8. Recently, Map-a-Thon used the same methodology in Exhibit B and updated Map-a-Thon's proposed maps to take account of late local redistricting that occurred later than normal in certain municipalities. I understand certain municipalities needed additional time to review and, to the extent necessary, update their internal wards to ensure proportionality of populations in light of the 2020 census data. A true and accurate copy of Map-a-Thon's updated proposed New Hampshire House maps and accompanying analyses is attached as Exhibit G.
9. As part of updating the Map-a-Thon maps, and as shown in Exhibit G, I also reviewed the population deviation and other data from the map enacted by the State of New Hampshire, originally House Bill 50 but which is now Laws 2022, 9:1. I had to review and determine population deviation myself, because House Bill 50 evolved during the legislative process but neither the House Special Committee on Redistricting (who makes its materials available at this website¹) nor the Senate Special Committee on Redistricting (who makes its materials available at this website²) published final population deviation statistics for Laws 2022, 9:1. My review and analysis of the data as well as the enacted map, taking account of final redistricting in municipalities like Dover who redistricted late, shows the population deviation of Laws 2022, 9:1 is 10.13%, as set forth in Exhibit G along with further county-by-county explanation. A true and accurate summary of the enacted maps (Laws 2022, 9:1) and related data is also attached as Exhibit H.

¹

http://gencourt.state.nh.us/house/committees/committee_websites/Redistricting_2021/default.aspx

² <http://gencourt.state.nh.us/Senate/committees/Redistricting/>

I swear and declare under penalty of perjury that the foregoing is true and correct.

David Andrews
David Andrews

STATE OF NEW HAMPSHIRE

COUNTY OF Strafford

On May 3, 2022, the above named David Andrews personally appeared before me and declared, and made oath, that the foregoing statements are true and accurate.


 Patricia A. Monello
Notary Public
My commission expires: 6/16/2026

EXHIBIT E

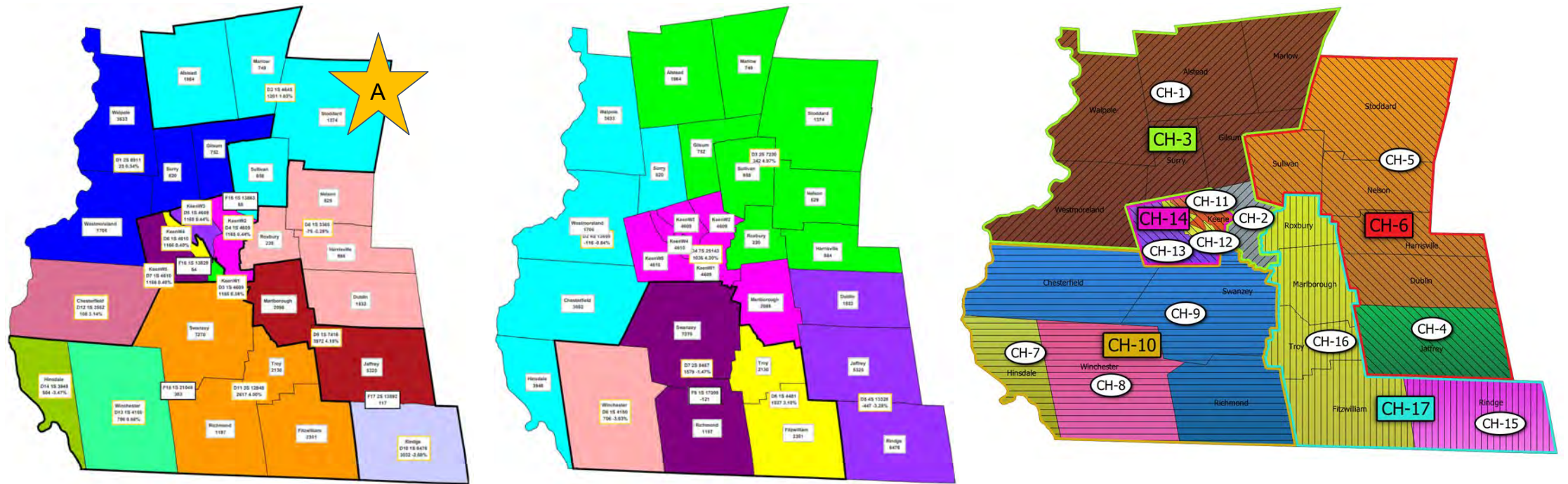
Map-a-THON

Granite Staters Drawing Fair Voting Maps



House Special Committee on Redistricting Analysis of Proposed NH House Maps

November 8, 2021



Minority map has all Keene wards in dedicated districts, and cuts overall violations in the county to 3. In Majority map, 7 of 8 eligible don't get dedicated districts.

Cheshire County	Democrats ★	Republicans	Map-a-Thon
Deviation	-3.47% to 4.15% (7.62%)	-3.25% to 4.97% (8.22%)	-4.83% to 3.43% (8.26%)
# Violations	3	7	4
# Towns/Wards in Largest Non-Floterial District	4	5	6
Largest # Reps in a Non-Floterial District	3	7	4
# Towns/Wards in Largest Floterial District	6	5	7
Largest # Reps in a Floterial District	2	1	2
Partisan Lean of Seats (Lean Dem/Lean Rep/Competitive)	11/1/10	13/4/5	13/3/6

EXHIBIT F

Map-a-THON

Granite Staters Drawing Fair Voting Maps



Analysis of Proposed Congressional Map (HB52) w/o Amendment, & NH House Maps (HB50) with Senate's Amendment 2022-0339s

January 28, 2022

Map-a-Thon

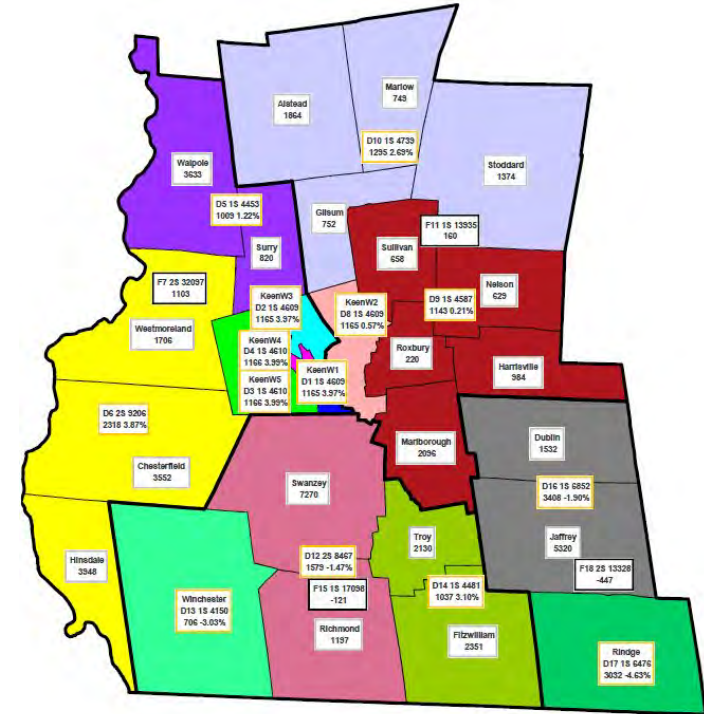
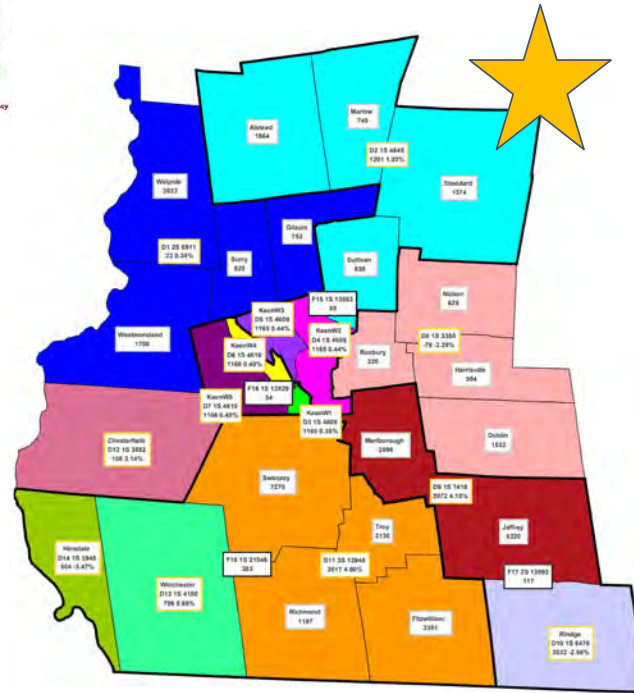
Granite Staters Drawing Fair Voting Maps



Cheshire County

The Committee's map is an improvement on the majority's initial proposal, but does not go as far as Map-a-Thon's recommended map in terms of towns getting their own district if eligible. The committee's map does give Rindge and Winchester their own district, a positive.

Map-a-Thon also separates Hinsdale and Chesterfield to give them their own district.



Cheshire County	Map-a-Thon Recommendation	HB50 Map
Deviation	-3.47% to 4.15% (7.62%)	-4.63% to 3.99% (8.62%)
# Violations	3	5
# Towns/Wards in Largest Non-Floterial District	4	5
Largest # Reps in a Non-Floterial District	3	2
# Towns/Wards in Largest Floterial District	6	10
Largest # Reps in a Floterial District	2	2
Partisan Lean of Seats (Lean Dem/Lean Rep/Competitive)	11/1/10	12/3/7

EXHIBIT G

Map-a-Thon Proposed NH House Maps

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 - 3.1. [Belknap County Map Districts](#)
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12. [Sullivan County Map](#)
 - 12.1. [Sullivan County Map Districts](#)

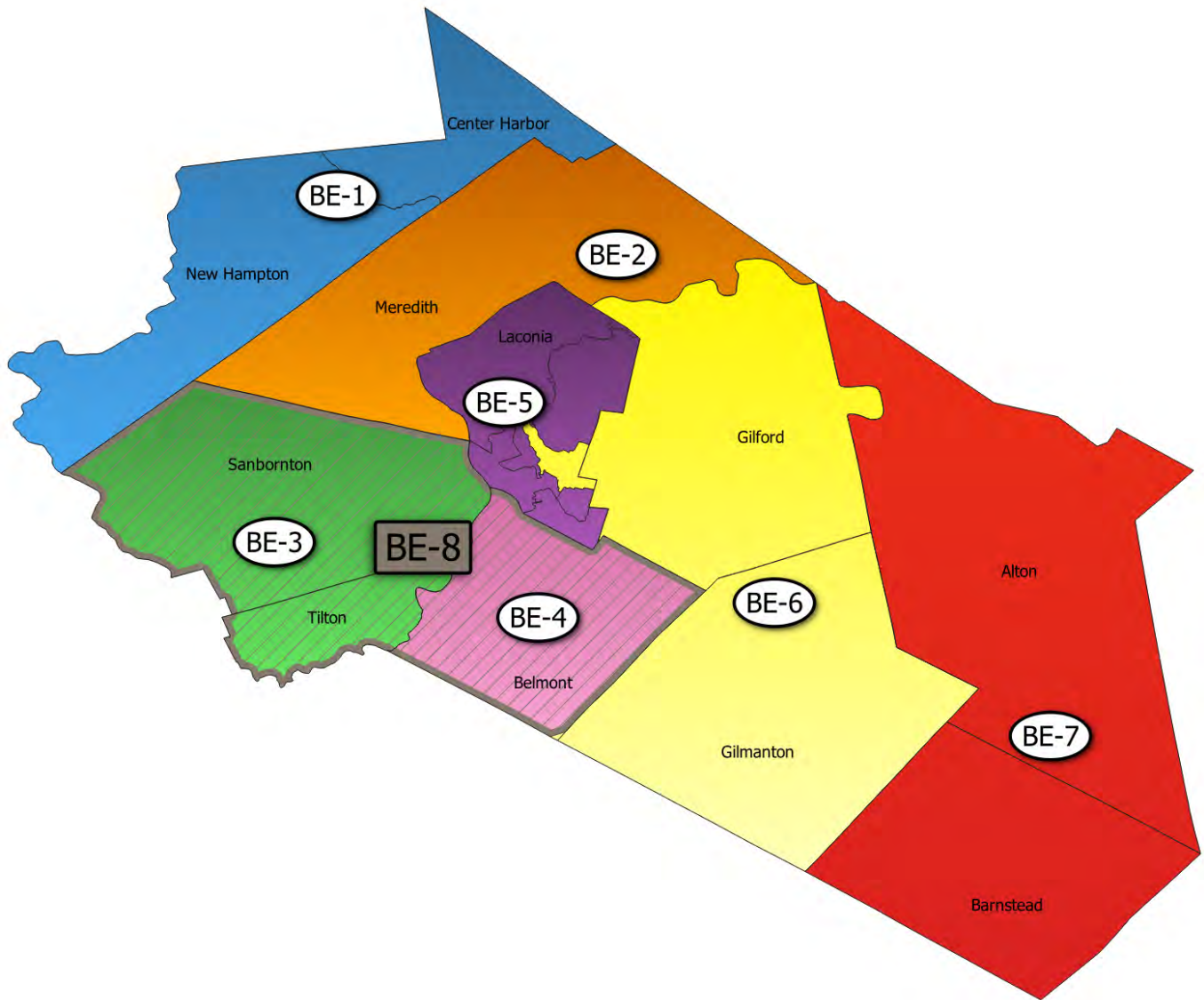
1. Summary of Proposed Maps

Map-a-Thon Proposed Maps Summary						
County	Population	# Reps	Min Dev	Max Dev	Deviation	Violations
Belknap	63,705	18	-3.28%	4.99%	8.27%	5
Carroll	50,107	15	-4.93%	1.54%	6.48%	3
Cheshire	76,458	22	-3.47%	4.15%	7.62%	3
Coos	31,268	9	-3.89%	4.80%	8.68%	0
Grafton	91,118	26	-4.87%	4.99%	9.86%	3
Hillsborough	422,937	123	-4.95%	4.54%	9.49%	4
Merrimack	153,808	45	-3.93%	4.64%	8.57%	5
Rockingham	314,176	91	-4.93%	4.86%	9.80%	11
Strafford	130,889	38	-4.57%	4.91%	9.48%	2
Sullivan	43,063	13	-4.88%	-1.16%	3.73%	5
Total	1,377,529	400	-4.95%	4.99%	9.94%	41

2. Map Comparison Summary

Enacted Maps vs. Map-a-Thon Proposed Maps Summary					
County	# Reps	Enacted Map Deviation	Proposed Map Deviation	Enacted Map Violations	Proposed Map Violations
Belknap	18	8.27%	8.27%	5	5
Carroll	15	6.48%	6.48%	3	3
Cheshire	22	9.81%	7.62%	5	3
Coos	9	8.74%	8.68%	0	0
Grafton	26	8.44%	9.86%	5	3
Hillsborough	123	9.75%	9.49%	6	4
Merrimack	45	9.22%	8.57%	7	5
Rockingham	91	9.80%	9.80%	13	11
Strafford	38	9.13%	9.48%	6	2
Sullivan	13	3.73%	3.73%	5	5
Total	400	10.13%	9.94%	55	41

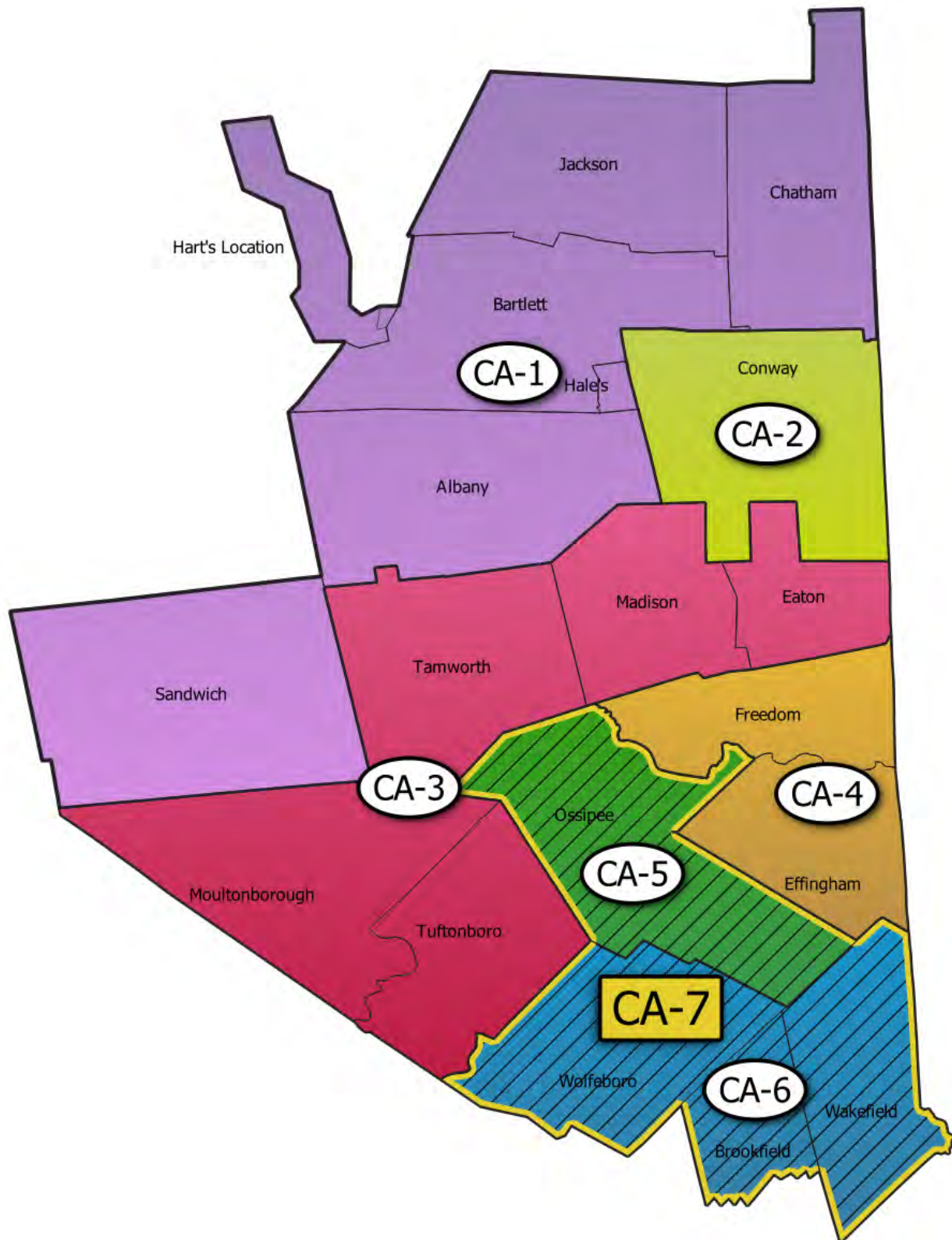
3. Belknap County Map



3.1. Belknap County Map Districts

Belknap County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
BE-1	3,417	1			Center Harbor, New Hampton	-0.78%	
BE-2	6,662	2			Meredith	-3.28%	
BE-3	6,988	1	BE-8	2	Sanbornton, Tilton	2.63%	Tilton
BE-4	7,314	1			Belmont	4.99%	
BE-5	14,117	4			Laconia Wards 1,3-6	2.48%	
BE-6	14,398	4			Gilford, Gilmanton, Laconia Ward 2	4.52%	Gilford, Gilmanton
BE-7	10,809	3			Alton, Barnstead	4.62%	Alton, Barnstead
Total	63,705		18			8.27%	5

