



**CITY OF HOPEWELL**  
Hopewell, Virginia 23860

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**AGENDA**

(804) 541-2408

[www.hopewellva.gov](http://www.hopewellva.gov)  
[info@hopewellva.gov](mailto:info@hopewellva.gov)  
[cityclerk@hopewellva.gov](mailto:cityclerk@hopewellva.gov)

**CITY COUNCIL**

Patience A. Bennett, Mayor, Ward #7  
John B. Partin, Jr., Vice Mayor, Ward #3  
Deborah B. Randolph, Councilor, Ward #1  
Arlene Holloway, Councilor, Ward #2  
Jasmine E. Gore, Councilor, Ward #4  
Janice B. Denton, Councilor, Ward #5  
Brenda S. Pelham, Councilor, Ward #6

John M. Altman, Jr., City Manager  
Cynthia E. Hudson, Acting City Attorney  
Mollie P. Bess, City Clerk

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February 3, 2022

SPECIAL MEETING

Special Meeting – 6:30 p.m.

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6:30 p.m. Call to order, roll call, and welcome to visitors

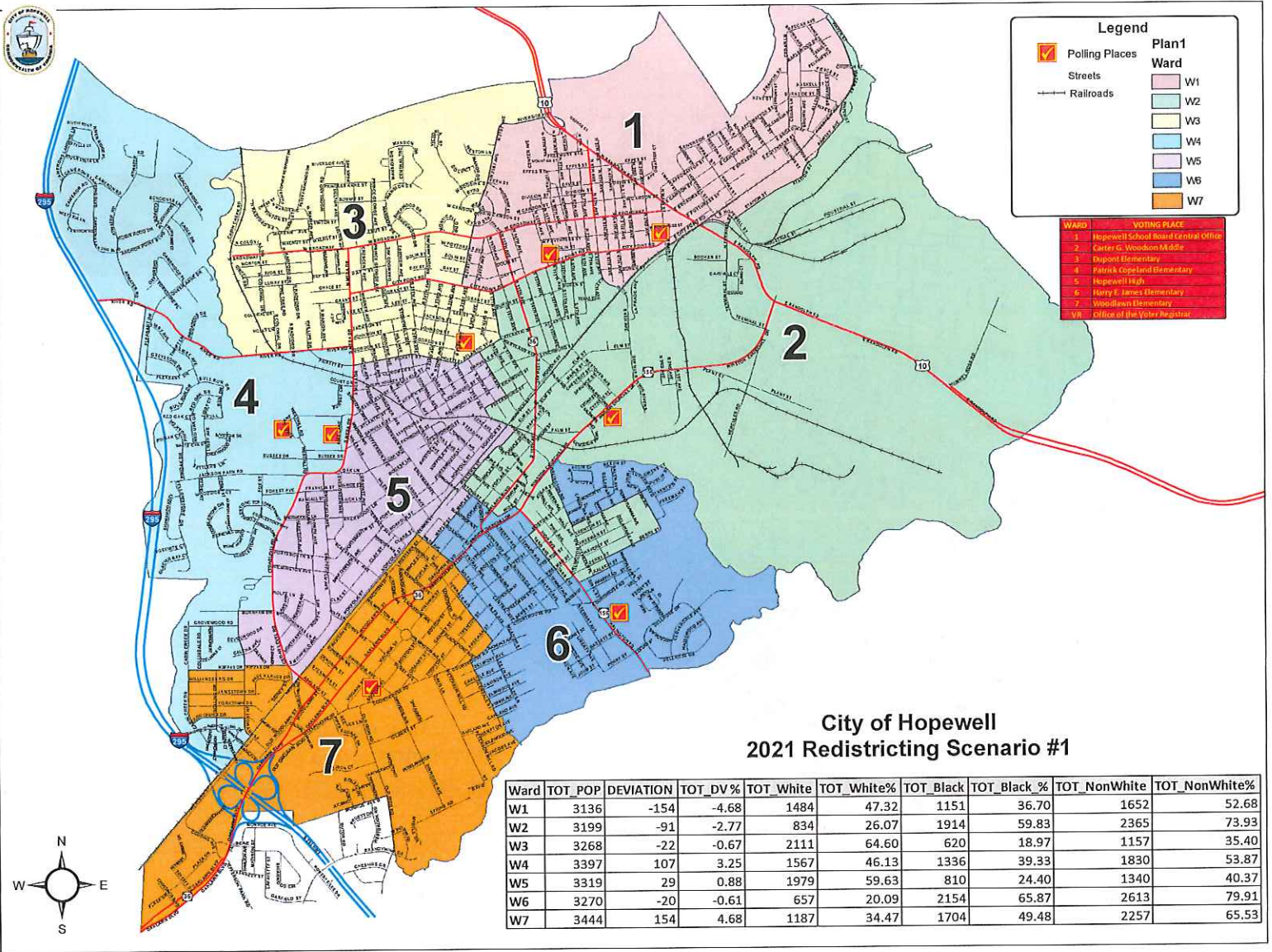
**WORK SESSION**

WS-1 – Work Session - Redistricting

**Adjournment**

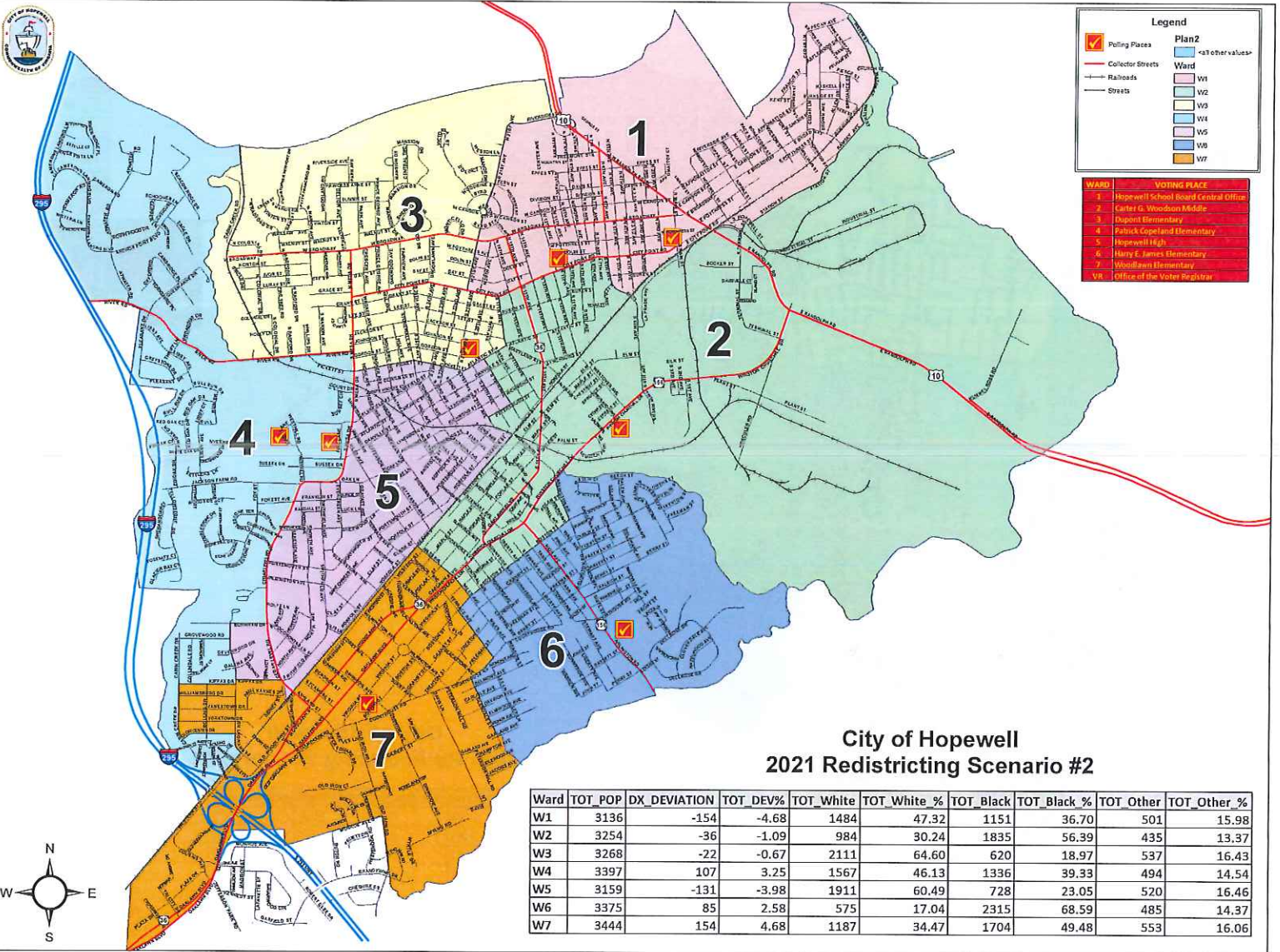
# WORK SESSION

WS-1



**City of Hopewell  
2021 Redistricting Scenario #1**

Ward	TOT_POP	DEVIATION	TOT_DV %	TOT_White	TOT_White%	TOT_Black	TOT_Black %	TOT_NonWhite	TOT_NonWhite%
W1	3136	-154	-4.68	1484	47.32	1151	36.70	1652	52.68
W2	3199	-91	-2.77	834	26.07	1914	59.83	2365	73.93
W3	3268	-22	-0.67	2111	64.60	620	18.97	1157	35.40
W4	3397	107	3.25	1567	46.13	1336	39.33	1830	53.87
W5	3319	29	0.88	1979	59.63	810	24.40	1340	40.37
W6	3270	-20	-0.61	657	20.09	2154	65.87	2613	79.91
W7	3444	154	4.68	1187	34.47	1704	49.48	2257	65.53