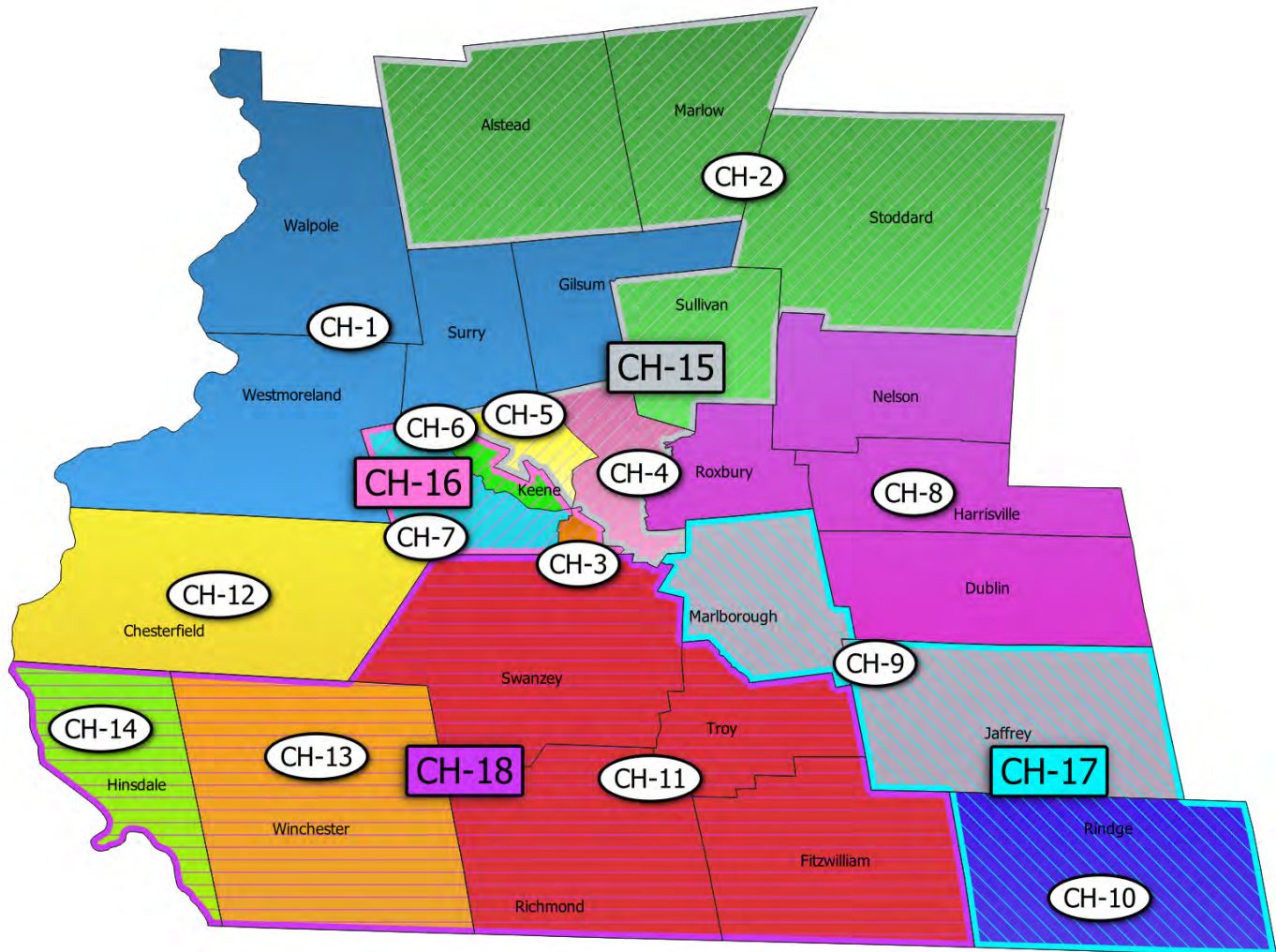
4. Carroll County Map



4.1. Carroll County Map Districts

Carroll County Proposed Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
CA-1	6,994	2			Chatham, Jackson, Bartlett, Hart's Location, Hales Location, Albany, Sandwich	1.54%	
CA-2	9,822	3			Conway	-4.93%	
CA-3	13,167	4			Tuftonboro, Moultonborough, Tamworth, Madison, Eaton	-4.42%	Moultonborough
CA-4	3,380	1			Freedom, Effingham	-1.85%	
CA-5	4,372	1	CA-7	1	Ossipee	0.67%	
CA-6	12,372	3			Wolfeboro, Brookfield, Wakefield	-3.91%	Wolfeboro, Wakefield
Total	50,107		15			6.48%	3

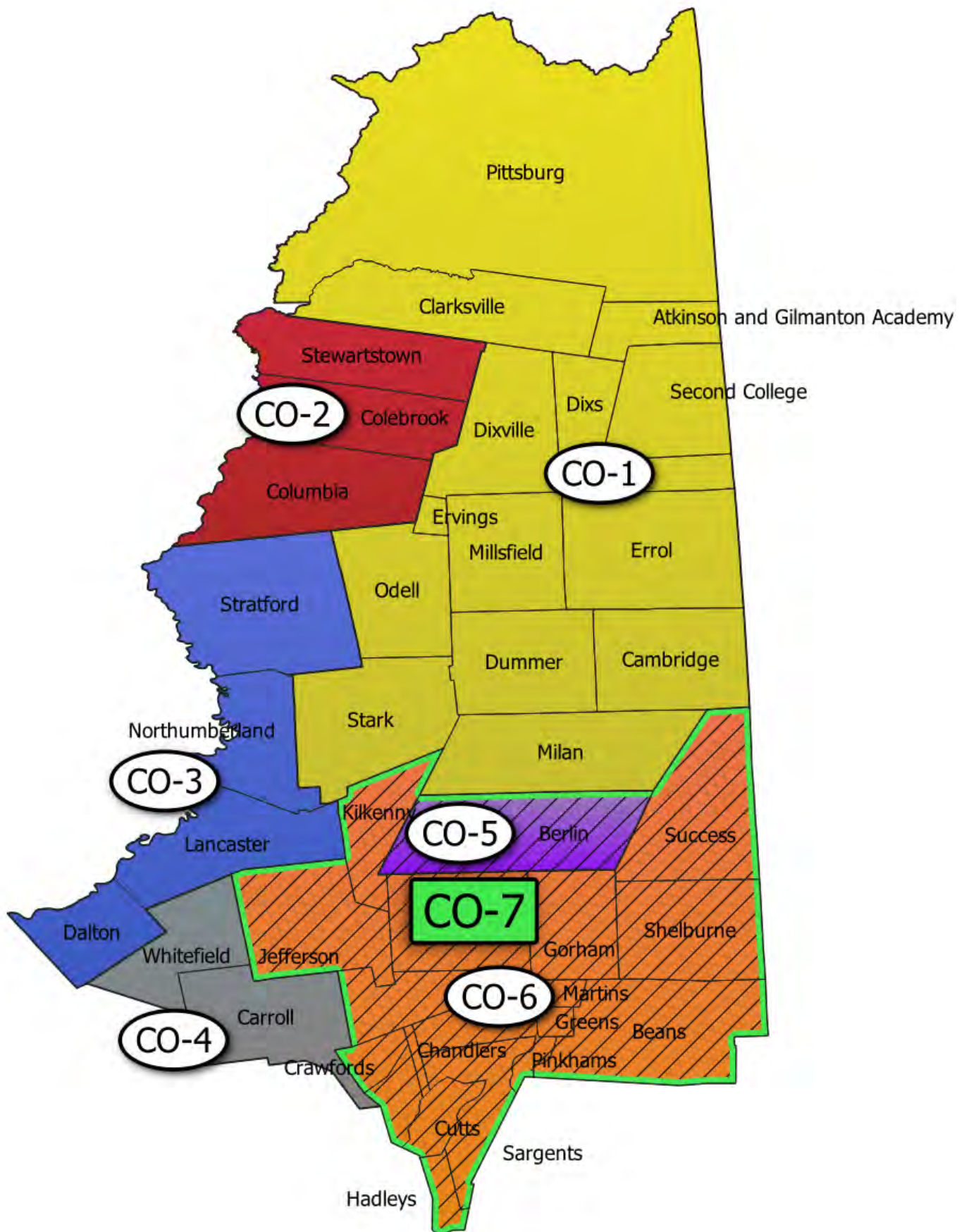
5. Cheshire County Map



5.1. Cheshire County Map Districts

Cheshire County Proposed Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
CH-1	6,911	2			Gilsum, Surry, Walpole, Westmoreland	0.34%	Walpole
CH-2	4,645	1	CH-15	1	Alstead, Marlow, Stoddard, Sullivan	0.83%	
CH-4	4,558	1			Keene Ward 2	-0.59%	
CH-5	4,550	1			Keene Ward 3	-0.72%	
CH-3	4,643	1	CH-16	1	Keene Ward 1	1.13%	
CH-6	4,620	1			Keene Ward 4	0.76%	
CH-7	4,676	1			Keene Ward 5	1.67%	
CH-8	3,365	1			Dublin, Harrisville, Nelson, Roxbury	-2.29%	
CH-9	7,416	1	CH-17	2	Jaffrey, Marlborough	4.15%	Jaffrey
CH-10	6,476	1			Rindge	-2.68%	
CH-11	12,948	3	CH-18	1	Fitzwilliam, Richmond, Swanzey, Troy	4.00%	Swanzey
CH-13	4,150	1			Winchester	0.66%	
CH-14	3,948	1			Hinsdale	-3.47%	
CH-12	3,552	1			Chesterfield	3.14%	
Total	76,458		22			7.62%	3

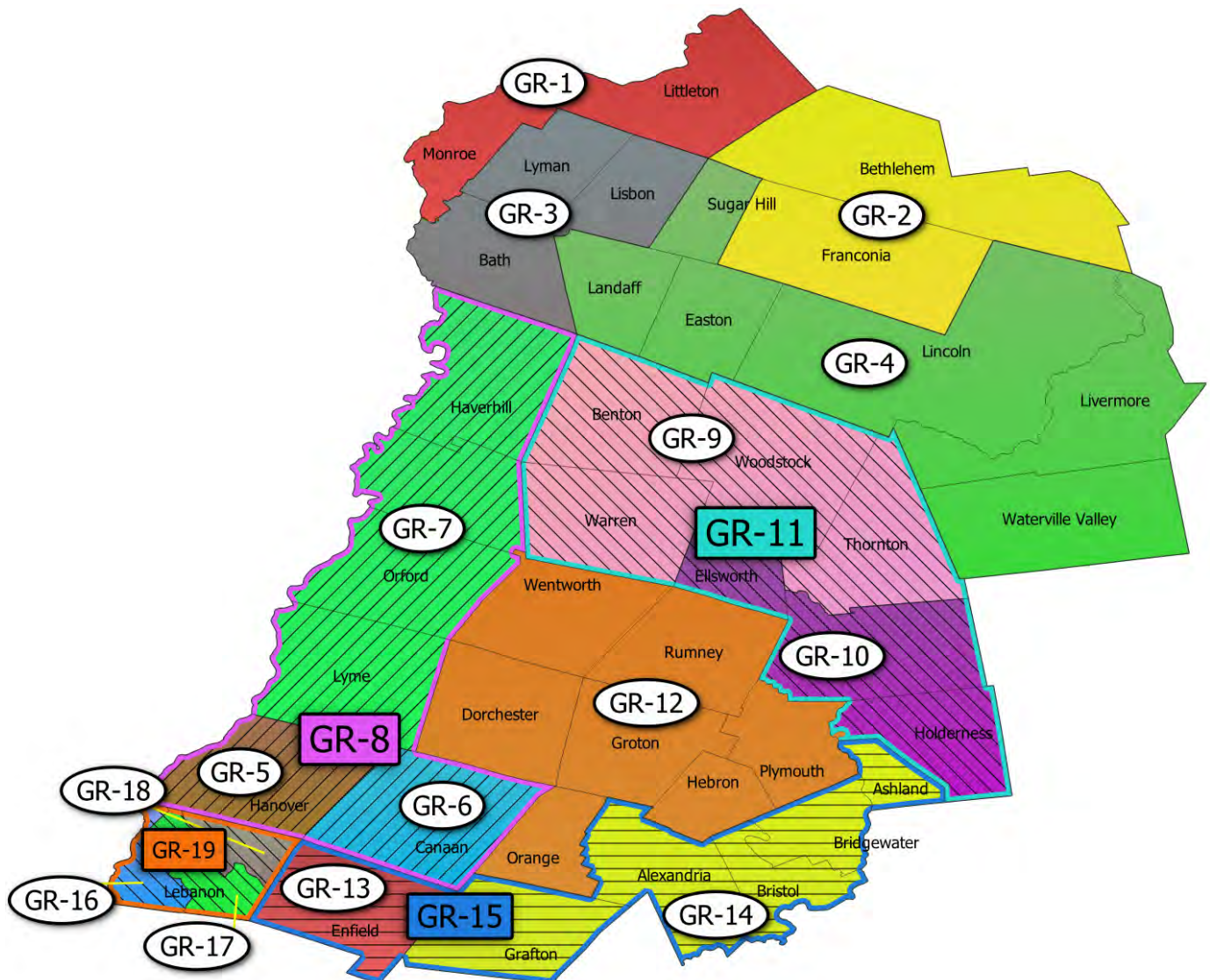
6. Coos County Map



6.1. Coos County Map Districts

Coos County Proposed Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
CO-1	3,609	1			Pittsburg, Clarksville, Dixville, Odell, Stark, Milan, Dummer, Cambridge, Millsfield, Errol, Wentworth Location, College Grant, Dixs Grant, Atkinson and Gilmanton Grant, Ervings Location	4.80%	
CO-2	3,556	1			Stewartstown, Colebrook, Columbia	3.26%	
CO-3	6,939	2			Stratford, Northumberland, Lancaster, Dalton	0.75%	
CO-4	3,310	1			Whitefield, Carroll	-3.89%	
CO-5	9,425	2			Berlin	2.11%	
CO-6	4,429	1	CO-7	1	Jefferson, Randolph, Gorham, Shelburne, Success, Kilkenny, Burbanks Grant, Crawford's Purchase, Beans Grant, Cutts Grant, Hadleys Purchase, Sargents Purchase, Thompson and Merserves Purchase, Martins Location, Greens Grant, Pinkhams Grant, Beans Purchase	-2.55%	
Total	31,268		9			8.68%	0

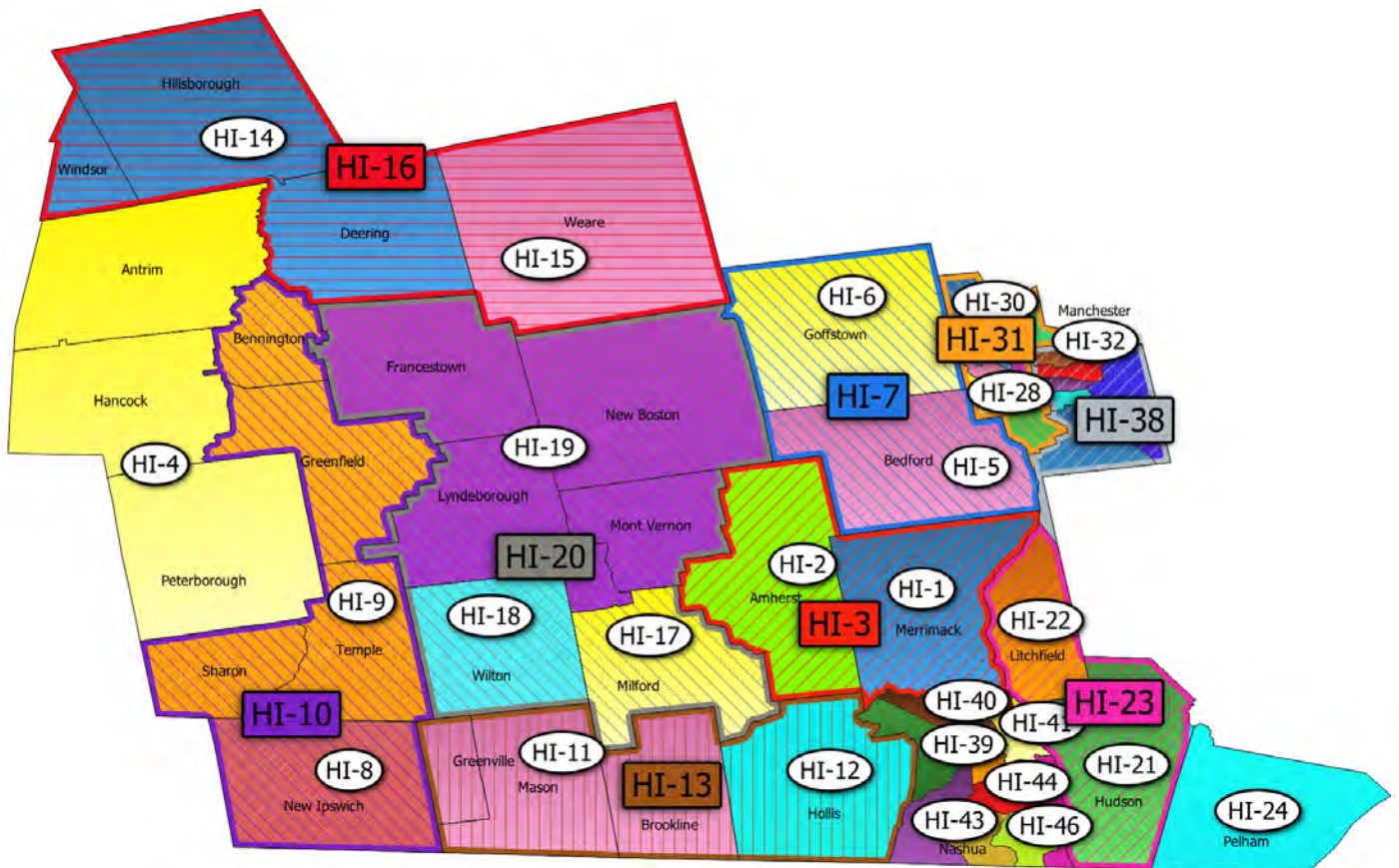
7. Grafton County Map



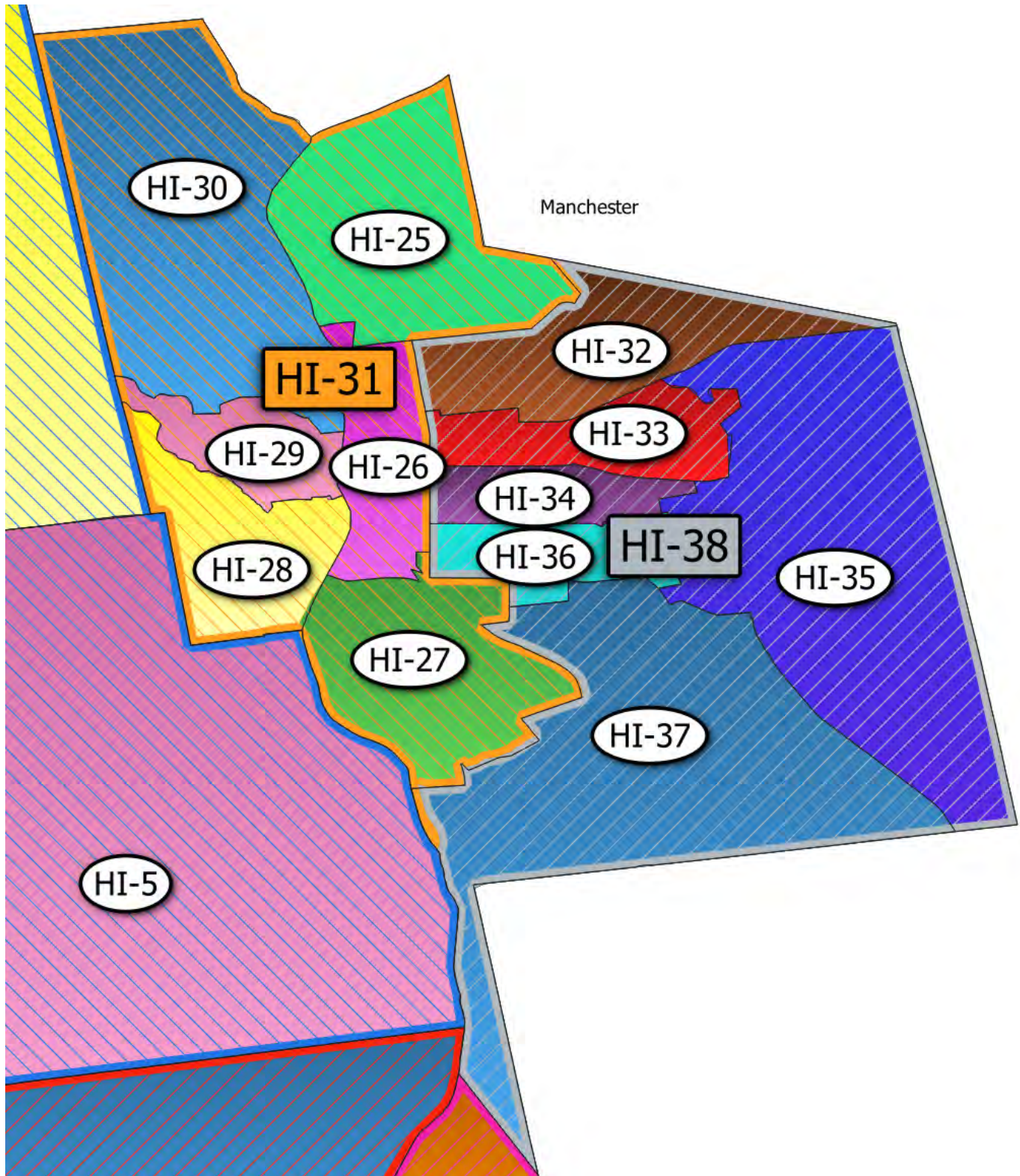
7.1. Grafton County Map Districts

Grafton County Proposed Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
GR-1	6,869	2			Littleton, Monroe	-0.27%	Littleton
GR-2	3,567	1			Bethlehem, Franconia	3.58%	
GR-3	3,283	1			Lyman, Lisbon, Bath	-4.67%	
GR-4	3,526	1			Sugar Hill, Landaff, Easton, Lincoln, Livermore, Waterville Valley	2.39%	
GR-5	11,870	3			Hanover	-1.37%	
GR-6	3,794	1	GR-8	1	Canaan	-4.87%	
GR-7	8,336	2			Haverhill, Piermont, Orford, Lyme	3.12%	Haverhill
GR-9	5,341	1	GR-11	1	Benton, Warren, Woodstock, Thornton	3.71%	
GR-10	5,440	1			Ellsworth, Campton, Holderness	4.99%	
GR-12	10,842	3			Wentworth, Rumney, Dorchester, Groton, Plymouth, Hebron, Orange	4.94%	Plymouth
GR-13	4,465	1	GR-15	1	Enfield	-1.75%	
GR-14	9,503	2			Grafton, Alexandria, Bristol, Bridgewater, Ashland	2.95%	
GR-16	4,762	1	GR-19	1	Lebanon Ward 1	3.70%	
GR-17	4,734	1			Lebanon Ward 2	3.24%	
GR-18	4,786	1			Lebanon Ward 3	4.09%	
Total	91,118		26			9.86%	3

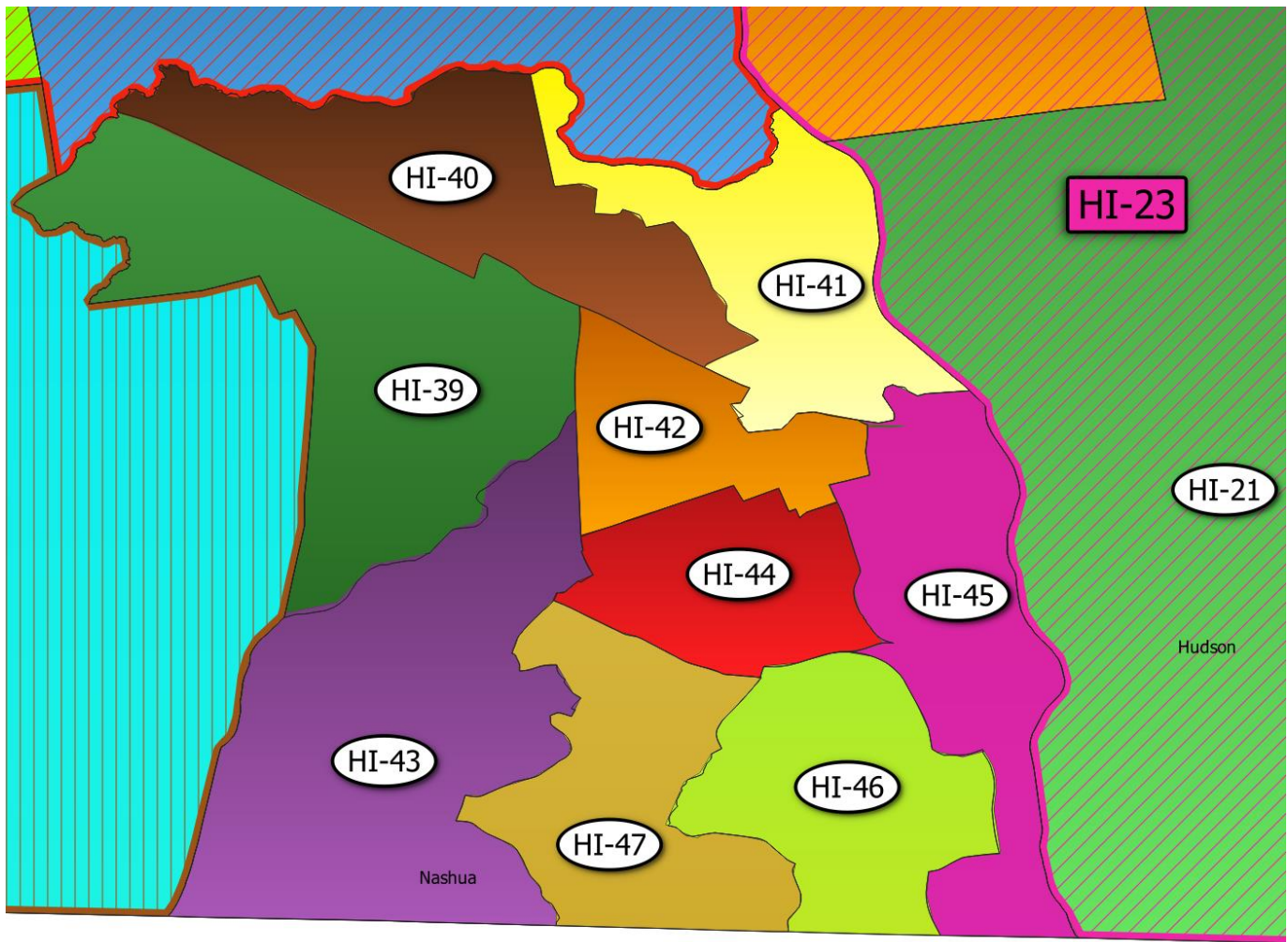
8. Hillsborough County Map



8.1. Manchester Zoomed in Map



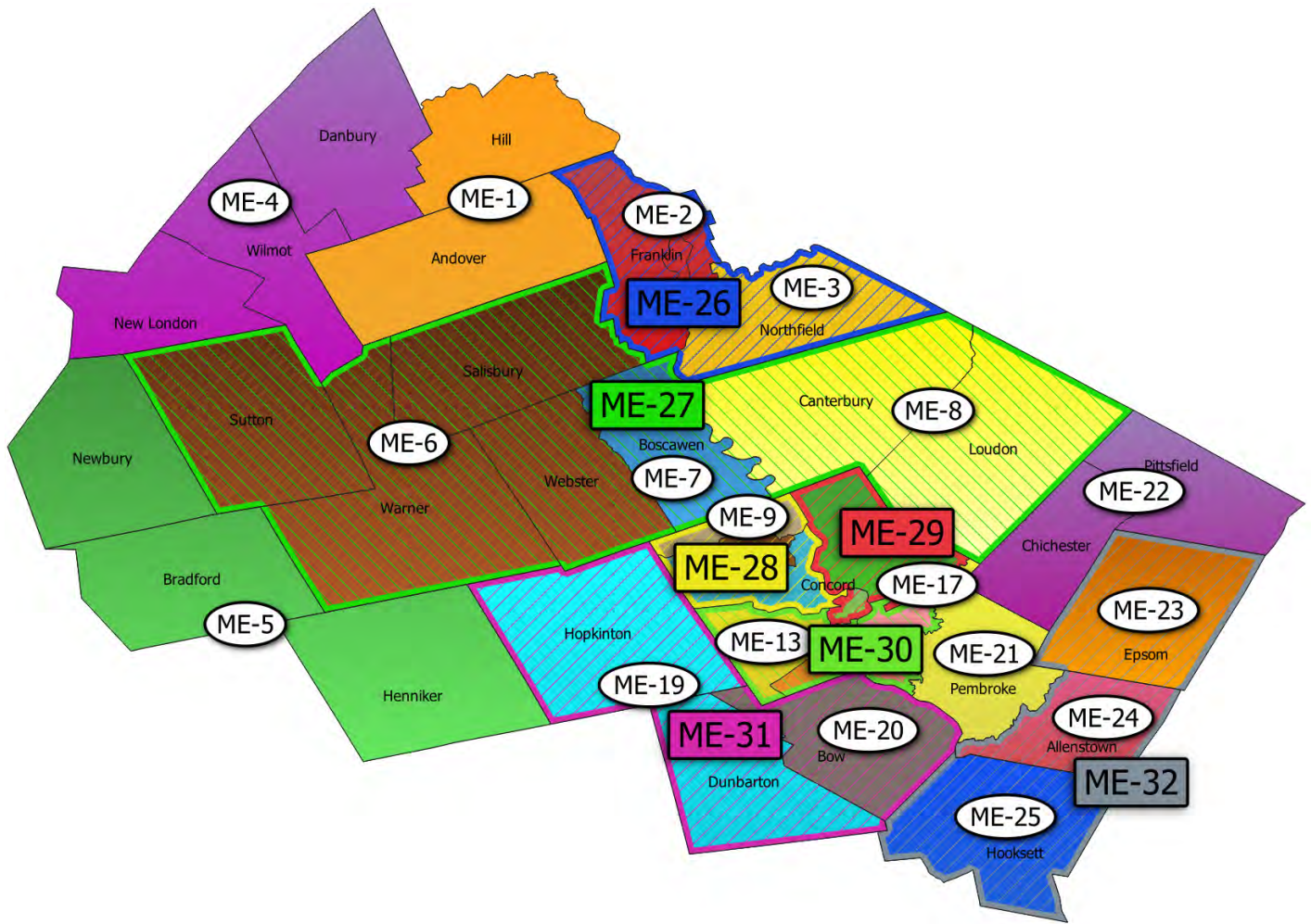
8.2. Nashua Zoomed in Map



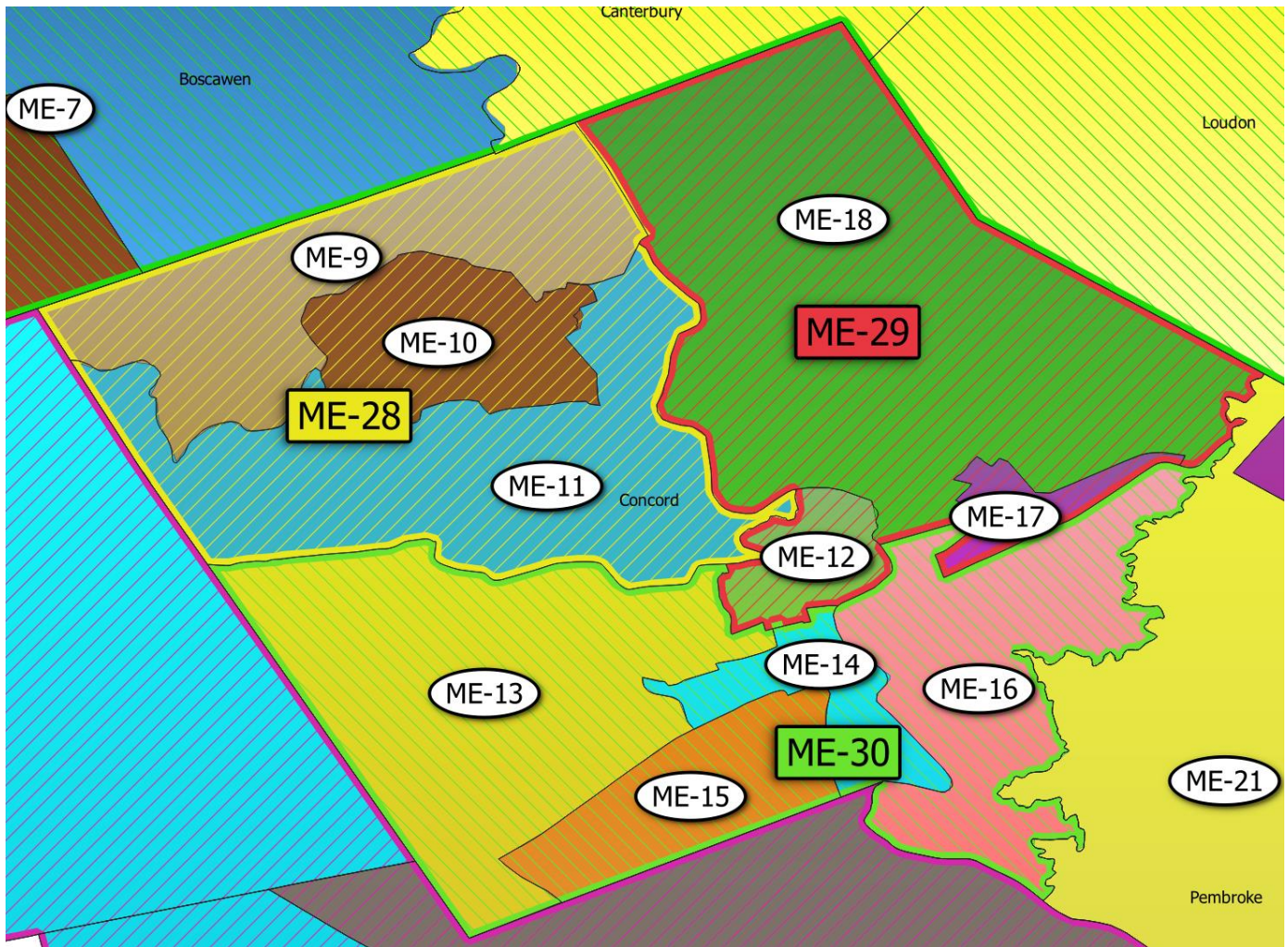
8.3. Hillsborough County Map Districts

Hillsborough County Proposed Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
HI-1	26,632	7	HI-3	1	Merrimack	0.51%	
HI-2	11,753	3			Amherst	3.22%	
HI-4	10,800	3			Antrim, Hancock, Peterborough	4.54%	Peterborough
HI-5	23,322	6	HI-7	1	Bedford	3.29%	
HI-6	18,577	5			Goffstown	-0.90%	
HI-8	5,204	1	HI-10	1	New Ipswich	-0.10%	
HI-9	4,949	1			Bennington, Greenfield, Sharon, Temple	-3.39%	
HI-11	9,061	2	HI-13	1	Brookline, Greenville, Mason	4.38%	Brookline
HI-12	8,342	2			Hollis	-2.30%	
HI-14	8,105	2	HI-16	1	Deering, Hillsborough, Windsor	-4.77%	Hillsborough
HI-15	9,092	2			Weare	4.41%	
HI-17	16,131	4	HI-20	1	Milford	4.01%	
HI-18	3,896	1			Wilton	0.87%	
HI-19	12,013	3			Francestown, Lyndeborough, Mont Vernon, New Boston	3.36%	New Boston
HI-21	25,394	6	HI-23	2	Hudson	-1.68%	
HI-22	8,478	2			Litchfield	-1.55%	
HI-24	14,222	4			Pelham	3.24%	
HI-25	9,696	2	HI-31	5	Manchester Ward 1	-0.80%	
HI-26	9,611	2			Manchester Ward 3	-1.41%	
HI-27	9,627	2			Manchester Ward 9	-1.30%	
HI-28	9,608	2			Manchester Ward 10	-1.43%	
HI-29	9,665	2			Manchester Ward 11	-1.02%	
HI-30	9,637	2	HI-38	5	Manchester Ward 12	-1.22%	
HI-32	9,657	2			Manchester Ward 2	-1.10%	
HI-33	9,643	2			Manchester Ward 4	-1.20%	
HI-34	9,631	2			Manchester Ward 5	-1.29%	
HI-35	9,603	2			Manchester Ward 6	-1.49%	
HI-36	9,644	2			Manchester Ward 7	-1.20%	
HI-37	9,622	2			Manchester Ward 8	-1.35%	
HI-39	10,119	3			Nashua Ward 1	-2.06%	
HI-40	10,348	3			Nashua Ward 2	0.16%	
HI-41	9,869	3			Nashua Ward 3	-4.48%	
HI-42	10,074	3			Nashua Ward 4	-2.49%	
HI-43	10,603	3			Nashua Ward 5	2.63%	
HI-44	9,853	3			Nashua Ward 6	-4.63%	
HI-45	9,820	3			Nashua Ward 7	-4.95%	
HI-46	10,267	3			Nashua Ward 8	-0.62%	
HI-47	10,369	3			Nashua Ward 9	0.36%	
Total	422,937		123			9.49%	4