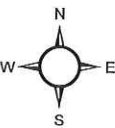
**Legend**

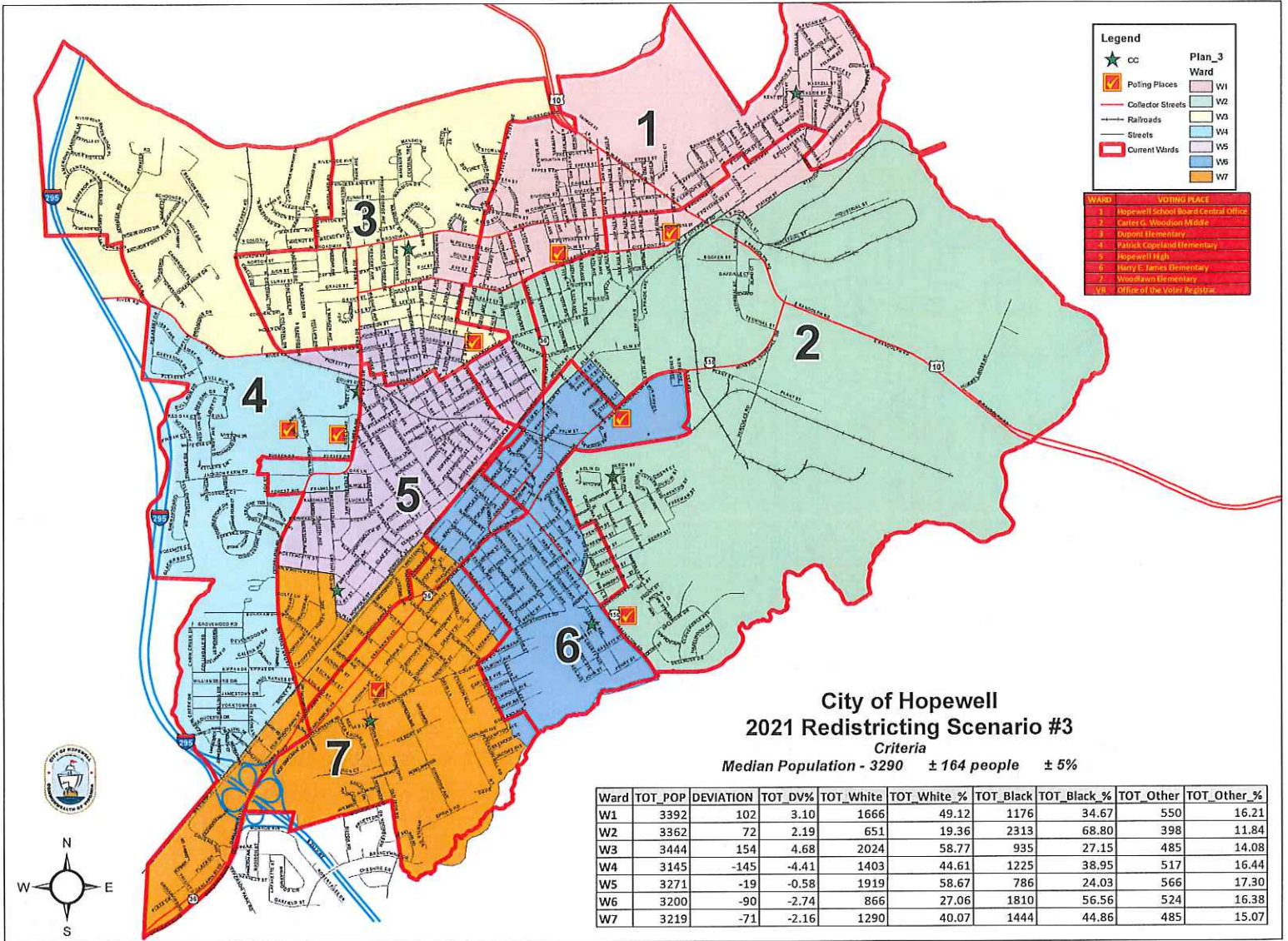
- Polling Places
- Collector Streets
- Railroads
- Streets
- Plan2
- Ward
- W1
- W2
- W3
- W4
- W5
- W6
- W7

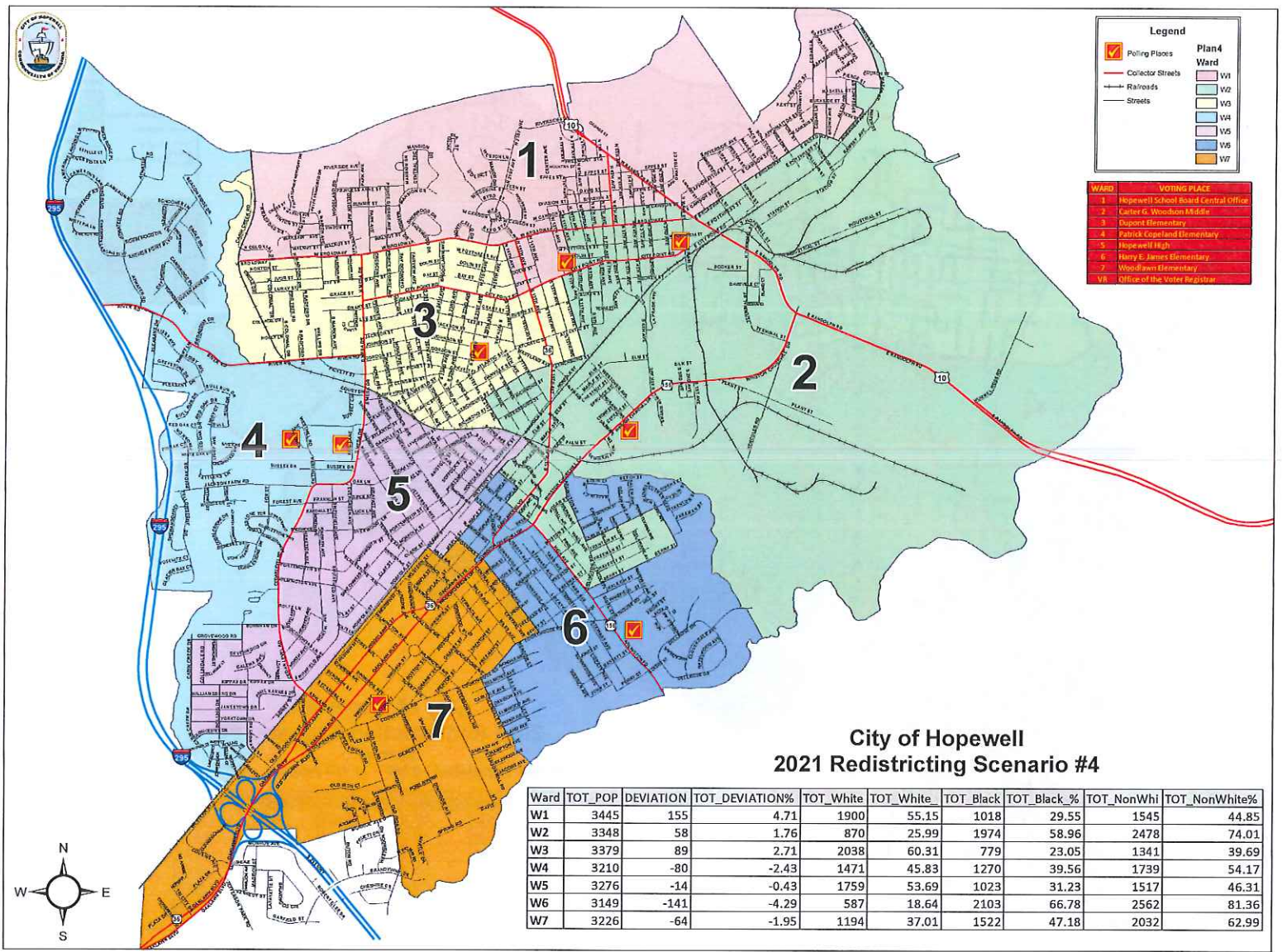
WARD	VOTING PLACE
1	Hopewell School Board Central Office
2	Carter G. Woodson Middle
3	Dupont Elementary
4	Patrick Copeland Elementary
5	Hopewell High
6	Mary E. James Elementary
7	Woodlawn Elementary
VR	Office of the Voter Registrar

**City of Hopewell  
2021 Redistricting Scenario #2**

Ward	TOT_POP	DX_DEVIATION	TOT_DEV%	TOT_White	TOT_White %	TOT_Black	TOT_Black %	TOT_Other	TOT_Other %
W1	3136	-154	-4.68	1484	47.32	1151	36.70	501	15.98
W2	3254	-36	-1.09	984	30.24	1835	56.39	435	13.37
W3	3268	-22	-0.67	2111	64.60	620	18.97	537	16.43
W4	3397	107	3.25	1567	46.13	1336	39.33	494	14.54
W5	3159	-131	-3.98	1911	60.49	728	23.05	520	16.46
W6	3375	85	2.58	575	17.04	2315	68.59	485	14.37
W7	3444	154	4.68	1187	34.47	1704	49.48	553	16.06







**Legend**

- Polling Places
- Collector Streets
- Railroads
- Streets

**Plan 4 Ward**

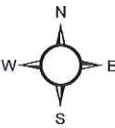
- W1
- W2
- W3
- W4
- W5
- W6
- W7

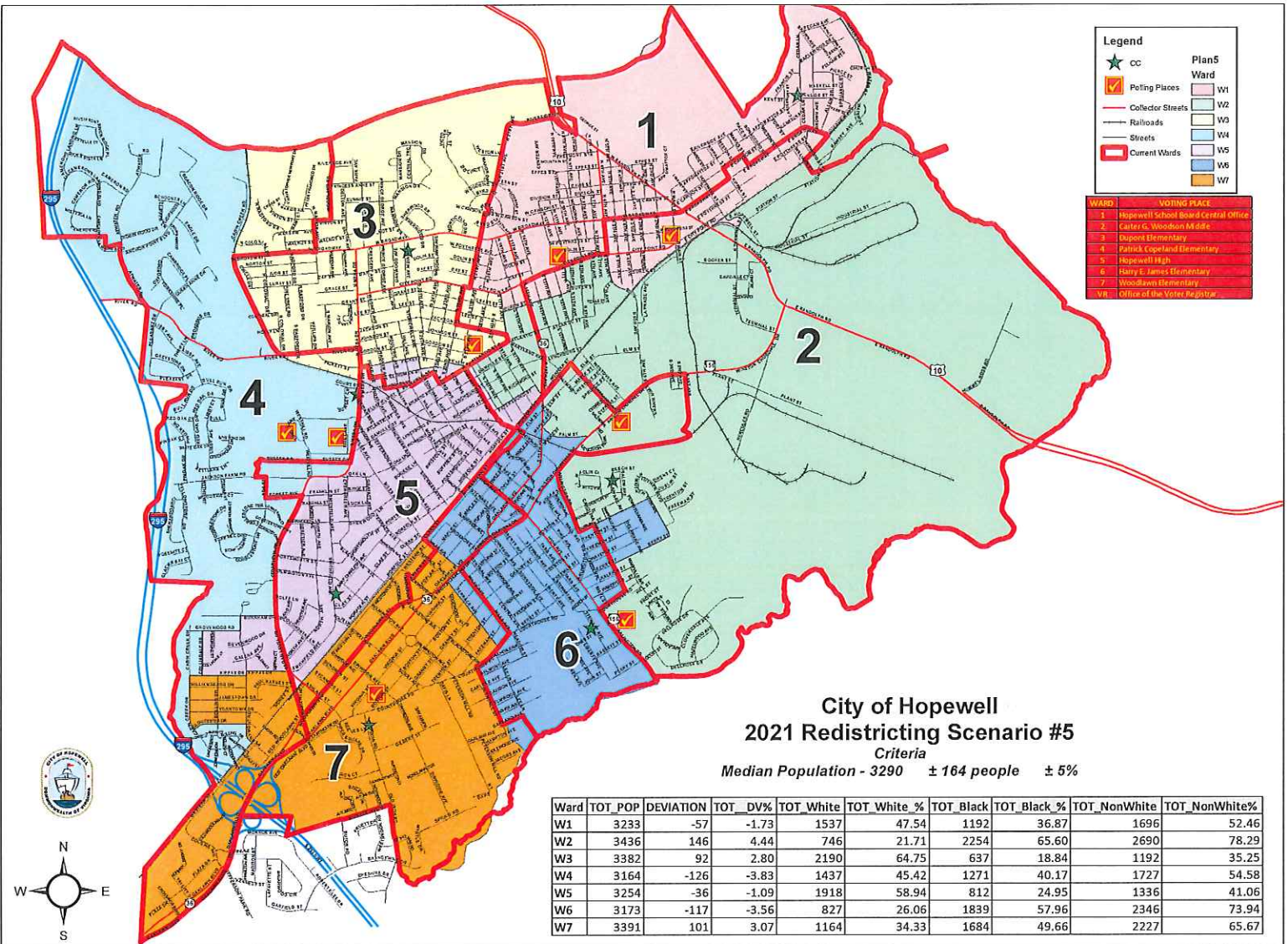
**WARD VOIRING PLACE**

- 1 Hopewell School Board Central Office
- 2 Carter G. Woodson Middle
- 3 Dupont Elementary
- 4 Patrick Copeland Elementary
- 5 Hopewell High
- 6 Harry E. James Elementary
- 7 Woodlawn Elementary
- VB Office of the Voter Registrar