9. Merrimack County Map



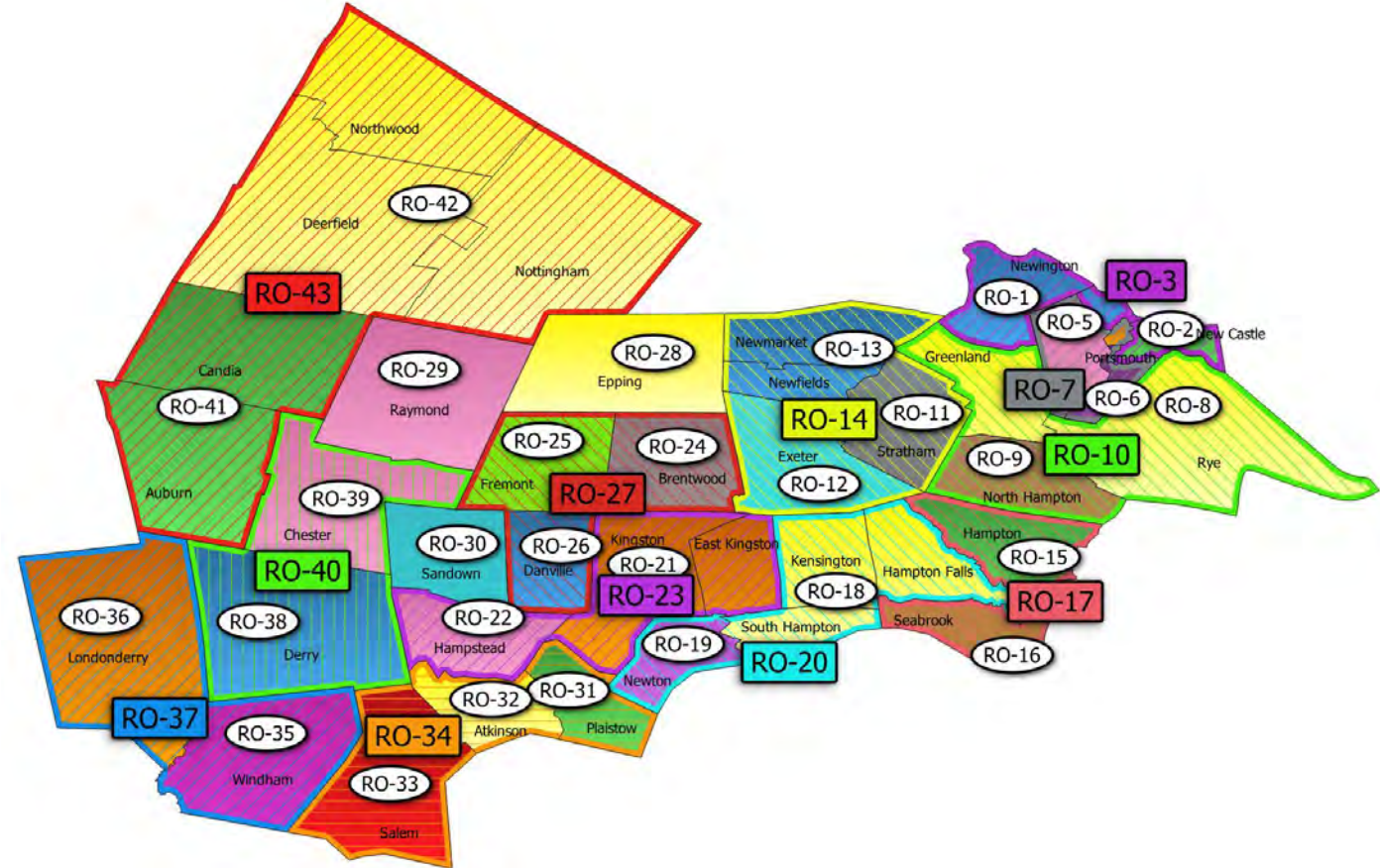
9.1. Concord Zoomed in Map



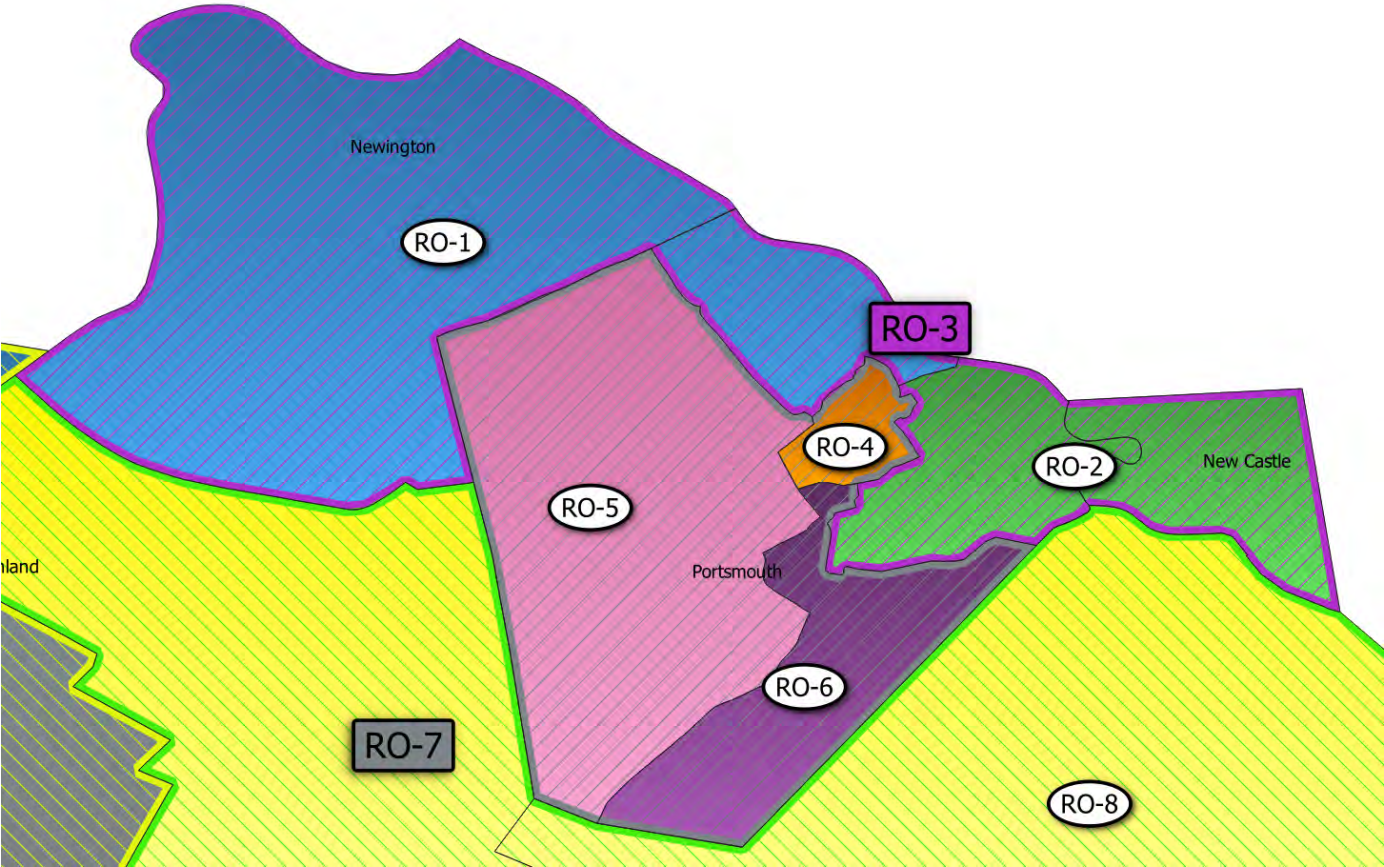
9.2. Merrimack County Map Districts

Merrimack County Proposed Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
ME-1	3,423	1			Andover, Hill	-0.60%	
ME-2	8,741	2	ME-26	1	Franklin Wards 1-3	-3.93%	
ME-3	4,872	1			Northfield	4.18%	
ME-4	7,057	2			Danbury, New London, Wilmot	2.46%	New London
ME-5	10,019	3			Bradford, Henniker, Newbury	-3.02%	Henniker
ME-6	8,250	2	ME-27	1	Salisbury, Sutton, Warner, Webster	-0.52%	
ME-7	3,998	1			Boscawen	-3.08%	
ME-8	7,965	2			Canterbury, Loudon	-3.39%	Loudon
ME-9	4,452	1	ME-28	1	Concord Ward 1	-2.73%	
ME-10	4,567	1			Concord Ward 2	-0.85%	
ME-11	4,512	1			Concord Ward 3	-1.75%	
ME-12	4,398	1	ME-29	1	Concord Ward 4	-3.92%	
ME-17	4,543	1			Concord Ward 9	-1.55%	
ME-18	4,421	1			Concord Ward 10	-3.54%	
ME-13	4,338	1	ME-30	1	Concord Ward 5	0.46%	
ME-14	4,231	1			Concord Ward 6	-1.53%	
ME-15	4,310	1			Concord Ward 7	-0.06%	
ME-16	4,204	1			Concord Ward 8	-2.03%	
ME-19	8,919	2	ME-31	1	Dunbarton, Hopkinton	2.77%	Hopkinton
ME-20	8,229	2			Bow	-3.64%	
ME-21	7,207	2			Pembroke	4.64%	
ME-22	6,740	2			Chichester, Pittsfield	-2.14%	Pittsfield
ME-23	4,834	1	ME-32	2	Epsom	0.55%	
ME-24	4,707	1			Allenstown	-1.36%	
ME-25	14,871	3			Hooksett	2.37%	
Total	153,808	45				8.57%	5

10. Rockingham County Map



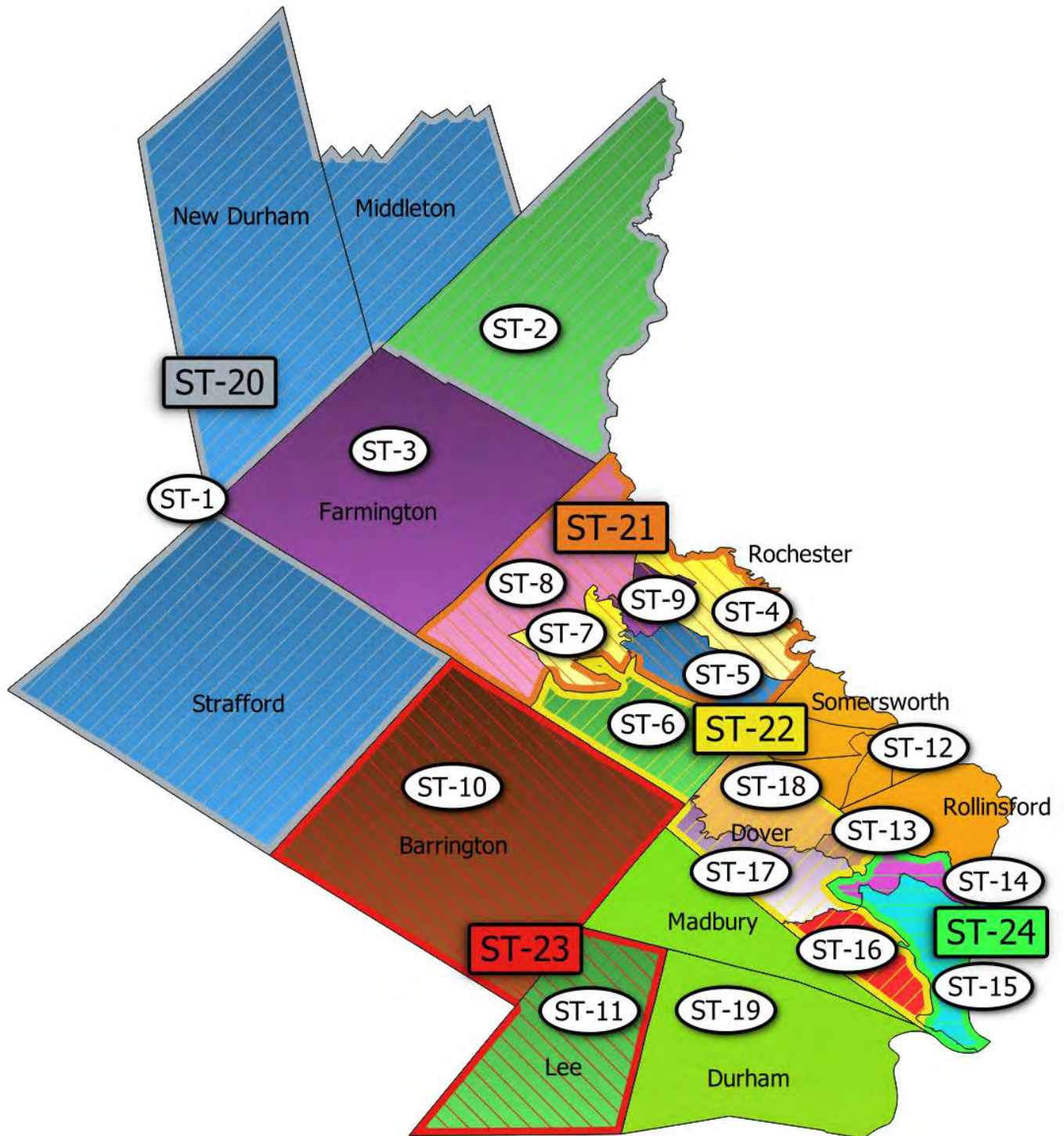
10.1. Portsmouth Zoomed in Map



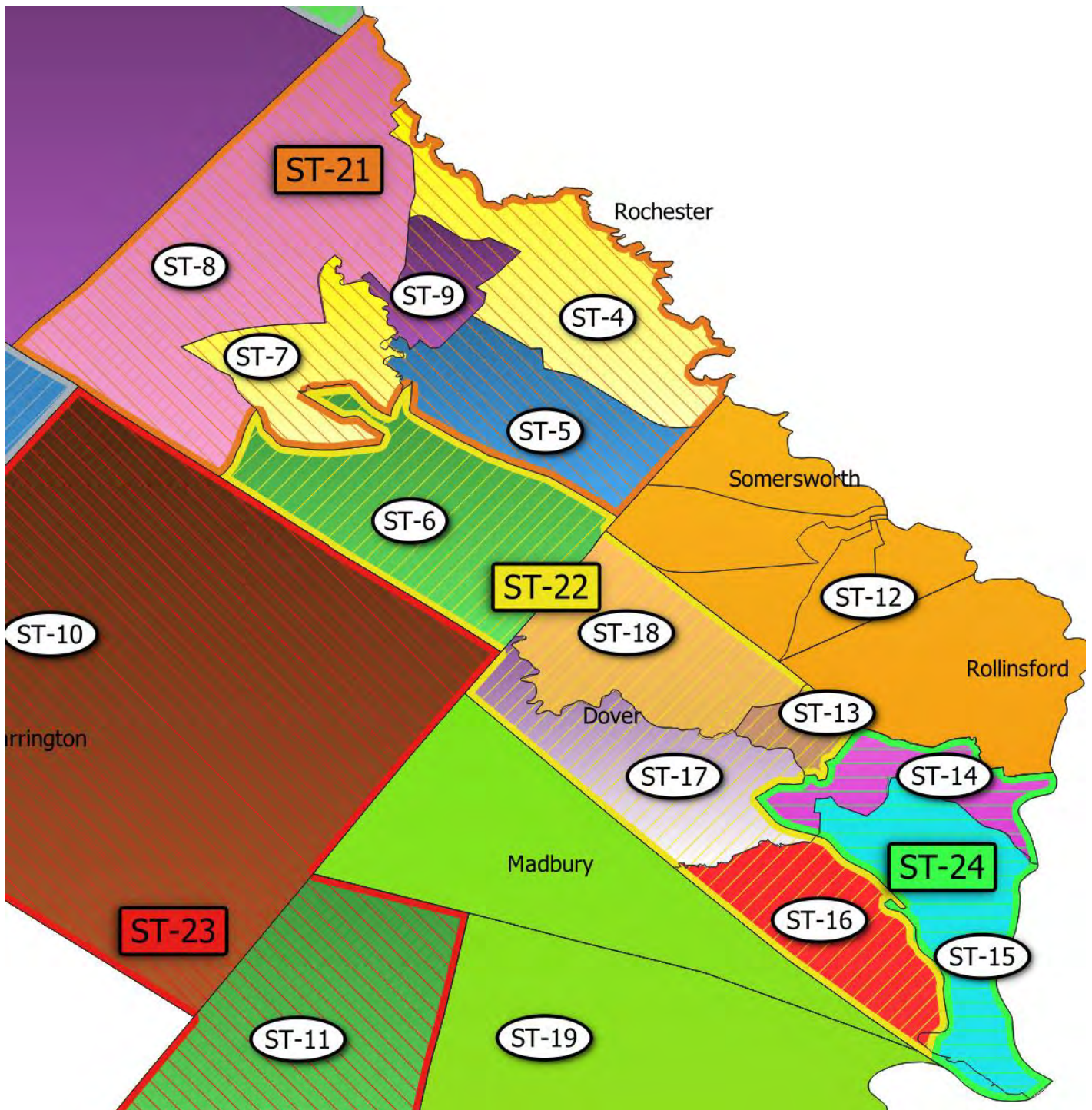
10.2. Rockingham County Map Districts

Rockingham County Proposed Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
RO-1	5,087	1	RO-3	1	Portsmouth Ward 1, Newington	-1.08%	Portsmouth Ward 1
RO-2	5,227	1			Portsmouth Ward 5, New Castle	0.73%	Portsmouth Ward 5
RO-4	4,549	1	RO-7	1	Portsmouth Ward 2	-1.29%	
RO-5	4,528	1			Portsmouth Ward 3	-1.63%	
RO-6	4,376	1			Portsmouth Ward 4	-4.12%	
RO-8	9,610	2	RO-10	1	Greenland, Rye	4.15%	Greenland, Rye
RO-9	4,538	1			North Hampton	-0.23%	
RO-11	7,669	2	RO-14	1	Stratham	0.33%	
RO-12	16,049	4			Newfields, Newmarket	4.50%	Newmarket
RO-13	11,199	3			Exeter	-2.07%	
RO-15	16,214	4	RO-17	1	Hampton	1.06%	
RO-16	8,401	2			Seabrook	4.19%	
RO-18	5,392	1	RO-20	1	Hampton Falls, Kensington, South Hampton	2.47%	
RO-19	4,820	1			Newton	-4.92%	
RO-21	8,643	2	RO-23	1	East Kingston, Kingston	0.79%	Kingston
RO-22	8,998	2			Hampstead	4.09%	
RO-24	4,490	1	RO-27	1	Brentwood	-1.92%	
RO-25	4,739	1			Fremont	2.12%	
RO-26	4,408	1			Danville	-3.27%	
RO-28	7,125	2			Epping	3.45%	
RO-29	10,684	3			Raymond	3.41%	
RO-30	6,548	2			Sandown	-4.93%	
RO-31	7,830	2	RO-34	1	Plaistow	4.58%	
RO-32	7,087	2			Atkinson	-4.62%	
RO-33	30,089	8			Salem	0.79%	
RO-35	15,817	4	RO-37	1	Windham	4.86%	
RO-36	25,826	7			Londonderry	-1.59%	
RO-38	34,317	7	RO-40	4	Derry	-4.83%	
RO-39	5,232	1			Chester	-0.65%	
RO-41	9,959	2	RO-43	2	Auburn, Candia	3.03%	Auburn, Candia
RO-42	14,725	3			Deerfield, Northwood, Nottingham	1.97%	Deerfield, Northwood, Nottingham
Total	309,089		90			9.80%	11

11. Strafford County Map



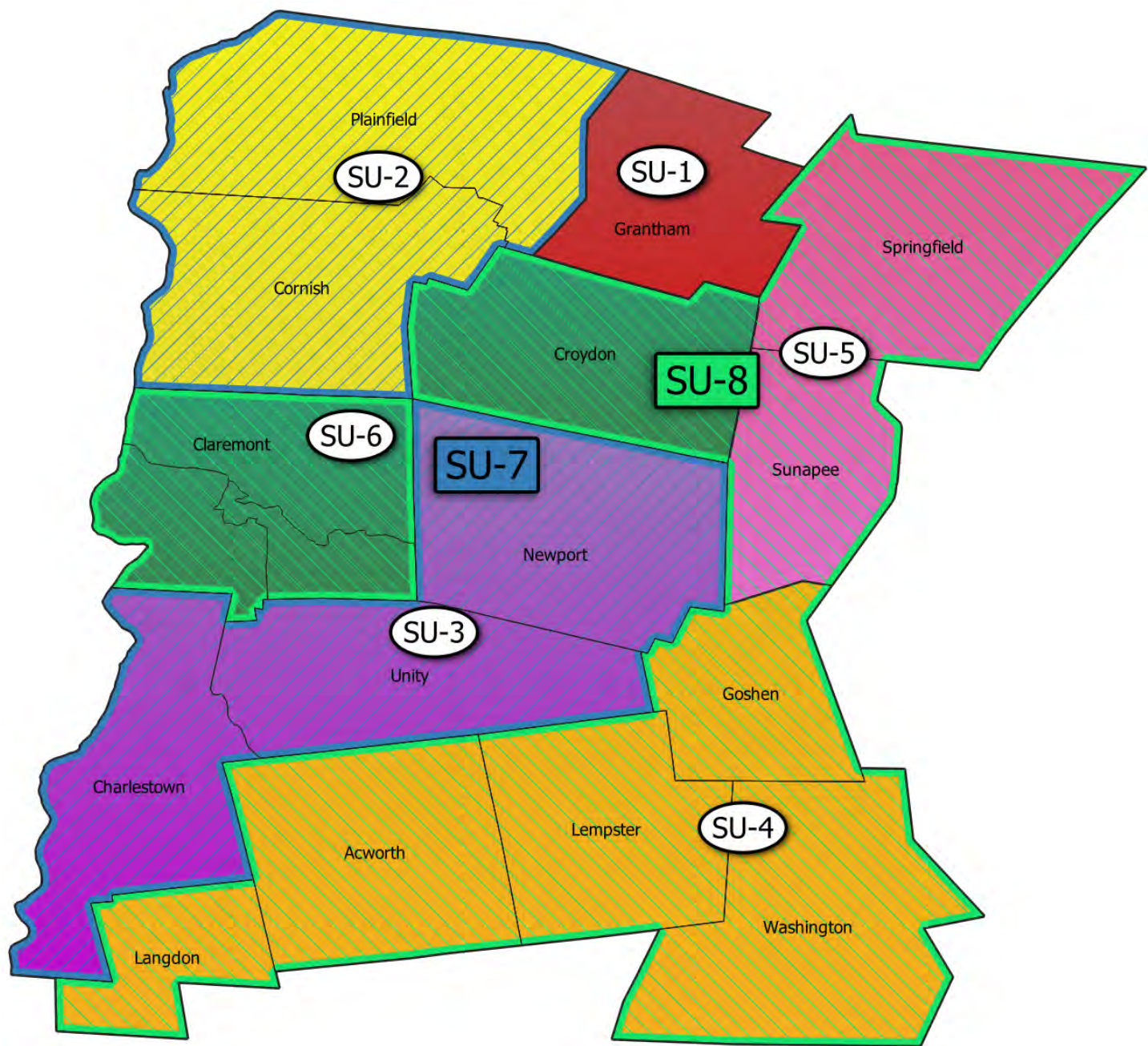
11.1. Dover/Rochester Zoomed in Map



11.2. Strafford County Map Districts

Strafford County Proposed Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
ST-1	8,746	2	ST-20	1	Middleton, New Durham, Strafford	-4.57%	Strafford
ST-2	4,482	1			Milton	-2.79%	
ST-3	6,722	2			Farmington	-2.40%	
ST-4	5,387	1	ST-21	3	Rochester Ward 1	-2.01%	
ST-5	5,388	1			Rochester Ward 2	-2.00%	
ST-7	5,498	1			Rochester Ward 4	-0.75%	
ST-8	5,419	1			Rochester Ward 5	-1.64%	
ST-9	5,410	1			Rochester Ward 6	-1.75%	
ST-6	5,390	1	ST-22	3	Rochester Ward 3	-1.70%	
ST-13	5,482	1			Dover Ward 1	-0.65%	
ST-16	5,439	1			Dover Ward 4	-1.14%	
ST-17	5,496	1			Dover Ward 5	-0.49%	
ST-18	5,501	1			Dover Ward 6	-0.43%	
ST-10	9,326	2	ST-23	1	Barrington	1.29%	
ST-11	4,520	1			Lee	-1.05%	
ST-12	14,452	4			Somersworth Wards 1-5, Rollinsford	4.91%	
ST-14	5,414	1	ST-24	1	Dover Ward 2	4.79%	
ST-15	5,409	1			Dover Ward 3	4.73%	
ST-19	17,408	5			Madbury, Durham	1.10%	Durham
Total	130,889		38			9.48%	2

12. Sullivan County Map



12.1. Sullivan County Map Districts

Sullivan County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
SU-1	3,404	1			Grantham	-1.16%	
SU-2	4,075	1	SU-7	1	Cornish, Plainfield	-4.88%	
SU-3	12,623	3			Charlestown, Newport, Unity	-2.41%	Charlestown, Newport
SU-4	4,610	1	SU-8	2	Acworth, Goshen, Langdon, Lempster, Washington	-4.49%	
SU-5	4,601	1			Springfield, Sunapee	-4.62%	
SU-6	13,750	3			Claremont Wards 1-3, Croydon	-4.88%	Claremont Ward 1, Claremont Ward 2, Claremont Ward 3
Total	43,063		13			3.73%	5

EXHIBIT H

Enacted NH House Maps

HB 50 – FINAL VERSION

Source - https://www.gencourt.state.nh.us/bill_Status/pdf.aspx?id=33504&q=billVersion