**City of Hopewell  
2021 Redistricting Scenario #4**

Ward	TOT_POP	DEVIATION	TOT_DEVIATION%	TOT_White	TOT_White	TOT_Black	TOT_Black_ %	TOT_NonWhi	TOT_NonWhite%
W1	3445	155	4.71	1900	55.15	1018	29.55	1545	44.85
W2	3348	58	1.76	870	25.99	1974	58.96	2478	74.01
W3	3379	89	2.71	2038	60.31	779	23.05	1341	39.69
W4	3210	-80	-2.43	1471	45.83	1270	39.56	1739	54.17
W5	3276	-14	-0.43	1759	53.69	1023	31.23	1517	46.31
W6	3149	-141	-4.29	587	18.64	2103	66.78	2562	81.36
W7	3226	-64	-1.95	1194	37.01	1522	47.18	2032	62.99

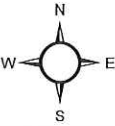




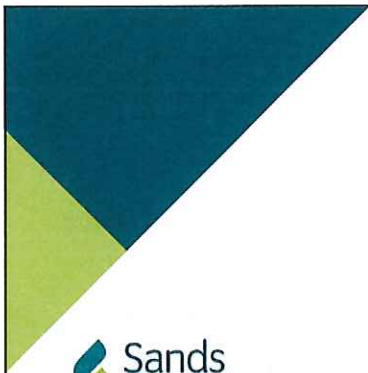
**Legend**

- ★ cc
- ☑ Peeling Places
- Collector Streets
- Railroads
- Streets
- ▭ Current Wards
- ▭ Plan5 Ward
- ▭ W1
- ▭ W2
- ▭ W3
- ▭ W4
- ▭ W5
- ▭ W6
- ▭ W7


WARD	VOTING PLACE
1	Hopewell School Board Central Office
2	Carter G. Woodson Middle
3	Dixon Elementary
4	Patrick Copeland Elementary
5	Hopewell High
6	Hairy E. James Elementary
7	Woodlawn Elementary
VR	Office of the Voter Registrar







# 2021 Virginia Local Redistricting and Election Law

 Sands Anderson

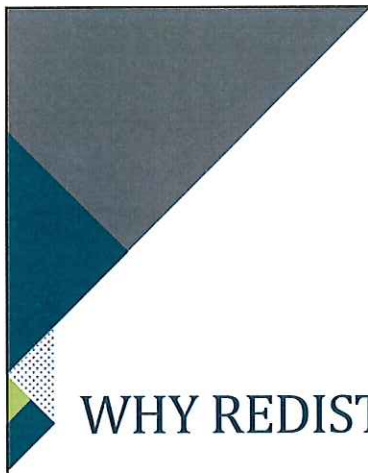
**Presentation to City Council,  
City of Hopewell, Virginia  
February 3, 2022**

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Presented by  
Andrew R. McRoberts, Esquire  
Sands Anderson PC

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# WHY REDISTRICT?



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## Why Redistrict – Statutory Requirements

The Virginia Constitution and Virginia Code mandate decennial redistricting by local governments.

Localities other than those with all at-large districts must redistrict their single or multi-member districts in every year ending in one (e.g., 2021). Va. Code section 24.2-304.1(B).

Redistricting must use the most recent decennial census population figures for redistricting and reapportionment purposes. Va. Code section 24.2-304.1; 24.2-304.1(C).

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## Why Redistrict – Statutory Requirements

Given the unusual lateness of the census data and the equally unusual lateness of state action on redistricting, many localities have chosen to redistrict in 2022.

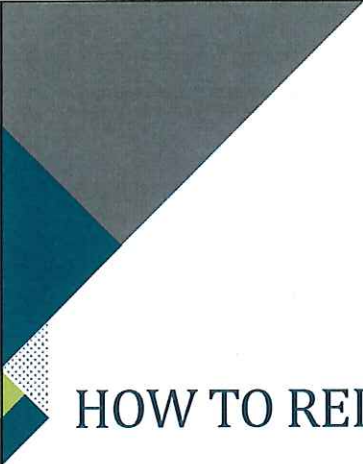
No penalty in the statute for failure to redistrict in a year ending in one.

Consensus among local government attorneys is that localities do not lose power to rezone if 2021 is over... the statute is directory rather than mandatory.

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# HOW TO REDISTRICT?

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## How to Redistrict – Unwritten Criteria

Unwritten, common law criteria include traditional redistricting elements such as preserving:

1. existing districts,
2. incumbency,
3. voting behavior, and
4. communities of interest.

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## How to Redistrict- Constitutional Basics

Redistricting must comply with Federal and Virginia Constitutional Requirements.

These include requirements that the districts:

1. Be more or less equal in population based on the principle of “one-person, one vote,
2. Be contiguous and compact, and
3. NOT be drawn to discriminate on race.

These are often repeated and reinforced by statutory provisions.

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## How to Redistrict – Statutory Criteria

Redistricting must use the most recent decennial census population figures, as adjusted by Division of Legislative Services, for redistricting and reapportionment purposes. Va. Code section 24.2-304.1.

Districts must be redrawn if the existing districts, given the new census date, do not meet the constitutional or statutory requirements due to population growth or loss, or demographic shifts.

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## How to Redistrict – Statutory Criteria

Per Virginia Code sections 24.2-304.1(B) and 24.2-305, local electoral districts must be:

1. Comprised of contiguous and compact territory.
2. Give “as nearly as is practicable, representation in proportion to the population of the district or ward.”
3. Have clearly defined and observable boundaries.

Note: No “community of interest” requirement like state redistricting.

(I’ll address each of these in turn.)



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## How to Redistrict – Contiguous and Compact

This statutory requirement is consistent with the constitutional standard of the same name.

Though this has been litigated and debated a great deal, there still is no precise statutory definition for these terms.

“Contiguous” includes territory across roads and bodies of water.

“Compact” is often honored in the breach to accomplish other criteria, such as “proportional representation” or racial fairness, but the goal is to avoid an elongated, odd twisting districts.



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## How to Redistrict – Contiguous and Compact

Contiguity is more of a fact – you have it or not – but “Compactness” is most often litigated and criticized.

“Gerrymandering” is the term used to criticize districts that are far from “compact” as the dictionary might define it.

Courts traditionally judge “compactness” of a district by comparing its area to:

1. The area of circle with same diameter.
2. The area of circle drawn around the district.
3. After smoothing out geographically-caused rough edges, #1 above.

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## How to Redistrict – Contiguous and Compact

Courts have held that districts need not be as “compact” as possible and recognize that many other considerations come into play.

A local legislature’s decisions on compactness are presumed constitutional and are judged on the fairly debatable standard (i.e., if there are reasons both for and against the decision, it is deemed to be “fairly debatable” and upheld).

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## How to Redistrict – More or Less Equal Population

There will be deviations from perfect equality – it would be nearly impossible to divide a locality into districts of identical population.

Deviations up to 10% total may be permitted.

I recommend attempting and showing that lower percentages are not possible before settling on a higher percentage differential. Smaller percentage is better, if possible, but stay under 10% to get presumption of constitutionality.

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## How to Redistrict – More or Less Equal Population

Above 10%? Presumed not constitutional. Below 10%? Presumed constitutional (rebuttable).

Note: Goal is less than 5% above ideal and above 5% of ideal. BUT... 10% judged not from mathematical ideal, but rather between the highest and lowest deviation

Always will be deviations from equality, so deviations are judged under the equal protection standard. Similar to fairly debatable... is there reasonable basis for deviation? If so, presumed constitutional.

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## How to Redistrict – Clearly Defined and Observable Boundaries

By Va. Code section 24.2-305, a "clearly observable boundary" is not the dictionary definition, but rather only these:

- (i) any named road or street,
- (ii) any road or highway which is a part of the federal, primary, or secondary state highway system,
- (iii) any river, stream, or drainage feature shown as a polygon boundary on the TIGER/line files of the United States Bureau of the Census, or
- (iv) any other natural or constructed or erected permanent physical feature which is shown on an official map issued by the Virginia Department of Transportation, on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census.

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## How to Redistrict – Clearly Defined and Observable Boundaries

Census data comes to locality in census "blocks" in TIGER/line files from the United States Bureau of the Census Bottom line... You are limited to placing lines along the boundaries of these census blocks in the census data.

So, bottom line, follow the TIGER/lines and the census blocks, you are following this criteria properly.

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## How to Redistrict – Scheduling Issues Regarding Federal Preclearance

Va. Code section 24.2-313 contains provisions regarding DOJ preclearance and what happens if preclearance cannot be obtained in time.

However, U.S. Supreme Court held in *Shelby County v. Holder*, 570 U.S. 529 (2013) that Section 4(b) requiring preclearance was unconstitutional.

There is no mention in this statute in the new OAG certification procedure found in Va. Code section 24.2-129 from the 2021 Virginia Rights of Voters Act, modeled in part after the federal Voting Rights Act.

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## How to Redistrict – Federal Voting Rights Act and Preclearance

Although Section 4(b) of VRA is unconstitutional and thus unenforceable, the remainder of VRA is still in effect. Some provisions as interpreted by courts:

1. Under some circumstances, localities must draw opportunity districts with some consideration of race to do so. *Abbot v. Perez*
2. Do not deny or abridge minorities rights to vote. VRA Sec. 2(a).
3. Minorities must have no less opportunity to elect representatives of their choice. VRA Sec. 2(b).

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## How to Redistrict –Federal Voting Rights Act and Preclearance

Two practices which are frequently litigated and should be avoided except in rare circumstances:

1. Cracking.

Splitting up minorities into multiple districts to reduce their influence of opportunity to elect representatives of their choice.

2. Packing.

Packing minorities into certain districts in excessive numbers to reduce their influence overall. These practices also likely violate the Virginia Rights of Voters Act (discussed next).

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## How to Redistrict –Federal Voting Rights Act and Preclearance

Generally, keep a majority minority district if you can, and do not create a new one unless needed. However, if you do choose to create a new one (to comply with mandates of the VRA or the VA Rights of Voters Act), be very, very careful. If you create a new majority minority district due to population/demographic shifts, document alternatives and historical reasons for doing so. If you lose one you now have, document alternatives to prove it cannot reasonably be done.

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## Virginia Rights of Voters Act – 2021

Va. Code section 24.2-125, et seq.

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## How to Redistrict – 2021 Virginia Rights of Voters Act

2021 General Assembly adopted a sweeping new voter rights law re: “discrimination based on race or color or membership in a language minority group.” Effective Sept. 1, 2021, it contains a number of new requirements that will impact 2021 redistricting. Requires additional notices and implements a new preclearance-like process, this time by the Virginia Attorney General’s Office rather than the U.S. Department of Justice as formerly under federal law.

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## How to Redistrict – 2021 Virginia Rights of Voters Act

The Act applies to a “covered practice,” requires additional notices or a prequalification-like process through the OAG call “certification of no objection.” Va. Code section 24.2-219.

“Covered practice” includes the following:

1. Any change to the boundaries of election districts, *“including changes made pursuant to a decennial redistricting measure.”*
2. Any changes that reduces the number of or consolidates or relocates polling places, except in emergency.

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## How to Redistrict – 2021 Virginia Rights of Voters Act

### OPTION 1 - Va. Code section 24.2-129(B), (C):

First alternative. At least 45 days “prior to enacting or seeking to administer any voter qualification or prerequisite to voting, or any standard, practice, or procedure with respect to voting, that is a covered practice,” the following additional notices must be provided:

1. Publication by locality on its website a notice of opportunity for public comment on the proposed covered practice, and
2. Publicize the notice via press releases and other media.

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## How to Redistrict – 2021 Virginia Rights of Voters Act

First alternative. In addition to the new notices in Option 1:

1. Public comment must be “accepted for no fewer than 30 days via mail, fax, or email, or through an online public comment forum on the official website for the locality if one has been established.”
2. One public hearing must be held during this 30-day period to receive public comment.

Only THEN may locality adopt changes.

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## How to Redistrict – 2021 Virginia Rights of Voters Act

First alternative. Changes? However, after public comment is received in Option 1, if the governing body makes any changes, the same notices are required, along with a new opportunity for public comment and a new public hearing, except that the comment period may be 15 days instead of 30 days.

Question: Since the statute mandates that notices begin no later than 45 days before the end of the comment period, does this reduction in the public comment period shorten the process at all?

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## How to Redistrict – 2021 Virginia Rights of Voters Act

First alternative. Publication of Adopted Change and Delayed Effective Date. After previous notices and public comments are concluded in Option 1, a publication of the proposed covered practice is required in a newspaper of general circulation, including a “plain English description of the practice and the text of the ordinance giving effect to the practice, maps of the proposed boundary changes, or other relevant materials, and a notice that the covered practice will take effect in 30 days.”

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## How to Redistrict – 2021 Virginia Rights of Voters Act

First alternative. Cause of Action. In the 30 days following this final publication in Option 1, “any person who will be subject to or affected by the covered practice” may sue in local circuit court due to:

1. “purpose or effect of denying or abridging the right to vote on the basis of race, color or membership in the language minority group,”
2. “retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise.”

Court may award attorney’s fees (presumably in addition to striking down a violating covered practice) in addition to other allowed judicial review.

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## How to Redistrict – 2021 Virginia Rights of Voters Act

### OPTION 2 - Va. Code section 24.2-129(D):

Second alternative. In lieu of the procedure above, which I have called Option 1, another procedure allowing for preclearance by the Virginia AG is allowed.

The locality would submit the proposed covered practice to the OAG for issuance of a “certification of no objection.” The practice may not go into effect until that certification is given. Such certification is deemed to be given if the AG does not interpose an objection within 60 days of submission, or, if upon good cause shown, AG says sooner that no objection will be made.



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## How to Redistrict – 2021 Virginia Rights of Voters Act

Second alternative. Option 2 is clearly the quicker of the two processes (a 60-day maximum). Option 1 is a 45 notice and comment period followed by a 30-day publication period, for a total of at least 75 days.

Also, the OAG certification process could allow for a response sooner than 60 days. One hopes that the urgency created in 2021 decennial redistricting by the census data arriving late and the statutory deadline for redistricting to be accomplished in 2021 would be a “good cause shown” for some speed.

Finally, Option 2 removes one chance to be sued.



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## How to Redistrict – 2021 Virginia Rights of Voters Act

Second alternative. However, Va. Code section 24.2-129(D) expressly says the issuance of a certification of no objection to the covered practice “shall not bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice or procedure.”

Other judicial review is discussed below.

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## How to Redistrict – 2021 Virginia Rights of Voters Act

Additionally, similar to VRA, an at-large method of election, even one combined with district-based elections, “shall not be imposed or applied by the governing body of any locality in a manner that impairs the ability of members of a protected class [defined as “a group of citizens protected from discrimination based on race or color or membership in a language minority group”] to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of a protected class.”

Va. Code sec. 24.2-224(A).

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## How to Redistrict – 2021 Virginia Rights of Voters Act

Proof of this comes from a showing that “racially polarized voting occurs in local elections and that this, in combination with the method of election, dilutes the voting strength of members of a protected class.”

Va. Code sec. 42.2-224.1(B).

“Racially polarized voting” refers to the extent to which the candidate preferences of members of the protected class and other voters in the jurisdiction have differed in recent elections for the office at issue and other offices in which the voters have been presented with a choice between candidates who are members of the protected class and candidates who are not members of the protected class. *Id.*

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## How to Redistrict – 2021 Virginia Rights of Voters Act

A finding of racially polarized voting is not precluded by the fact that members of a protected class are not geographically compact or concentrated in a locality. Proof of an intent on the part of voters or elected officials to discriminate is not required. Va. Code sec. 42.2-224.1(B).

Any voter who is a member of a protected class, as defined in § 24.2-125, and who resides in a locality where a violation of this section is alleged shall be entitled to initiate a cause of action in the local circuit court. Court may allow a private prevailing plaintiff a reasonable attorney fee as part of the costs. Court shall implement remedies tailored to remedy the violation. Va. Code sec. 24.2-224.1(C)&(D).

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# EFFECTS OF REDISTRICTING

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## Effects of Redistricting – Statutory Provisions

Redistricting ordinances take effect immediately, but do not cut short the term of any sitting member or require them to live in the newly-relocated district. Loss of residency has no effect on sitting members of local officials, including members of the local governing body, school boards, planning commissions, and other local boards and commissions with residency requirements. Virginia Code sections 24.2-304.6, 24.2-311.

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# Happy Redistricting!

**Andrew R. McRoberts, Esquire**

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Richmond, VA 23219



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CITY OF  
HOPEWELL  
REDISTRICTING  
2021



## REQUIREMENTS FOR REDISTRICTING

- Law requires Council to change the boundaries of Wards every 10 years in year ending in 1.
- Changes need to reapportionate population among the Wards.
- Boundary changes must be based on U.S. Census data.
- Redistricting of Wards does not change any school district boundaries.

# REQUIREMENTS FOR REDISTRICTING

- Wards must be:
  - Contiguous
  - Compact
  - Have clearly observable boundaries such as streets, rivers and other permanent features shown on maps.
  - Have equal populations; maximum deviation between districts should be less than 5%.
- Redrawing Wards cannot result in
  - Racial vote packing (concentrating a voting block into one district to move their ability to influence surrounding districts)
  - Racial vote cracking (breaking a voting block into many districts to water down their vote)



## Using Census Data:

- Identify the Ward 2020 Census Ward Populations
- Determine "Ideal" Ward Population based on overall new population of the City
- Calculate Standard Deviation
- Calculate Average Deviation
- Verify Results



## Using Census Data:

- Ideal Ward Population = 3,290
- Standard Deviation
  - ✓ +5% to -5%
  - ✓ Ideal Population Numbers +164.5 to -164.5





## 2020 CITY POPULATION

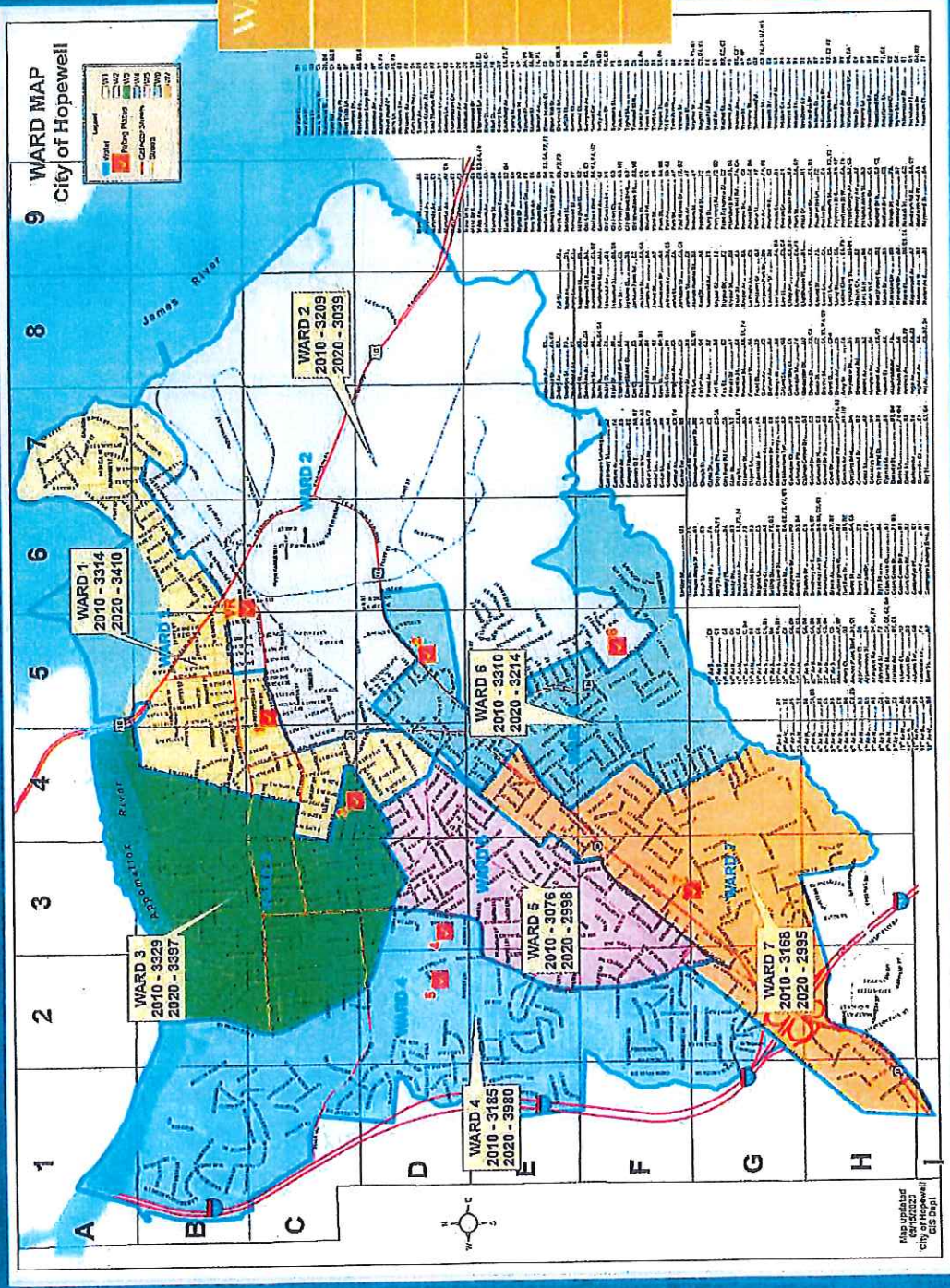
- 2010 Population: 22,591
- 2020 Population: 23,033
- 1.95% increase in population



# Population change by Ward



WARD	2010	2020	% CHANGE
1	3314	3410	+2.89%
2	3209	3039	-5.2%
3	3329	3397	+2%
4	3185	3980	+24.9%
5	3076	2998	-2.5%
6	3310	3214	-2.9%
7	3168	2995	-5.4%



# CALCULATING IDEAL WARD POPULATION

Amount Above or Below "Ideal" Ward  
Population of 3,290 by Ward

	Ward	Total Population	Amount of +/-
<b>AVERAGE 2020 POPULATION: 23,033/7= 3290</b>	1	3,410	120
	2	3039	-251
	3	3397	107
	4	3980	690
	5	2998	-292
	6	3214	-76
	7	2995	-295
	Total	23033	0



## CURRENT WARDS WITH NEW CENSUS DATA

WARD	TOT POP	TOT POP DEVIATION	% DEVIATION	WHITE	% WHITE	ALL OTHER	% ALL OTHER
W1	3410	120	3.65	2038	60	1224	36
W2	3039	-251	-7.63	803	27	2136	70
W3	3397	107	3.25	2485	73	763	23
W4	3980	690	20.97	2002	50	1836	46
W5	2998	-292	-8.88	1997	67	882	29
W6	3214	-76	-2.31	933	29	2148	67
W7	2995	-295	-8.97	1302	43	1543	52



## NEXT STEPS

- Hold a Work Session
- Provide population/ % change by race for each Ward
- Provide various mapping scenarios to accommodate new population numbers
- December 2021 or January 2022 work session