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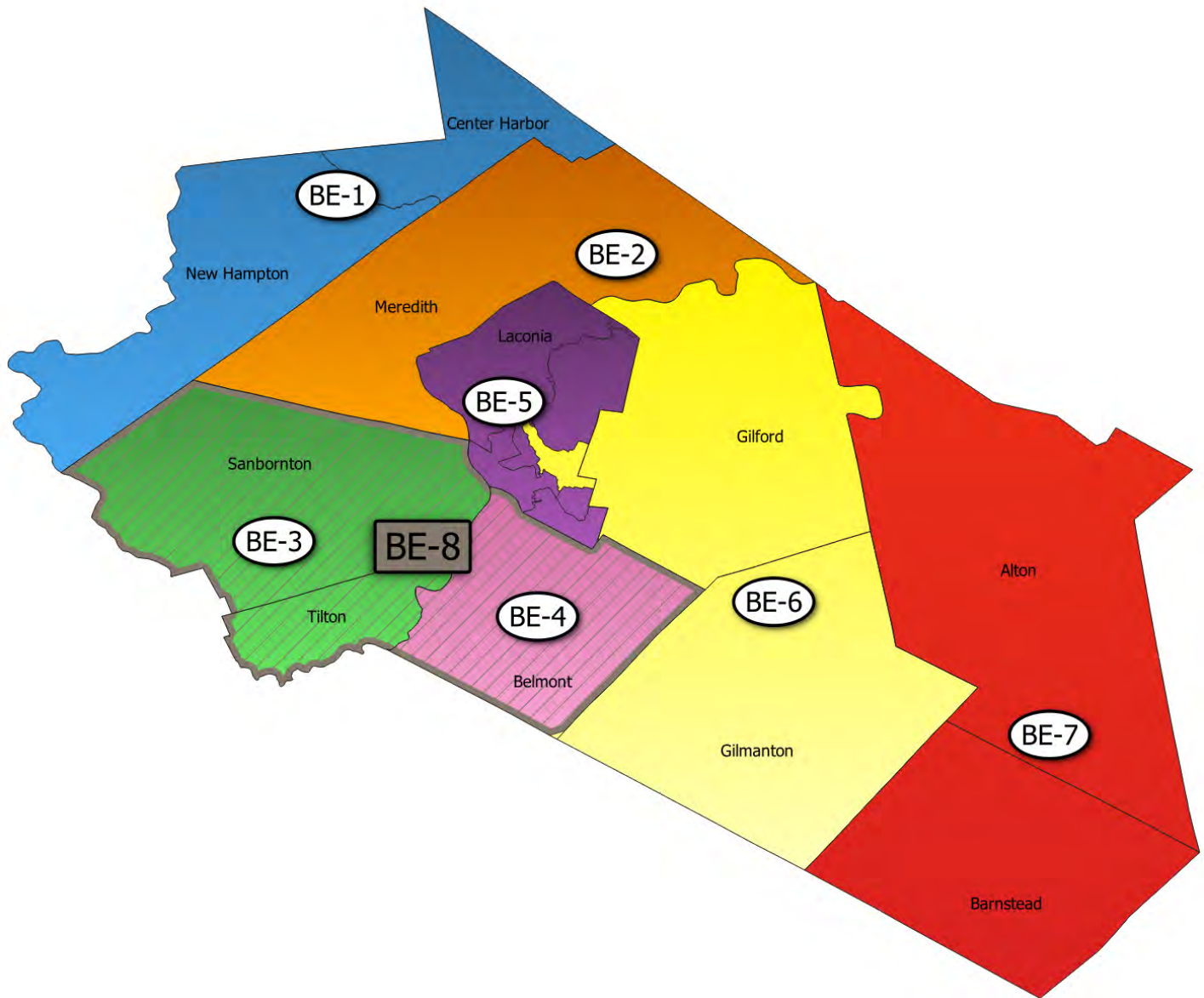
1. Summary of Enacted Maps

Enacted Maps Summary						
County	Population	# Reps	Min Dev	Max Dev	Deviation	Violations
Belknap	63,705	18	-3.28%	4.99%	8.27%	5
Carroll	50,107	15	-4.93%	1.54%	6.48%	3
Cheshire	76,458	22	-4.63%	5.18%	9.81%	5
Coos	31,268	9	-3.95%	4.80%	8.74%	0
Grafton	91,118	26	-3.91%	4.53%	8.44%	5
Hillsborough	422,937	123	-4.95%	4.80%	9.75%	6
Merrimack	153,808	45	-4.58%	4.64%	9.22%	7
Rockingham	314,176	91	-4.93%	4.86%	9.80%	13
Strafford	130,889	38	-4.17%	4.97%	9.13%	6
Sullivan	43,063	13	-4.88%	-1.16%	3.73%	5
Total	1,377,529	400	-4.95%	5.18%	10.13%	55

2. Map Comparison Summary

Enacted Maps vs. Map-a-Thon Proposed Maps Summary					
County	# Reps	Enacted Map Deviation	Proposed Map Deviation	Enacted Map Violations	Proposed Map Violations
Belknap	18	8.27%	8.27%	5	5
Carroll	15	6.48%	6.48%	3	3
Cheshire	22	9.81%	7.62%	5	3
Coos	9	8.74%	8.68%	0	0
Grafton	26	8.44%	9.86%	5	3
Hillsborough	123	9.75%	9.49%	6	4
Merrimack	45	9.22%	8.57%	7	5
Rockingham	91	9.80%	9.80%	13	11
Strafford	38	9.13%	9.48%	6	2
Sullivan	13	3.73%	3.73%	5	5
Total	400	10.13%	9.94%	55	41

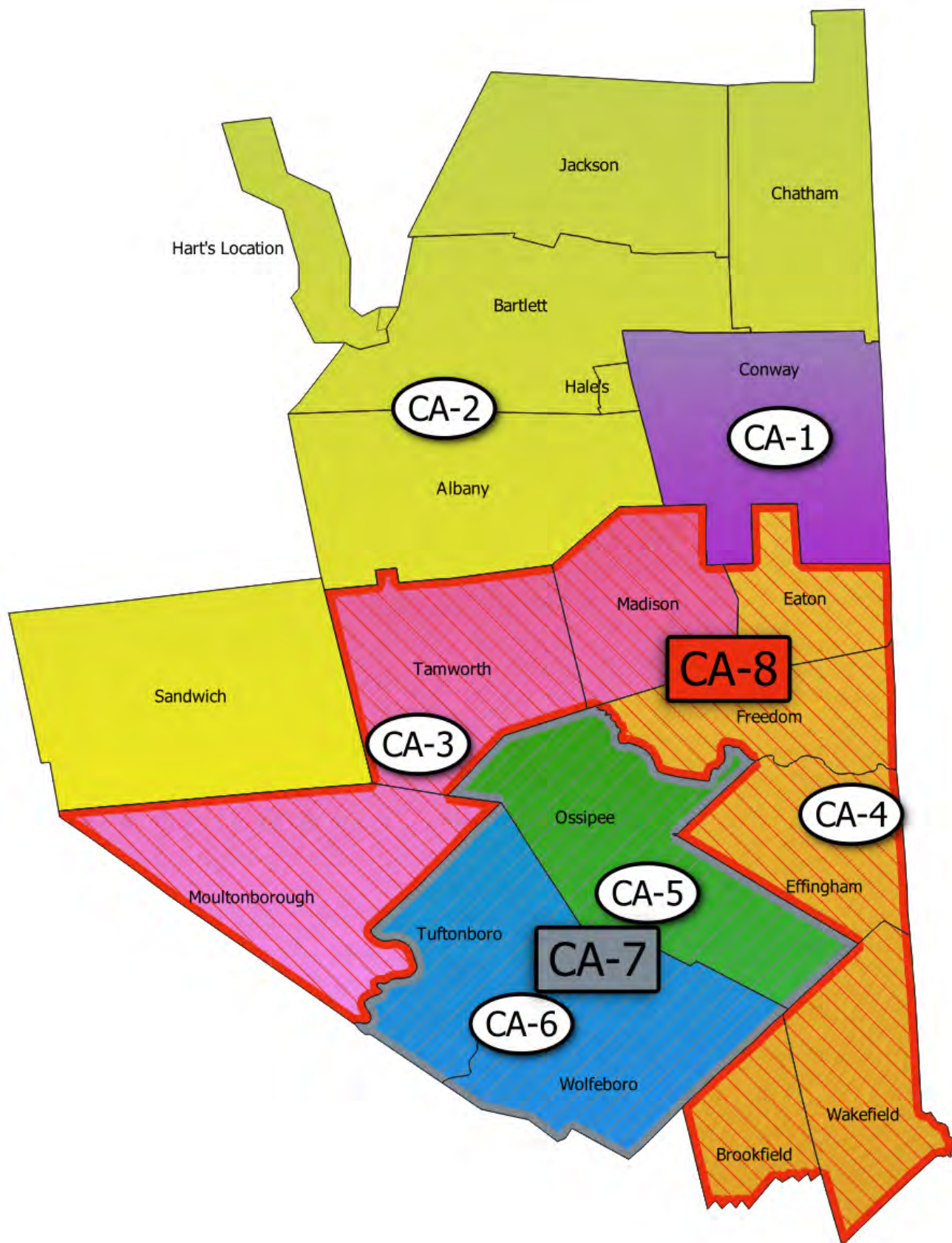
3. Belknap County Map



3.1. Belknap County Map Districts

Belknap County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
BE-1	3,417	1			Center Harbor, New Hampton	-0.78%	
BE-2	6,662	2			Meredith	-3.28%	
BE-3	6,988	1	BE-8	2	Sanborton, Tilton	2.63%	Tilton
BE-4	7,314	1			Belmont	4.99%	
BE-5	14,117	4			Laconia Wards 1,3-6	2.48%	
BE-6	14,398	4			Gilford, Gilmanton, Laconia Ward 2	4.52%	Gilford, Gilmanton
BE-7	10,809	3			Alton, Barnstead	4.62%	Alton, Barnstead
Total	63,705		18			8.27%	5

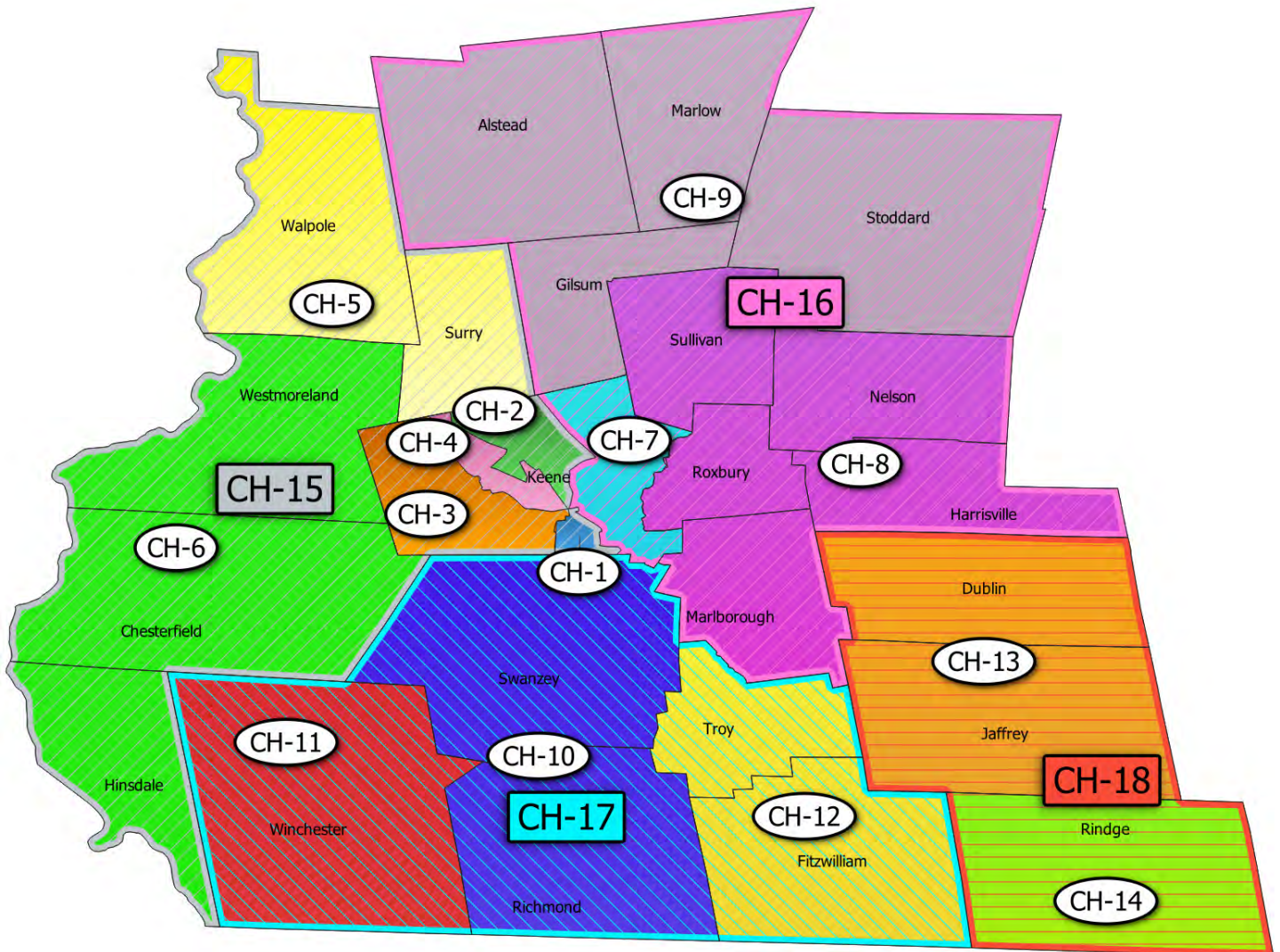
4. Carroll County Map



4.1. Carroll County Map Districts

Carroll County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
CA-1	9,822	3			Conway	-4.93%	
CA-2	6,994	2			Albany, Bartlett, Chatham, Hale's Location, Hart's Location, Jackson, Sandwich	1.54%	
CA-3	10,295	2	CA-8	2	Madison, Moultonborough, Tamworth	-1.26%	Moultonborough
CA-4	9,741	2			Brookfield, Eaton, Effingham, Freedom, Wakefield	-4.84%	Wakefield
CA-5	4,372	1	CA-7	1	Ossipee	-4.54%	
CA-6	8,883	2			Tuftsboro, Wolfeboro	-3.40%	Wolfeboro
Total	50,107		15			6.48%	3

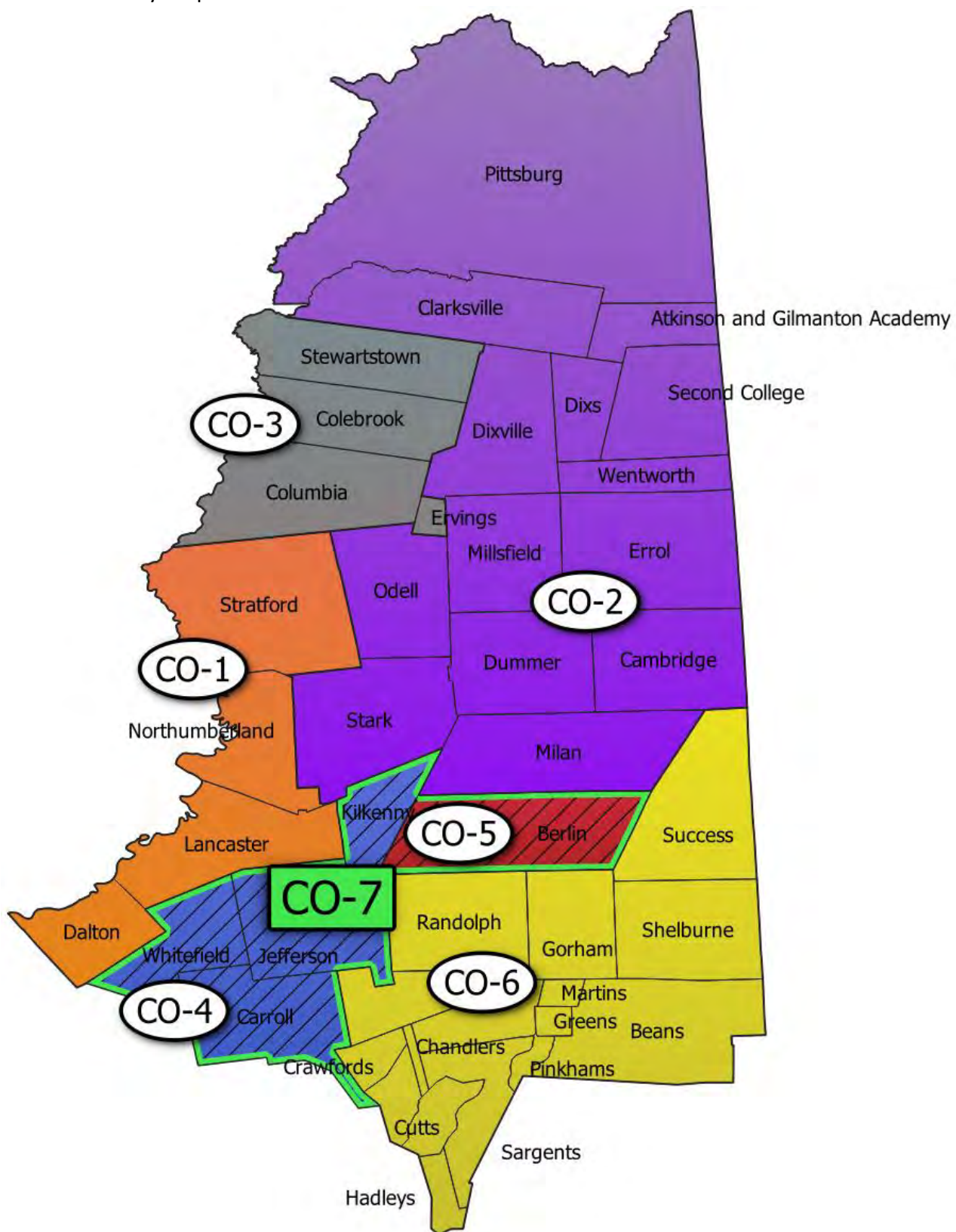
5. Cheshire County Map



5.1. Cheshire County Map Districts

Cheshire County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
CH-1	4,643	1	CH-15	2	Keene Ward 1	4.61%	
CH-2	4,550	1			Keene Ward 3	2.97%	
CH-3	4,676	1			Keene Ward 5	5.18%	
CH-4	4,620	1			Keene Ward 4	4.20%	
CH-5	4,453	1			Surry, Walpole	1.25%	Walpole
CH-6	9,206	2			Chesterfield, Hinsdale, Westmoreland	3.91%	Chesterfield, Hinsdale
CH-7	4,558	1	CH-16	1	Keene Ward 2	-0.36%	
CH-8	4,587	1			Harrisville, Marlborough, Nelson, Roxbury, Sullivan	0.12%	
CH-9	4,739	1			Alstead, Gilsum, Marlow, Stoddard	2.59%	
CH-10	8,467	2	CH-17	1	Richmond, Swanzey	-1.47%	Swanzey
CH-11	4,150	1			Winchester	-3.03%	
CH-12	4,481	1			Fitzwilliam, Troy	3.10%	
CH-13	6,852	1	CH-18	2	Dublin, Jaffrey	-1.90%	Jaffrey
CH-14	6,476	1			Rindge	-4.63%	
Total	76,458	22				9.81%	5

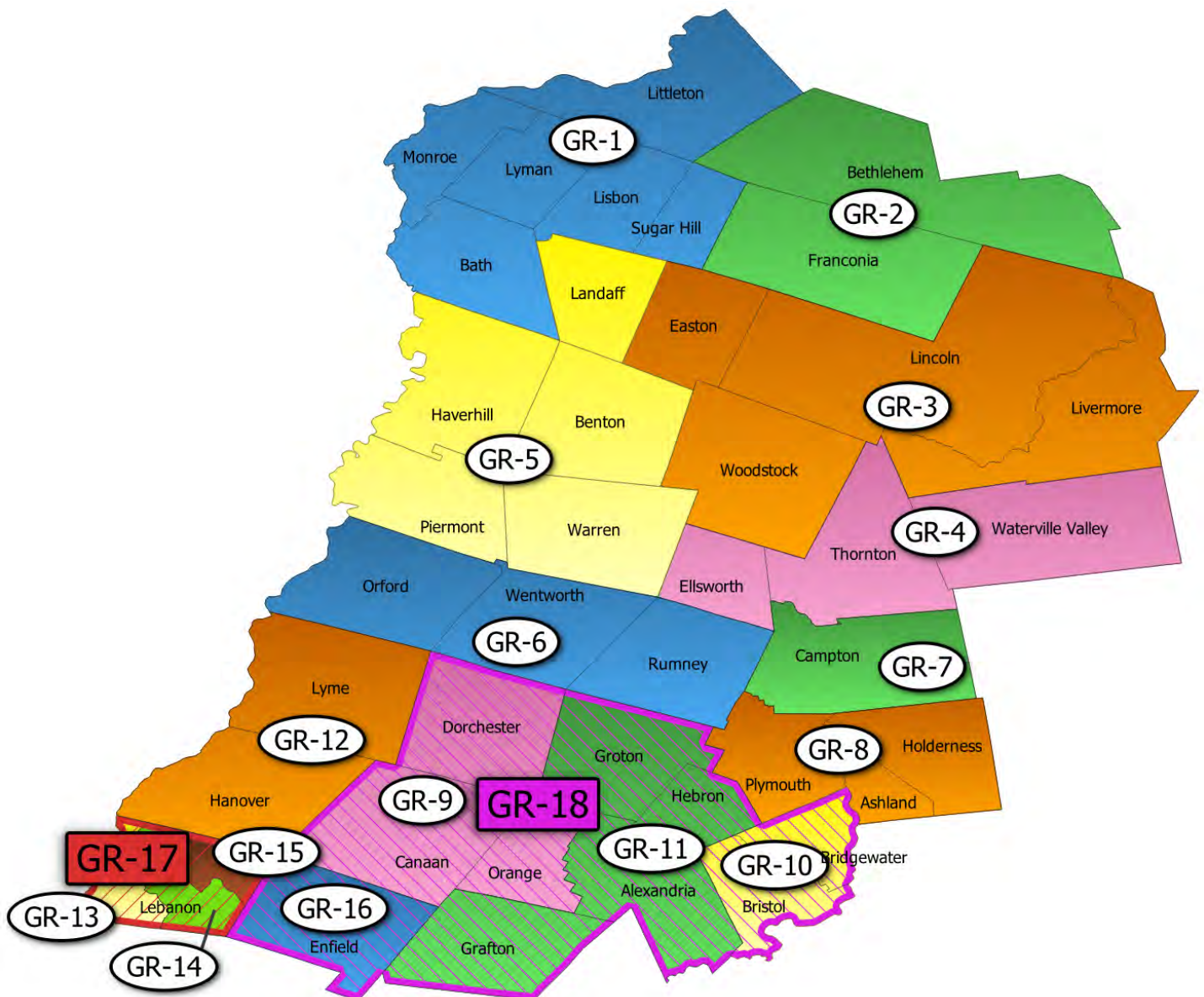
6. Coos County Map



6.1. Coos County Map Districts

Coos County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
CO-1	6,939	2			Dalton, Lancaster, Northumberland, Stratford	0.75%	
CO-2	3,609	1			Atkinson & Gilmanton Academy Grant, Cambridge, Clarksville, Dix's Grant, Dixville, Dummer, Errol, Milan, Millsfield, Odell, Pittsburg, Second College Grant, Stark, Wentworth's Location	4.80%	
CO-3	3,556	1			Colebrook, Columbia, Erving's Location, Stewartstown	3.26%	
CO-4	4,353	1	CO-7	1	Carroll, Jefferson, Kilkenny, Whitefield	-3.95%	
CO-5	9,425	2			Berlin	1.96%	
CO-6	3,386	1			Bean's Grant, Bean's Purchase, Chandler's Purchase, Crawford's Purchase, Cutt's Grant, Gorham, Green's Grant, Hadley's Purchase, Low and Burbank's Grant, Martin's Location, Pinkham's Grant, Randolph, Sargent's Purchase, Shelburne, Success, Thompson and Meserve's Purchase	-1.68%	
Total	31,268		9			8.74%	0

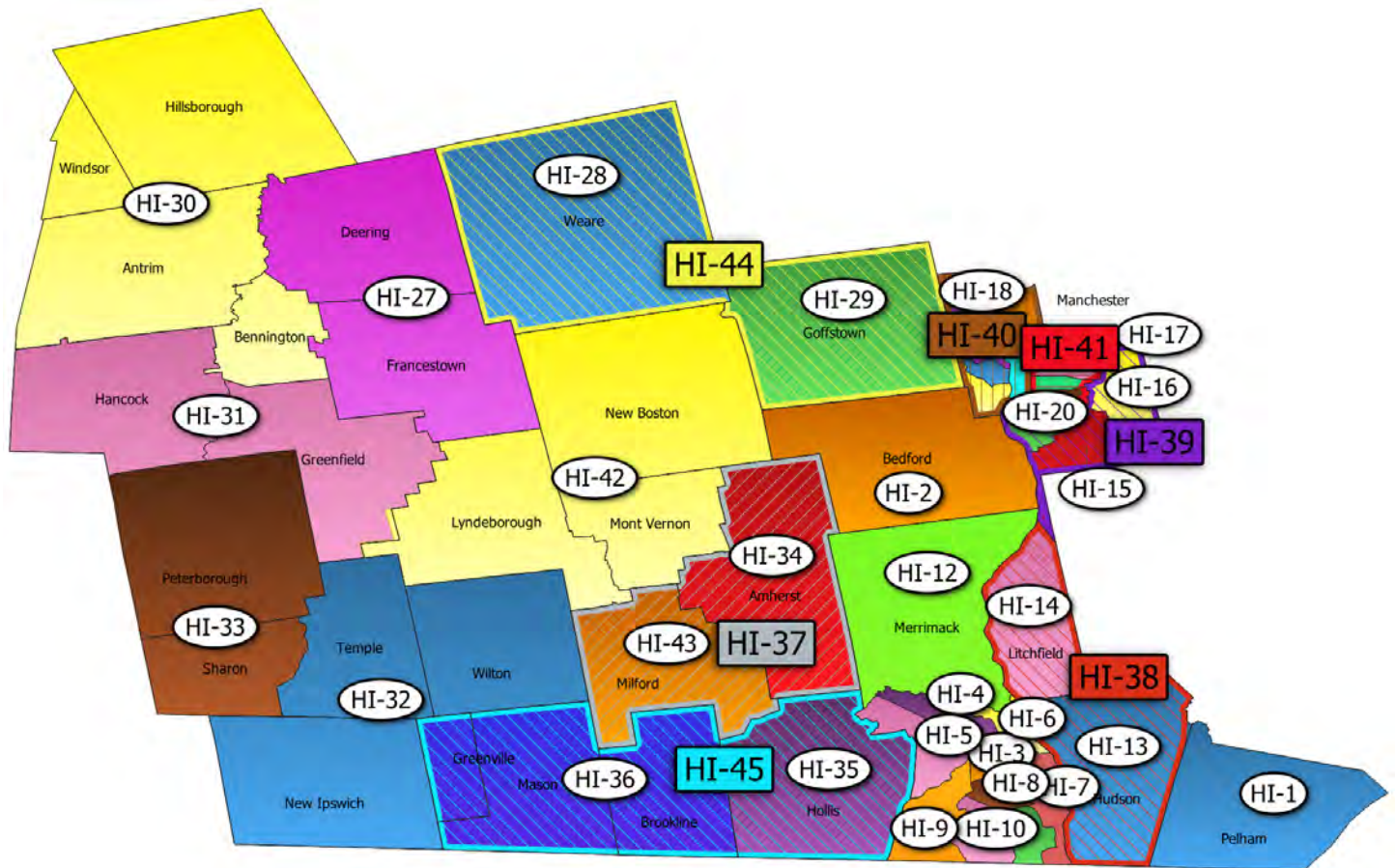
7. Grafton County Map



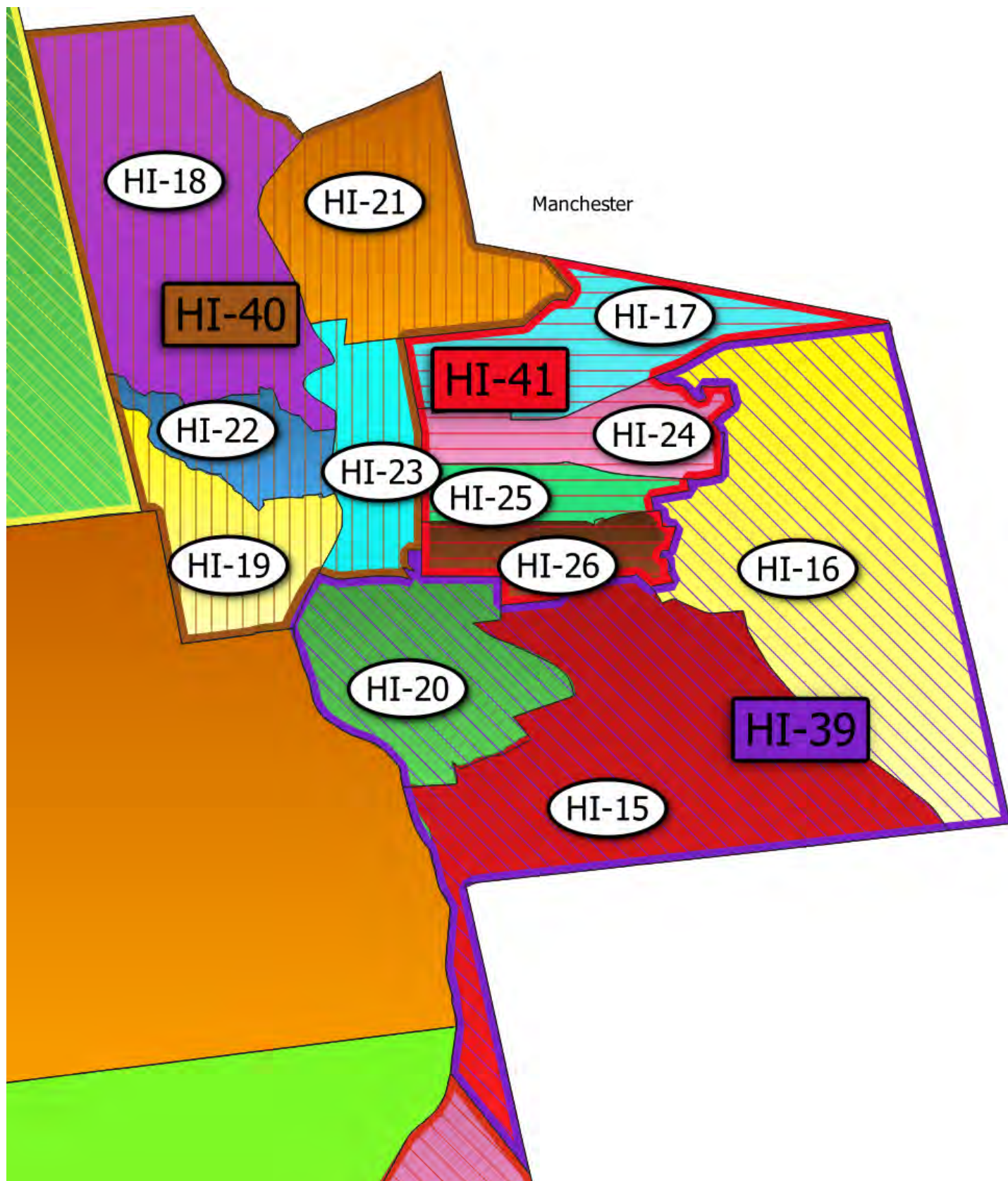
7.1. Grafton County Map Districts

Grafton County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
GR-1	10,799	3			Bath, Lisbon, Littleton, Lyman, Monroe, Sugar Hill	4.53%	Littleton
GR-2	3,567	1			Bethlehem, Franconia	3.58%	
GR-3	3,359	1			Easton, Lincoln, Livermore, Woodstock	-2.46%	
GR-4	3,309	1			Ellsworth, Thorton, Waterville Valley	-3.91%	
GR-5	6,999	2			Benton, Haverhill, Landaff, Piermont, Warren	1.62%	Haverhill
GR-6	3,580	1			Orford, Rumney, Wentworth	3.95%	
GR-7	3,343	1			Campton	-2.93%	
GR-8	10,624	3			Ashland, Holderness, Plymouth	2.83%	Plymouth
GR-9	4,410	1	GR-18	1	Canaan, Dorchester, Orange	2.45%	Canaan
GR-10	4,404	1			Bridgewater, Bristol	2.33%	
GR-11	4,362	1			Alexandria, Grafton, Groton, Hebron	1.55%	
GR-16	4,465	1			Enfield	3.47%	
GR-12	13,615	4			Hanover, Lyme	-1.16%	Hanover
GR-13	4,762	1	GR-17	1	Lebanon Ward 1	3.70%	
GR-14	4,734	1			Lebanon Ward 2	3.24%	
GR-15	4,786	1			Lebanon Ward 3	4.09%	
Total	91,118		26			8.44%	5

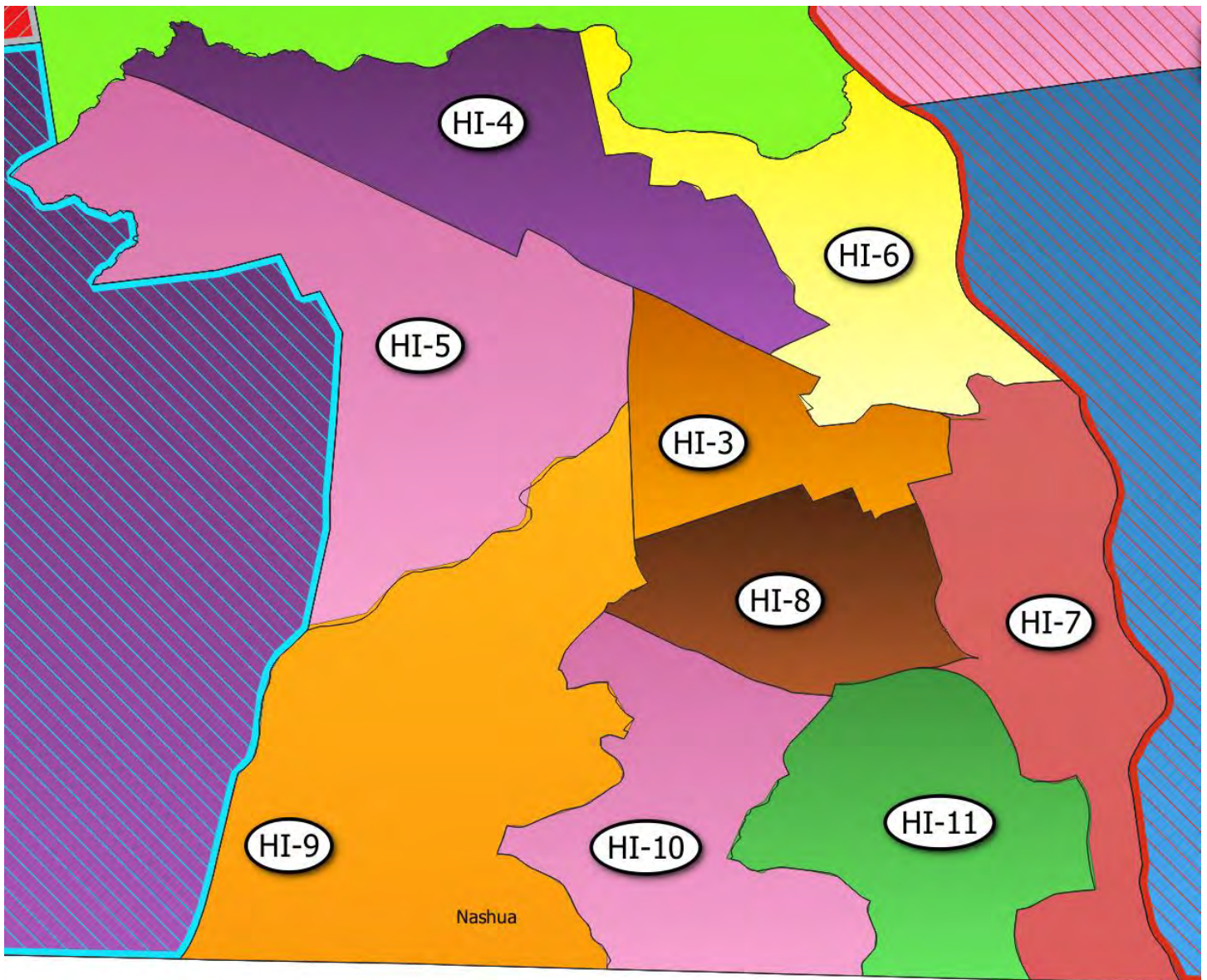
8. Hillsborough County Map



8.1. Manchester Zoomed in Map



8.2. Nashua Zoomed in Map

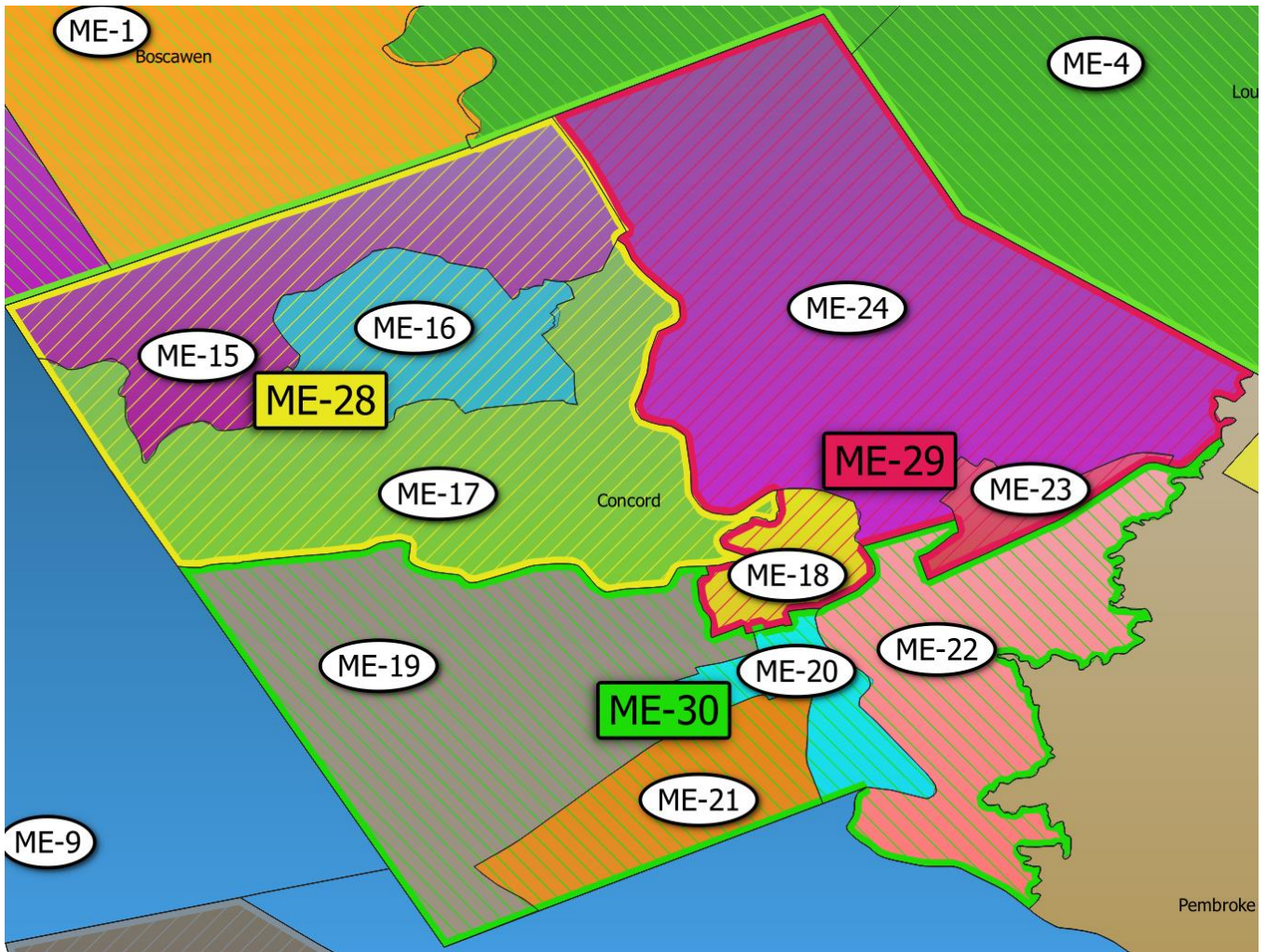


8.3. Hillsborough County Map Districts

Hillsborough County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
HI-1	14,222	4			Pelham	3.24%	
HI-2	23,322	7			Bedford	-3.26%	
HI-3	10,074	3			Nashua Ward 4	-2.49%	
HI-4	10,348	3			Nashua Ward 2	0.16%	
HI-5	10,119	3			Nashua Ward 1	-2.06%	
HI-6	9,869	3			Nashua Ward 3	-4.48%	
HI-7	9,820	3			Nashua Ward 7	-4.95%	
HI-8	9,853	3			Nashua Ward 6	-4.63%	
HI-9	10,603	3			Nashua Ward 5	2.63%	
HI-10	10,369	3			Nashua Ward 9	0.36%	
HI-11	10,267	3			Nashua Ward 8	-0.62%	
HI-12	26,632	8			Merrimack	-3.33%	
HI-13	25,394	6	HI-38	2	Hudson	-1.68%	
HI-14	8,478	2			Litchfield	-1.55%	
HI-15	9,622	2	HI-39	2	Manchester Ward 8	4.76%	
HI-16	9,603	2			Manchester Ward 6	4.61%	
HI-20	9,627	2			Manchester Ward 9	4.80%	
HI-17	9,657	2	HI-41	3	Manchester Ward 2	1.93%	
HI-24	9,643	2			Manchester Ward 4	1.82%	
HI-25	9,631	2			Manchester Ward 5	1.73%	
HI-26	9,644	2			Manchester Ward 7	1.83%	
HI-18	9,637	2	HI-40	4	Manchester Ward 12	-0.04%	
HI-19	9,608	2			Manchester Ward 10	-0.26%	
HI-21	9,696	2			Manchester Ward 1	0.40%	
HI-22	9,665	2			Manchester Ward 11	0.17%	
HI-23	9,611	2			Manchester Ward 3	-0.23%	
HI-27	3,523	1			Deering, Francestown	2.30%	
HI-28	9,092	2	HI-44	2	Weare	-0.64%	
HI-29	18,577	4			Goffstown	0.96%	
HI-30	10,344	3			Antrim, Bennington, Hillsborough, Windsor	0.12%	Hillsborough
HI-31	3,447	1			Greenfield, Hancock	0.09%	
HI-32	10,482	3			New Ipswich, Temple, Wilton	1.46%	New Ipswich, Wilton
HI-33	6,777	2			Peterborough, Sharon	-1.61%	Peterborough
HI-34	11,753	3	HI-37	1	Amherst	-0.25%	
HI-43	16,131	4			Milford	2.31%	
HI-35	8,342	2	HI-45	1	Hollis	-2.30%	
HI-36	9,061	2			Brookline, Greenville, Mason	4.38%	Brookline
HI-42	10,394	3			Lyndeborough, Mont Vernon, New Boston	0.61%	New Boston
Total	422,937		123			9.75%	6

A detailed map of the Commonwealth of Massachusetts, divided into its 27 House of Representatives districts. Each district is labeled with a number in a colored box (e.g., ME-1, ME-2, etc.) and contains the names of the towns or cities within that district. The districts are color-coded: ME-1 (orange), ME-2 (red), ME-3 (yellow), ME-4 (green), ME-5 (purple), ME-6 (light green), ME-7 (brown), ME-8 (cyan), ME-9 (blue), ME-10 (grey), ME-11 (light green), ME-12 (tan), ME-13 (yellow), ME-14 (brown), ME-15 (pink), ME-16 (pink), ME-17 (pink), ME-18 (pink), ME-19 (orange), ME-20 (orange), ME-21 (orange), ME-22 (orange), ME-23 (orange), ME-24 (orange), ME-25 (blue), ME-26 (green), ME-27 (grey), ME-28 (yellow).

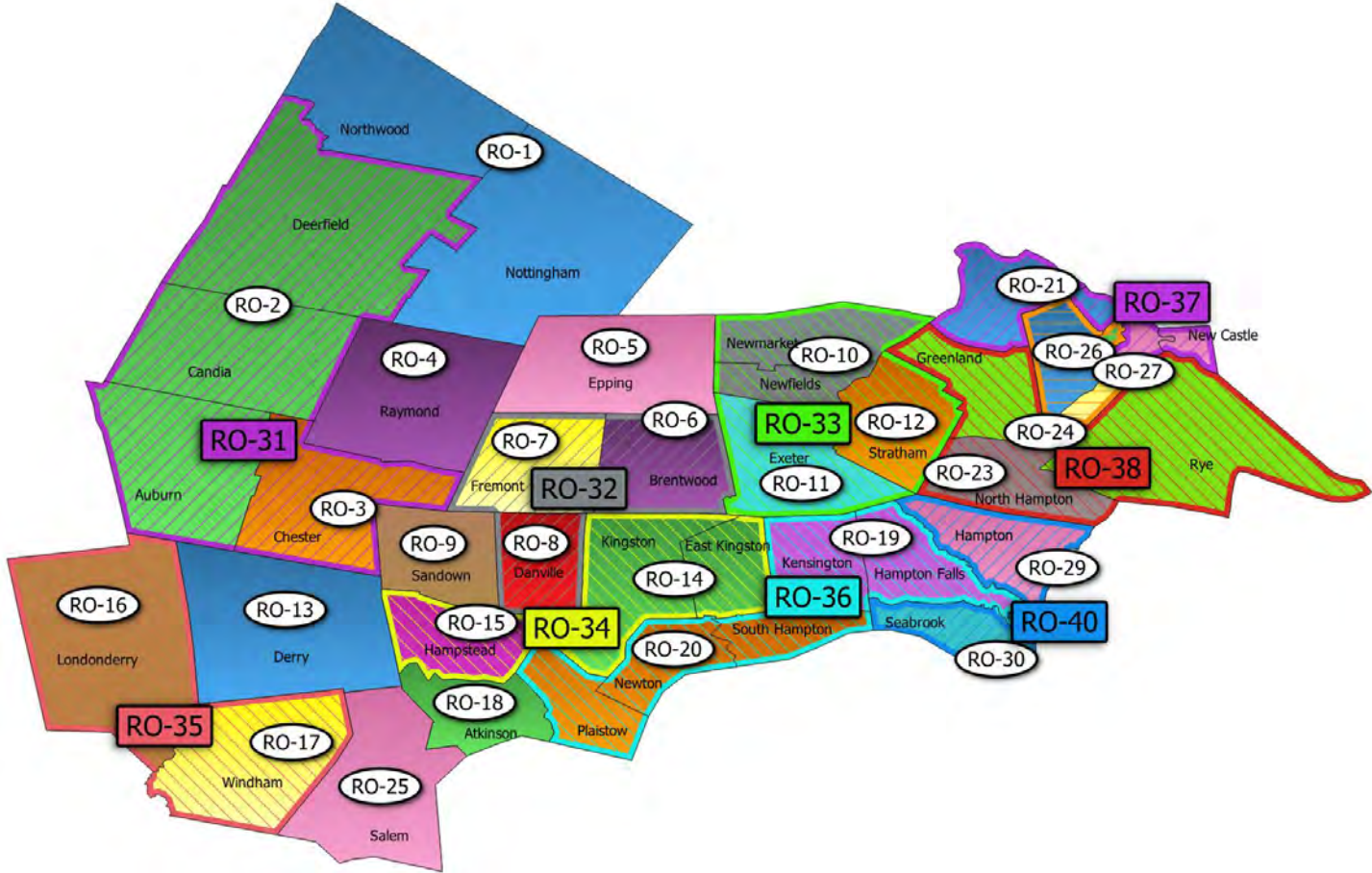
9.1. Concord Zoomed in Map



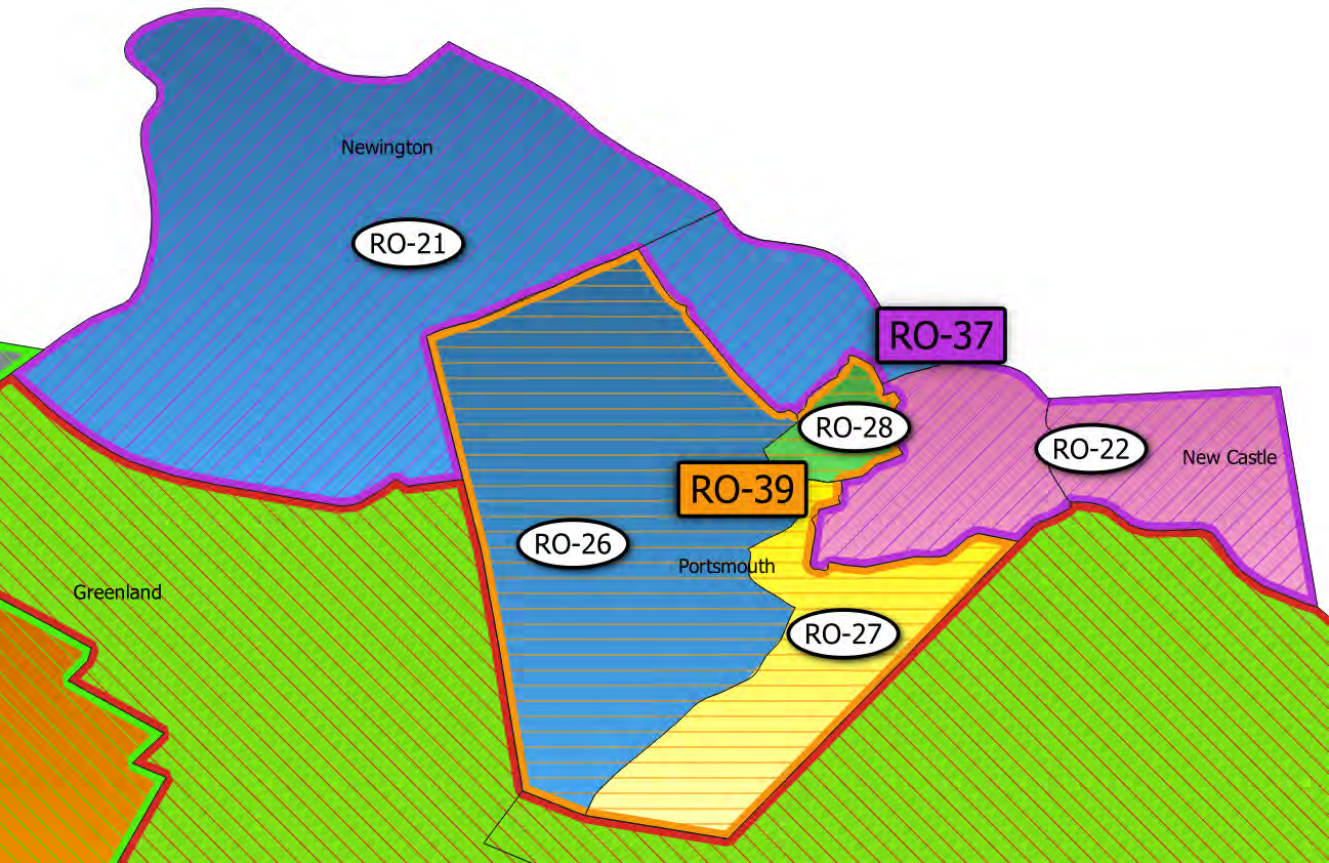
9.2. Merrimack County Map Districts

Merrimack County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
ME-1	3,998	1	ME-26	1	Boscawen	-3.27%	
ME-4	7,965	2			Canterbury, Loudon	-3.58%	Loudon
ME-5	8,008	2			Andover, Danbury, Hill, Salisbury, Webster	-3.15%	
ME-2	4,872	1	ME-25	1	Northfield	4.18%	
ME-3	8,741	2			Franklin Wards 1-3	-3.93%	
ME-6	3,385	1			Sutton, Wilmot	-1.71%	
ME-7	6,572	2			New London, Newbury	-4.58%	New London
ME-8	10,784	3			Bradford, Henniker, Warner	4.38%	Henniker
ME-9	14,143	4			Bow, Hopkinton	2.67%	Bow, Hopkinton
ME-10	17,876	4	ME-27	2	Dunbarton, Hooksett	-2.14%	Hooksett
ME-11	4,707	1			Allenstown	1.74%	
ME-14	4,834	1			Epsom	3.77%	
ME-12	7,207	2			Pembroke	4.64%	
ME-13	6,740	2			Chichester, Pittsfield	-2.14%	Pittsfield
ME-15	4,452	1	ME-28	1	Concord Ward 1	-2.73%	
ME-16	4,567	1			Concord Ward 2	-0.85%	
ME-17	4,512	1			Concord Ward 3	-1.75%	
ME-18	4,398	1	ME-29	1	Concord Ward 4	-3.92%	
ME-23	4,543	1			Concord Ward 9	-1.55%	
ME-24	4,421	1			Concord Ward 10	-3.54%	
ME-19	4,338	1	ME-30	1	Concord Ward 5	0.46%	
ME-20	4,231	1			Concord Ward 6	-1.53%	
ME-21	4,310	1			Concord Ward 7	-0.06%	
ME-22	4,204	1			Concord Ward 8	-2.03%	
Total	153,808	45				9.22%	7

10. Rockingham County Map



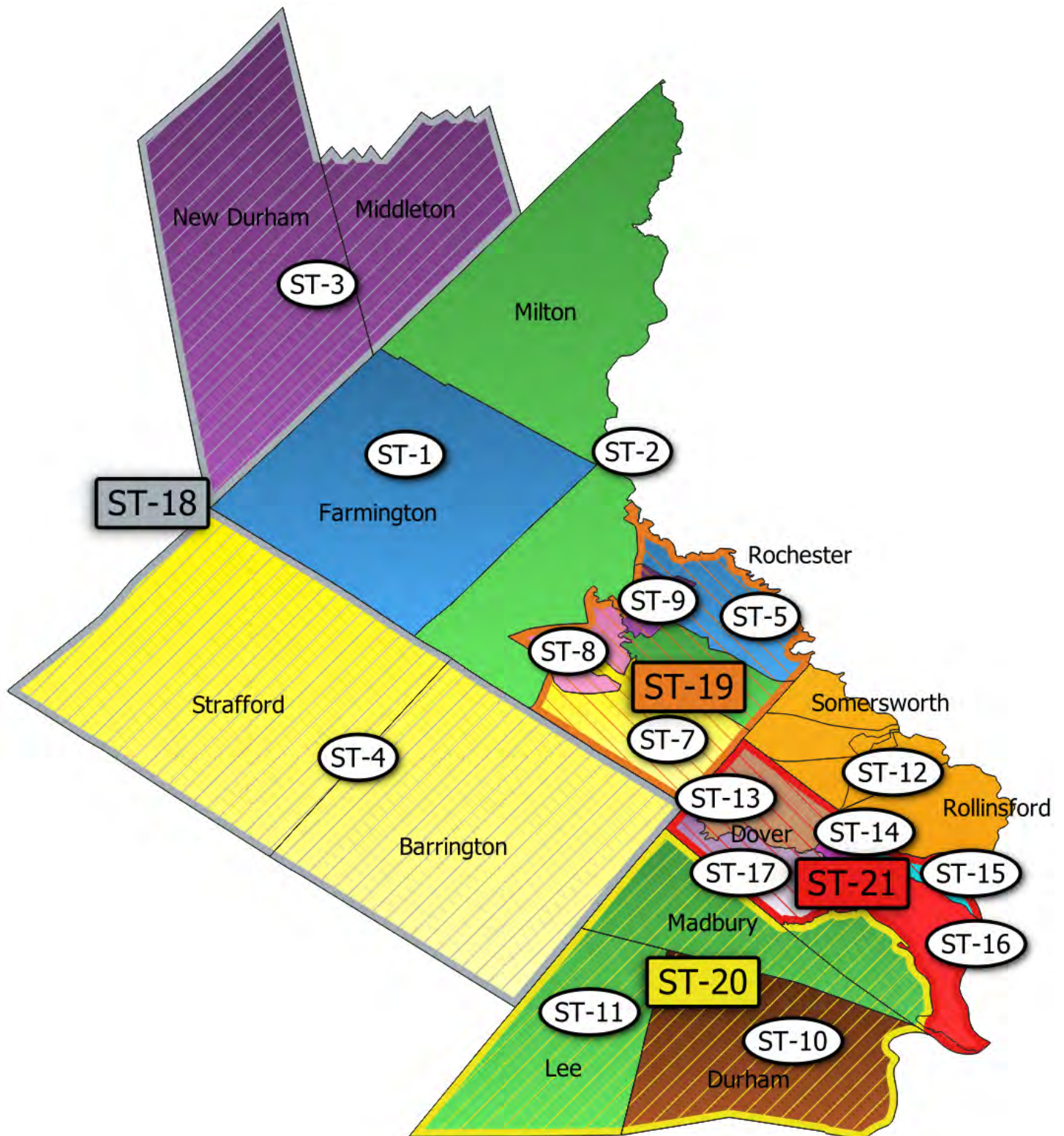
10.1. Portsmouth Zoomed in Map



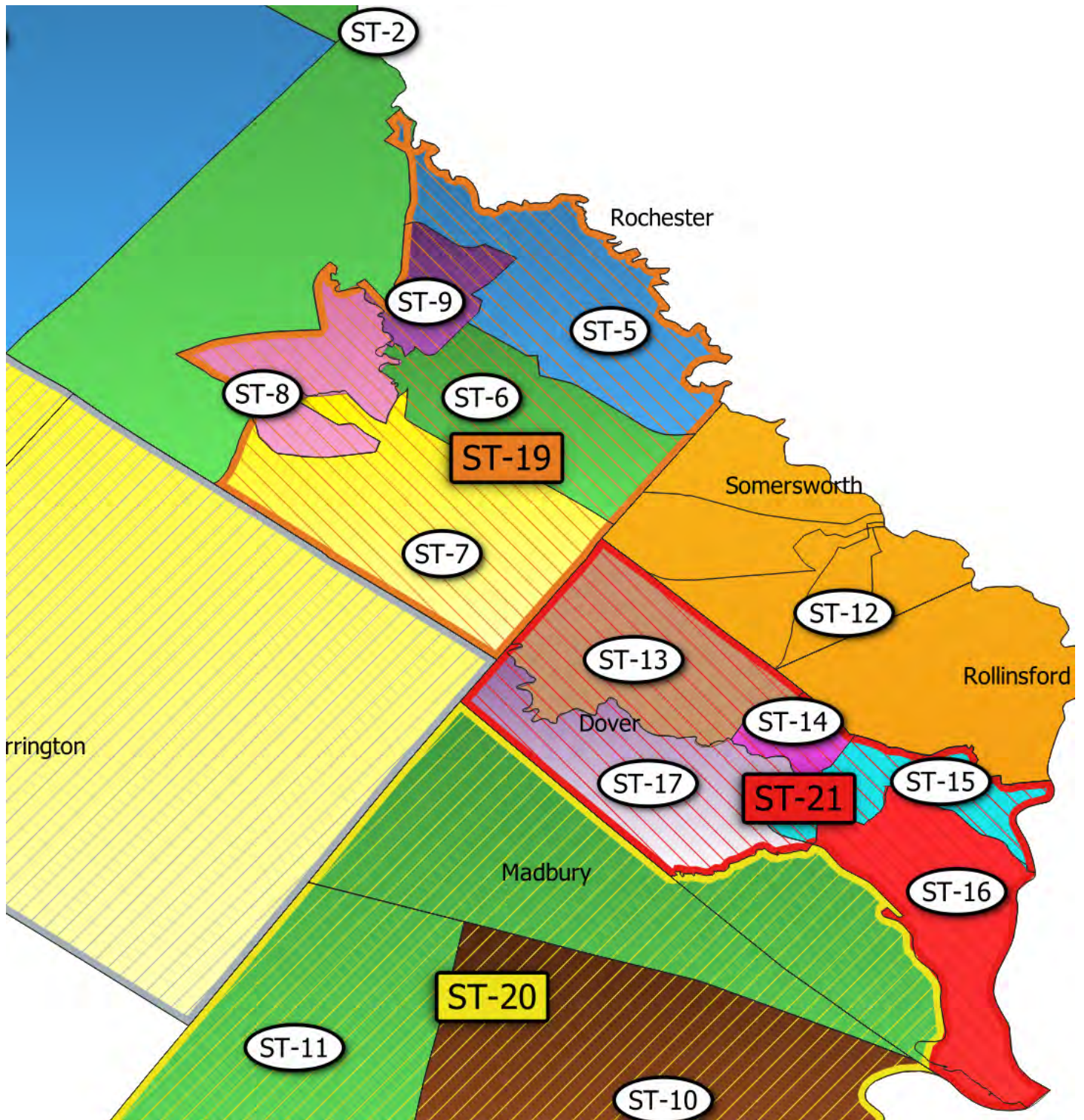
10.2. Rockingham County Map Districts

Rockingham County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
RO-1	9,870	3			Northwood, Nottingham	-4.47%	Northwood, Nottingham
RO-2	14,814	3	RO-31	2	Auburn, Candia, Deerfield	-3.94%	Auburn, Candia, Deerfield
RO-3	5,232	1			Chester	-0.18%	
RO-4	10,684	3					Raymond
RO-5	7,125	2			Epping	3.45%	
RO-6	4,490	1	RO-32	1	Brentwood	-1.92%	
RO-7	4,739	1			Fremont	2.12%	
RO-8	4,408	1			Danville	-3.27%	
RO-9	6,548	2			Sandown	-4.93%	
RO-10	11,199	3	RO-33	1	Newfields, Newmarket	-2.07%	Newmarket
RO-11	16,049	4			Exeter	4.50%	
RO-12	7,669	2			Stratham	0.33%	
RO-13	34,317	10			Derry	-0.35%	
RO-14	8,643	2	RO-34	1	E. Kingston, Kingston	0.79%	Kingston
RO-15	8,998	2			Hampstead	4.09%	
RO-16	25,826	7	RO-35	1	Londonderry	-1.59%	
RO-17	15,817	4			Windham	4.86%	
RO-18	7,087	2			Atkinson	2.89%	
RO-19	4,498	1	RO-36	1	Hampton Falls, Kensington	4.55%	
RO-20	13,544	3			Newton, Plaistow, S. Hampton	4.86%	Newton, Plaistow
RO-21	5,087	1	RO-37	1	Newington, Portsmouth Ward 1	-1.08%	Portsmouth Ward 1
RO-22	5,227	1			New Castle, Portsmouth Ward 5	0.73%	Portsmouth Ward 5
RO-23	4,538	1	RO-38	1	N. Hampton	-0.23%	
RO-24	9,610	2			Greenland, Rye	4.15%	Greenland, Rye
RO-25	30,089	9			Salem	-2.92%	
RO-26	4,528	1	RO-39	1	Portsmouth Ward 3	-1.63%	
RO-27	4,376	1			Portsmouth Ward 4	-4.12%	
RO-28	4,549	1			Portsmouth Ward 2	-1.29%	
RO-29	16,214	4	RO-40	1	Hampton	1.06%	
RO-30	8,401	2			Seabrook	4.19%	
Total	314,176	91				9.80%	13

11. Strafford County Map



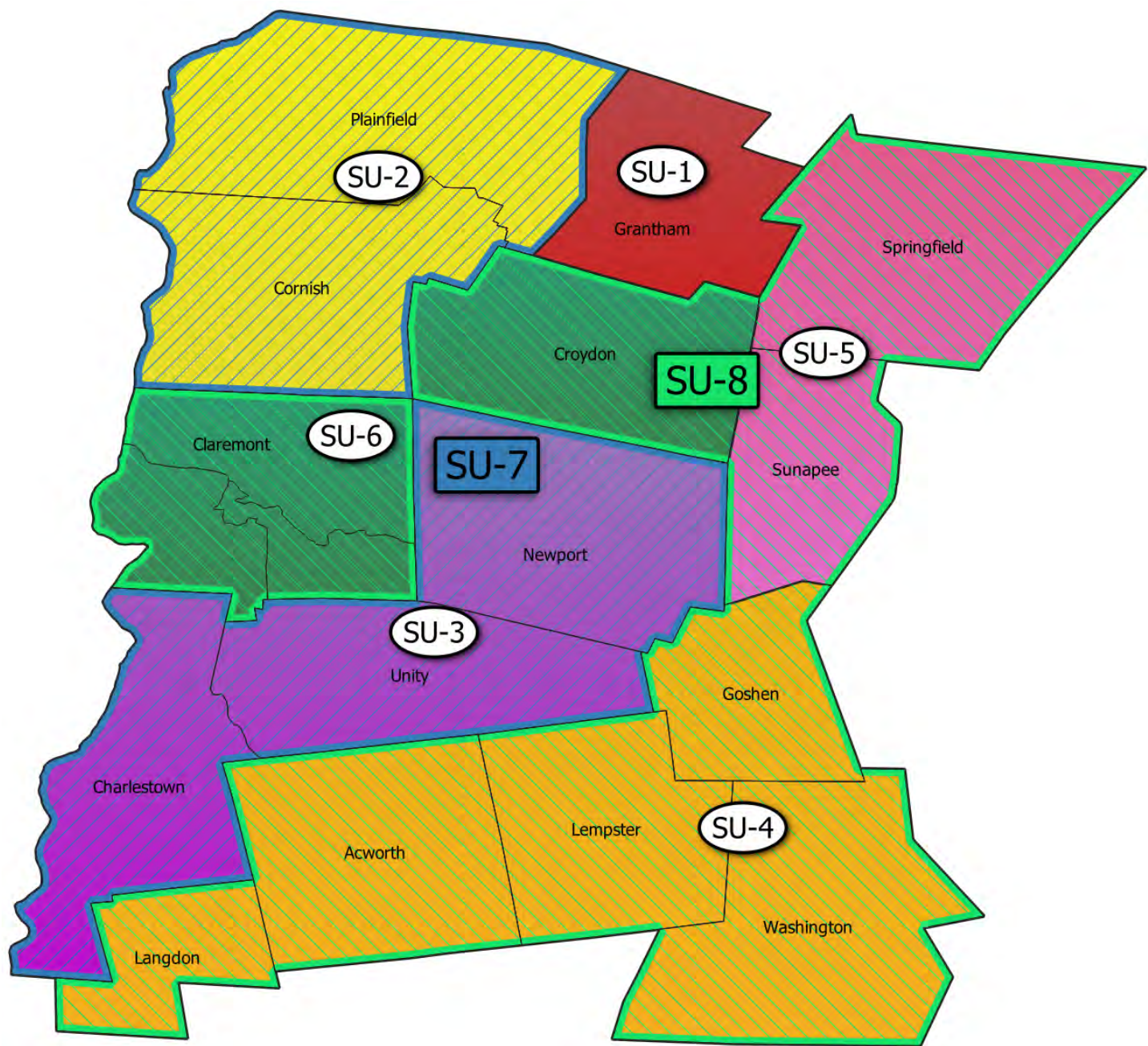
11.1. Dover/Rochester Zoomed in Map



11.2. Strafford County Map Districts

Strafford County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
ST-1	6,722	2			Farmington	-2.40%	
ST-2	9,901	3			Milton, Rochester Ward 5	-4.17%	Milton, Rochester Ward 5
ST-3	4,516	1	ST-18	1	Middleton, New Durham	4.92%	
ST-4	13,556	3			Barrington, Strafford	4.97%	Barrington, Strafford
ST-5	5,387	1	ST-19	3	Rochester Ward 1	-2.05%	
ST-6	5,388	1			Rochester Ward 2	-2.04%	
ST-7	5,390	1			Rochester Ward 3	-2.01%	
ST-8	5,498	1			Rochester Ward 4	-0.79%	
ST-9	5,410	1			Rochester Ward 6	-1.79%	
ST-10	15,490	4	ST-20	1	Durham	-1.49%	
ST-11	11,877	3			Dover Ward 4, Lee, Madbury	0.43%	Dover Ward 4, Lee
ST-12	14,452	4			Rollinsford, Somersworth Wards 1-5	4.91%	
ST-13	5,501	1	ST-21	3	Dover Ward 6	-0.44%	
ST-14	5,482	1			Dover Ward 1	-0.66%	
ST-15	5,414	1			Dover Ward 2	-1.43%	
ST-16	5,409	1			Dover Ward 3	-1.49%	
ST-17	5,496	1			Dover Ward 5	-0.50%	
Total	130,889		38			9.13%	6

12. Sullivan County Map



12.1. Sullivan County Map Districts

Sullivan County Enacted Map							
District	Population	# Reps	F District	F Reps	Towns/Wards	% Deviation	Violations
SU-1	3,404	1			Grantham	-1.16%	
SU-2	4,075	1	SU-7	1	Cornish, Plainfield	-4.88%	
SU-3	12,623	3			Charlestown, Newport, Unity	-2.41%	Charlestown, Newport
SU-4	4,610	1	SU-8	2	Acworth, Goshen, Langdon, Lempster, Washington	-4.49%	
SU-5	4,601	1			Springfield, Sunapee	-4.62%	
SU-6	13,750	3			Claremont Wards 1-3, Croydon	-4.88%	Claremont Ward 1, Claremont Ward 2, Claremont Ward 3
Total	43,063		13			3.73%	5

ORIGINAL

THE CITY OF DOVER

vs

DAVID SCANLAN

Docket No. 219-2022-CV-00224

DAVID ANDREWS

December 18, 2023



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STATE OF NEW HAMPSHIRE

STRAFFORD, SS.

SUPERIOR COURT

THE CITY OF DOVER, ET AL.)

ORIGINAL

VS.)

DOCKET NO.:
219-2022-CV-00224

DAVID SCANLAN, SECRETARY OF)
STATE, STATE OF)
NEW HAMPSHIRE)

DEPOSITION OF DAVID ANDREWS

Deposition taken at the New Hampshire Department
of Justice, 1 Granite Place South, Concord, New
Hampshire, on Monday, December 18, 2023,
commencing at 1:08 p.m.

Court Reporter:

Dawn L. Griffin-Smith, LCR
New Hampshire LCR #108 (RSA 310-A:161-181)

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1 APPEARANCES

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12 Representing the Plaintiffs Hackett, Watkins,
 13 Williams, Ehlers, Kelbie, Johnson, Sugerman, Rice,
 14 Bogen, Wallace:

15 WHATLEY KALLAS
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18 Representing the Defendants:

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 20 OFFICE OF THE ATTORNEY GENERAL
 1 Granite Place South
 21 Concord, NH 03301
 By: ^{AVICORE Reporting & Video} Brendan O'Donnell, Esq.
^{15 Constitution Drive, Suite 1A, Bedford, NH 03110 * (603) 666-4100}
 22 Matthew G. Conley, Esq.
 (603) 271-1296
 23 brendan.a.odonnell@doj.nh.gov
 matthew.g.conley@doj.nh.gov

It is agreed that the deposition shall be taken in the first instance in stenotype and when transcribed may be used for all purposes for which depositions are competent under New Hampshire practice.

It is further agreed that if the deposition is not signed within 30 days, the signature of the deponent is waived.

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I N D E X

WITNESS:

DAVID ANDREWS

EXAMINATION:

Page

By Mr. O'Donnell 5

EXHIBITS FOR IDENTIFICATION:

Number

Page

Exhibit A Affidavit 32

Exhibit B Plaintiffs' Responses and
 Objections to Defendant's First
 Set of Interrogatories and
 Request for Production of
 Documents 9

Exhibit C Plaintiffs' Expert Disclosure 8

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(Original exhibits retained by Attorney O'Donnell.)

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P R O C E E D I N G S

DAVID ANDREWS,

having been duly sworn by the Court Reporter,
was deposed and testified as follows:

EXAMINATION

BY MR. O'DONNELL:

Q. State your name for the record and spell your last
name.

A. David Jeffrey Andrews, A-N-D-R-E-W-S.

Q. Okay. And we are here to take your deposition in
the case "City of Dover, et al, v. State of New
Hampshire".

My name is Brendan O'Donnell. I'm one of
the attorneys for the State. This is Matt Conley.
And also in the room we have Attorney Josh Wyatt
for the City of Dover, Attorney Terence O'Rourke
for the City of Rochester.

MR. O'DONNELL: And do you mind listing
out all your clients for the individual plaintiffs?

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MR. QUILLLEN: Yeah, Henry Quillen for the
individual plaintiffs.

MR. O'DONNELL: Okay.

1 the redistricting maps that these programs are
2 outputting depends upon the underlying population
3 data being correct?

4 A. Of the 2020 Census?

5 Q. Correct.

6 A. Yes.

7 Q. And I think you just said that New Hampshire's
8 constitutional and statutory redistricting
9 requirements are built into Phil Hatcher's computer
10 program?

11 A. (Witness nods.)

12 Q. Would you agree with me that the reliability of
13 redistricting maps coming out of that program
14 depend on those requirements being correctly
15 inputted into that program.

16 A. Yeah.

17 Q. Some of these you've hit already, so I'm jumping
18 around. Am I correct that you said earlier that
19 for each of these you were generating maps county
20 by county?

21 A. Yeah.

22 Q. And the map for one county didn't depend on the map
23 for another county?

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1 A. No.

2 Q. In terms of the maps that ultimately went into
3 Exhibit G to your affidavit, the current "as
4 proposed" maps, were those county maps ultimately
5 created through Phil Hatcher's computer program or
6 maps that you created through Dave's Redistricting
7 app?

8 A. Not, it depends on the county. So some were
9 proposals in the legislature, some were outputs of
10 Phil's programs, and some were combinations of the
11 two.

12 So, for instance, like Rockingham County.
13 It was, it's actually a combination of the
14 Republican's proposal, the Democrat's proposal and
15 a section that I created. So it's a combination of
16 all the different maps to get the least amount of
17 violations.

18 Q. When did you personally first become involved with
19 the New Hampshire House of Representatives
20 redistricting?

21 A. I think I got first involved with, I went to a, the
22 first meeting of the special committee on
23 redistricting for the New Hampshire House of

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1 doesn't get its own in both.

2 Q. Thank you. All right. Can you turn to Exhibit
3 A(g), page 112.

4 A. (Witness complies.)

5 Q. Assume I know nothing about this. Can you just
6 describe for me how you calculate the total
7 population deviation for the State?

8 A. So the total population deviation is the, kind of,
9 the highest deviation district and the lowest
10 deviation district in any of the counties.

11 So if you have, you know, one county that
12 has, you know, minus 4.99 percent deviation, that
13 might be the lowest that there is, and then I think
14 in these enacted maps Cheshire County had, like,
15 5.18 or something is the highest district. So it's
16 the highest district deviation and the lowest
17 district deviation throughout the state.

18 Q. All right. So using Belknap, and just looking at
19 Belknap an example, you have min deviation of
20 negative 3.28 and max deviation of 4.99 percent;
21 correct.

22 A. Correct. *AVICORE Reporting & Video*
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23 Q. And so the total deviation is the range between

1 those two numbers; correct?

2 A. Correct.

3 Q. And so if I'm looking at the "total" line at the
4 bottom, at the bottom cell below min deviation,
5 that column, that's the of those counties what is
6 the lowest percentage, right?

7 A. Correct.

8 Q. So that 4.95 comes from Hillsborough County?

9 A. Correct.

10 Q. And the next column over for max deviation, the
11 4.99 percent, that's coming from Belknap County;
12 correct?

13 A. Or Grafton.

14 Q. Or Grafton. The two of them. And the range
15 between negative 4.95 percent and positive 4.99
16 percent is 9.94 percent?

17 A. Correct.

18 Q. Okay. For Cheshire County the max deviation for
19 your proposed maps is 4.15 percent, right?

20 A. Correct.

21 Q. If we turn to the enacted map, so A(h). I think
22 it's Exhibit A, page 134.

23 A. (Witness complies.)

1 Q. Looking at the "total" line at the bottom of table
2 1, the min deviation is negative 4.95 percent;
3 correct?

4 A. Correct.

5 Q. And that's same min deviation from your proposed
6 plan in Exhibit G? You can flip if you need.

7 A. Correct.

8 Q. Okay. And the "total" row for max deviation has
9 5.18 percent; correct?

10 A. Correct.

11 Q. And that comes from Cheshire County up above;
12 correct?

13 A. Correct.

14 Q. So if only your Cheshire County map was used to
15 replace the enacted map for Cheshire County, that
16 would change the max deviation for Cheshire down to
17 4.15 percent as it is in your proposed map;
18 correct?

19 A. Correct.

20 Q. And as a result of that, the max deviation for the
21 "total" line would then be 4.99 percent from
22 Belknap County; correct?

23 A. Correct.

1 Q. And the range between the min deviation of negative
2 4.95 and the new max deviation of 4.99 percent
3 would be 9.94 percent; correct?

4 A. Correct.

5 Q. That's the same total deviation in your proposed
6 map on page 112; correct?

7 A. Correct.

8 Q. Can you turn to Exhibit A(b), page A-9.

9 A. (Witness complies.)

10 Q. A-9 lists New Hampshire House criteria. Can you
11 confirm that you used no criteria other than No. 1
12 through No. 6 in creating that proposed
13 redistricting maps in Exhibit G?

14 A. These were all used, and then, as I described
15 earlier, kind of choosing between maps. And the
16 maps with the more base districts were chosen if
17 all other of these first six criteria were met.

18 Q. And I think you referred to that as compactness?

19 A. Yeah.

20 Q. So that was your tiebreaker for same number of
21 violations of No. 1 to 6?

22 A. Yes.
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23 Q. Can you confirm that you didn't seek to preserve

1 Q. All right. Why didn't you use election data from
2 governor's race or any of the federal positions,
3 Congress or US Senate?

4 A. So we used the New Hampshire Senate and the New
5 Hampshire Executive Council specifically because
6 they don't tend to have name recognition. So, so
7 you get past the big name politicians and you, our
8 thought was that there you get what people
9 generally vote for in the kind of lower
10 legislature.

11 Q. In your opinion would it be possible to create a
12 redistricting map that gives at least one single
13 member district to every town or ward with a
14 population of at least of 3,444?

15 A. It's, using the given criteria, no. And even if
16 you say had infinite or 100 percent deviation, you
17 still couldn't in New Hampshire given that each
18 town needs to be in one non-floterial district.

19 So there's 10 towns in New Hampshire that
20 are what we refer to as forced violations. So they
21 are a town that's 3,444, or even the 3,272 people,
22 and they're surrounded by towns that are eligible
23 for their own district so you have to combine that

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1 small town with one of those bigger towns. So that
2 bigger town would not get its own district because
3 of the fact that you need to have each town in a
4 non-floterial district.

5 Q. Right. In your affidavit and these exhibits do you
6 identify what those 10 towns are?

7 A. I don't think so.

8 Q. Okay. Do you know what those 10 towns are?

9 A. Rollinsford, Newfields, New Castle, Madbury,
10 Chichester, Canterbury, Dunbarton, that -- wait a
11 second. If I can look at a map I can figure it
12 out. Brookfield, Tuftonboro. Did I say Newington?
13 That's the last one.

14 Q. Thank you. Could you please turn to Exhibit B,
15 page 5?

16 A. (Witness complies.)

17 Q. And I'm looking specifically at your answer to
18 interrogatory 9, sort of in the middle of the page.
19 Am I correct that the redistricting plan in Exhibit
20 G changed the districts for Coos County from the
21 districts in HB50 despite Exhibit H, the enacted
22 plans, identifying Coos County as having no
23 violations in HB50?

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December 20, 2023

Brendan O'Donnell
Matthew Conley
New Hampshire Attorney General's Office
1 Granite Place
Concord, NH 03301

Via Electronic Mail

Re: *City of Dover et al. v. Scanlan et al.*, No. 219-2022-CV-00224

Dear Brendan and Matthew:

At the recent deposition of David Andrews, some of the questions seemed to be directed at causes of action or issues the Plaintiffs are not asserting, or remedies they are not seeking. This may just be a misimpression on our part, but in light of the upcoming deadline for motions for summary judgment, we think it might be helpful to clarify the Plaintiffs' position.

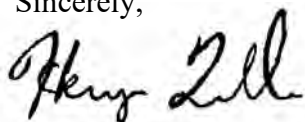
First, the Plaintiffs' allegations that the Legislature's enacted House plan is unconstitutional extend only to the affected towns and wards identified in the Complaint, which lie within Cheshire, Grafton, Hillsborough, Merrimack, Rockingham, and Strafford Counties. Complaint ¶¶ 58–81. Although Map-a-Thon's proposed plan for Coös and Carroll Counties differs from the Legislature's plan, the Plaintiffs do not contend that the Legislature's plan for these two counties was unconstitutional.

Second, while the Plaintiffs have alleged (and the Defendants have admitted) that the population deviation of the enacted plan exceeds the 10% threshold for presumptive unconstitutionality, the Plaintiffs have not asserted a stand-alone cause of action on this basis. Complaint ¶¶ 32, 33, 54, 57. Instead, they have alleged this fact in order to show that this case is analytically distinct from *City of Manchester v. Secretary of State*, 163 N.H. 689 (2012), and the enactment of the Legislature's current House plan and rejection of the Map-a-Thon plan could not have been motivated by an attempt to comply with the constitutional requirement of "one person, one vote."

Brendan O'Donnell and Matthew Conley
December 20, 2023
Page 2

We hope that these clarifications will help focus the parties' further presentation of the issues to the Court. Please let us know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry C. Quillen". The signature is written in a cursive, flowing style.

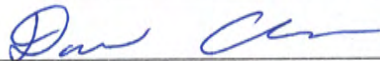
Henry C. Quillen

Cc: Joshua Wyatt
Jennifer Perez
Terence O'Rourke

E R R A T A P A G E

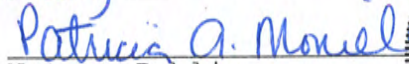
I, DAVID ANDREWS, have read the transcript of my deposition held on December 18, 2023, in the matter CITY OF DOVER V. DAVID SCANLAN, and the same is true and correct, to the best of my knowledge, with the exception of the following changes noted below, if any:

Page/Line	Change/Reason
16	"ERA" should be "VRA"
45	"mall" should be "Small"
50	"So they are a town that's 3,444" should be "So they are a town that's less than 3,444"



DAVID ANDREWS

Sworn to and subscribed before me,
this the 8th day of January, 2024.


 Notary Public

My commission expires:

