RANDOLPH COUNTY VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

ARTICLE I--AUTHORITY

The articles and sections of this ordinance are adopted pursuant to authority conferred by the N.C.G.S. Chapter 153A and N.C.G.S. §§106-735 through 744 (the Agricultural Development and Farmland Preservation Enabling Act).

ARTICLE II--PURPOSE

The purpose of this ordinance is to promote agricultural and environmental values and the general welfare of the county and, more specifically, increase identity and pride in the agricultural community and its way of life, encourage the economic health of agriculture, and increase protection from non-farm development and other negative impacts on properly managed farms.

This ordinance establishes a Voluntary Agricultural District Program and an Enhanced Voluntary Agricultural District Program that have the following benefits for participating farmers and other county residents:

The program preserves and maintains agricultural areas within the county.

The program informs non-farming neighbors and potential land purchasers that the participating farm may emit noise, dust, and smells. (This may help avoid conflicts between neighbors and potential nuisance claims.)

The program gives the farming community a better voice in Randolph County Commissioners' decisions affecting farmland.

Farmer participation in either program is voluntary.

The program conserves green space and natural resources as the county's population and development expand.

The program maintains opportunities to produce locally grown food and fiber.

The Enhanced Voluntary Agricultural District program provides participants in districts with greater benefits than farmers in the Voluntary Agricultural District program receive. Participating farms will be allowed to receive up to 25% of their gross sales from certain types of non-farm products and still qualify for the agricultural zoning exemption and be eligible for a higher percentage of cost-share program funding and have priority for other state grant programs.

ARTICLE III--VOLUNTARY AGRICULTURAL DISTRICT ADVISORY BOARD

A. <u>Creation</u>

The Board of Commissioners hereby establishes The Randolph County Voluntary Agricultural District Advisory Board to implement the provisions of this ordinance.

B. Appointments and Memberships

The Advisory Board shall consist of fourteen (14) members appointed by the Board of Commissioners, two (2) each appointed from the six (6) geographic areas outlined in Article V below and two (2) at large.

C. Requirements

1. Each Advisory Board Member shall be a Randolph County resident.
2. At least twelve (12) of the fourteen (14) members shall be actively engaged in farming or own qualifying farmland in Randolph County.
3. The Advisory Board Members actively engaged in farming shall be selected for appointment from the names of individuals submitted by Cooperative Extension, the Soil and Water Conservation District, the Natural Resources Conservation Service, the Farm Service Agency, and any other agricultural-related group, with an effort to have the broadest geographical representation possible. The Cooperative Extension Director shall coordinate efforts to solicit nominations for appointment.
4. Each District shall have two (2) representatives on the Advisory Board.

D. Tenure

Both the initial Advisory Board and alternates are to consist of three (3) members for terms of three years; two (2) members for terms of two years; and two (2) members for a term of one year. Thereafter, all appointments are to be for terms of three years. Members shall serve at the pleasure of the Board of Commissioners.

E. Vacancies

Any vacancy on the Advisory Board is to be filled, from recommendations of the above groups (in C.3.), by the Board of Commissioners for the remainder of the unexpired term.

F. Funding

The Board of Commissioners shall appropriate funds to Cooperative Extension for the following Advisory Board expenses:

1. mileage related to Advisory Board business;
2. supplies; and
3. road signs identifying Voluntary Agricultural Districts.

G. Advisory Board Procedure

1. Officers

   The Advisory Board shall elect a Chairperson, Vice-Chairperson and Secretary each year at its first meeting of the calendar year. The Chairperson shall preside over all regular or special meetings of the Advisory Board. In the absence or disability of the Chairperson, the Vice-Chairperson shall preside and shall exercise all powers of the Chairperson. Additional officers may be elected as needed.
2. Procedure

   The Advisory Board may adopt rules of procedure that are not inconsistent with this ordinance or with other provisions of State law.
3. Meetings

Meetings of the Advisory Board shall be held at least quarterly and otherwise at the call of the Chairperson and at such other times as the Advisory Board may specify in its rules of procedure and in accordance with the open meetings law. Notice of all meetings shall be made to the members in writing unless otherwise agreed to by all Advisory Board members.

4. Majority Vote
   All issues shall be decided by majority vote of the members of the Advisory Board.
5. Records
   The Secretary shall keep minutes of the proceedings and shall keep records of its examinations of applications and other official actions, all of which shall be filed in the office of the Advisory Board (Cooperative Extension Office) and shall be public record.
6. Administrative Services
   The Advisory Board shall work through the Cooperative Extension Director for recordkeeping, correspondence, application procedures under this ordinance, and whatever services the Board needs to complete its duties.

H. Powers and Duties

1. The Advisory Board shall
   a. review and approve applications for inclusion in, the establishment of, and modification of Voluntary Agricultural Districts or Enhanced Voluntary Agricultural Districts.
   b. review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption pursuant to NCGS 106, Article 61.
   c. advise the Board of Commissioners on projects, programs, or issues affecting the agricultural economy or agricultural community within the county.
   d. approve a report that is due in January each year to the North Carolina Commissioner of Agriculture (required by N.C.G.S. 106-743), prepared by the Cooperative Extension Director, giving the status, progress and activities of the county's Voluntary Agricultural District and Enhanced Voluntary Agricultural District Programs.
   e. hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of a qualifying farm in a Voluntary Agricultural District or Enhanced Voluntary Agricultural District.
   f. perform other related tasks or duties assigned by the Board of County Commissioners.
   g. have the authority to recommend to the Board of Commissioners to waive, on a case-by-case basis, the minimum acreage requirements to be a qualifying farm.
   h. develop a draft countywide farmland protection plan as defined in N.C.G.S. §106-744(e) for presentation to the Board of Commissioners.
   i. Perform other agricultural, horticultural, and forestry-related tasks or duties assigned by the Board of Commissioners.

ARTICLE IV--CERTIFICATION AND QUALIFICATION OF FARMLAND

In order for farmland to qualify under this Article, it must be real property that

A. Is engaged in agriculture as that word is defined in North Carolina General Statute 106-581.1;

B. Meets the size requirements applicable to its class of use as set out in North Carolina General Statute 105-277.3(a);

C. Is managed in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodable land;

D. Is the subject of a conservation agreement, as defined in N.C.G.S. 121-35, between the County Soil and Water Conservation District and the owner of such land, that prohibits non-farm use or development of such land for a period of at least 10 years, except for the creation of not more than three new lots that meet applicable County zoning and subdivision regulations. Revocation of a conservation agreement by the Voluntary Agricultural District Advisory Board or by the landowner of qualifying farmland shall result in the loss of eligibility to participate in a Voluntary Agricultural District;

E. Is not located within the corporate boundaries of a municipality within Randolph County; and

F. Is agreed that for a conservation agreement between Randolph County and the landowner for inclusion in an Enhanced Voluntary Agricultural District, said agreement CANNOT be revoked for 10 years and is binding on all successors and assigns unless released by action of the Board of Commissioners.

ARTICLE V--CREATION OF VOLUNTARY AGRICULTURAL AREAS

Number of Geographic Agricultural Areas

In order to provide geographic representation on the Advisory Board, Randolph County shall be divided into six (6) Geographic Agricultural Areas. The map designating these Areas is attached as Exhibit A and is incorporated herein by reference.

Area One: Northern boundary shall be the Randolph County-Guilford County line; eastern boundary shall be US Hwy 220 Bypass; southern boundary shall be US Hwy 64; western boundary shall be Randolph County-Davidson County line.

Area Two: Northern boundary shall be the Randolph County-Guilford County line; eastern boundary shall be NC Hwy 22; southern boundary shall be US Hwy 64; western boundary shall be US Hwy 220 Bypass.

Area Three: Northern boundary shall be the Randolph County-Guilford County line; eastern boundary shall be Randolph County-Chatham County line; southern boundary shall be US Hwy 64; western boundary shall be NC Hwy 22.

Area Four: Northern boundary shall be US Hwy 64; eastern boundary shall be Randolph County-Chatham County line; southern boundary shall be NC Hwy 22-42; western boundary shall be NC Hwy 42.

Area Five: Northern boundary shall be US Hwy 64 and NC Hwy 42 to Coleridge; eastern boundary shall be NC Hwy 22-42 from Coleridge and southern boundary shall be Randolph County-Moore County line; western boundary shall be US Hwy 220 Bypass.

Area Six: Northern boundary shall be US Hwy 64; eastern boundary shall be US Hwy 220 Bypass; southern boundary shall be Randolph County-Montgomery County line; western boundary shall be Randolph County-Davidson County line.

ARTICLE VI—CREATION OF VOLUNTARY AGRICULTURAL DISTRICTS

A. Implementation

In order to implement the purposes stated in Article II, the Advisory Board may consider creation of Voluntary Agricultural Districts or Enhanced Voluntary Agricultural Districts that meet one of the following standards:

1. Each initial or subsequent District shall contain a minimum of 20 contiguous acres of qualified farmland; or
2. Each initial or subsequent District shall contain two or more tracts of qualifying farmland that contain a minimum total of 20 acres and are located within one-half mile of each other.

B. Education

The County may take such action as it deems appropriate through the Advisory Board or other entities or individuals to encourage the formation of the Districts and to further their purposes and objectives, including the implementation of a public information program to reasonably inform landowners of the Voluntary Agricultural District and Enhanced Voluntary Agricultural District programs.

C. Withdrawal. A participating landowner in a Voluntary Agricultural District may withdraw at any time by providing a 30-day advanced written notice to the Voluntary Agricultural District Advisory Board. The Voluntary Agricultural District Advisory Board will, in turn, notify the County Commissioners of such request.

In the event that one or more participants in a Voluntary Agricultural District withdraws or loses eligibility to participate and the acreage becomes less than the minimum or results in the land being noncontiguous a Voluntary Agricultural District will continue to exist so long as there is one qualifying farm.

In the event of the original landowner's death any surviving heirs have the same 30-day advanced written notice consideration for withdrawal from either Voluntary Agricultural District program.

A participating landowner in the Enhanced Voluntary Agricultural District program CANNOT withdraw from the program for 10 years from the date the agreement is executed and the agreement is binding on all successors and assigns unless released by action of the Board of Commissioners.

D. Revocation. The Enhanced Voluntary Agricultural District requires that the conservation agreement between Randolph County government and the Enhanced Voluntary Agricultural District landowner cannot be revoked for at least 10 years. However, if the Voluntary Agricultural District Advisory Board deems the landowner to be in non-compliance with their agreement, the agreement may be revoked and result in loss of qualifying farm status and loss of eligibility to participate in the Enhanced Voluntary Agricultural District program.

E. Renewal. Conservation agreements for participation in either the Voluntary Agricultural District or the Enhanced Voluntary Agricultural District shall be deemed automatically renewed for an additional term of 10 years unless either the Voluntary Agricultural District Advisory Board or the landowner gives written notice to the contrary no later than 30 days prior to the termination date.

ARTICLE VII--APPLICATION, APPROVAL AND APPEAL PROCEDURE

A. Application Procedure

A landowner may apply to participate in either program by submitting application to the Cooperative Extension Office. The application shall be on forms provided by Cooperative Extension and approved by the Advisory Board.

B. Approval Process

1. Upon receipt of an application, the Cooperative Extension Director will forward copies or direct the landowner to forward copies to the following agencies for their prompt evaluation and response:
   a. the Natural Resources Conservation Service office for Randolph County and/or the Randolph County Soil and Water Conservation Service, and/or
   b. the North Carolina Forest Service or a licensed consulting forester.
2. Upon receipt of the responses from the Randolph County Tax Department and the Natural Resources Conservation Service, the Advisory Board shall meet within 90 days to consider the application. The Cooperative Extension Director shall notify the applicant by first-class mail of the Advisory Board's decision within 15 days.

C. Appeal

If the Advisory Board denies an application, the petitioner has 30 days to appeal the decision to the Board of Commissioners. Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.

ARTICLE VIII—NOTIFICATION

Upon approval of a Voluntary Agricultural District or Enhanced Voluntary Agricultural District, the County Planning Department shall provide notification of said District by the following methods:

A. Signs approved by the Advisory Board shall be installed along the right-of-way of major roads adjoining the District in a manner approved by the North Carolina Department of Transportation so that current and potential residents and property owners might be aware that farming and agricultural activities may take place at any time. Specific location of

the signs, including number of signs necessary to provide adequate notice of the specific District, shall be approved by the County Planning Director.

B. The County Planning Department shall maintain maps of approved Districts within the Randolph County Geographic Information Mapping System Database. This mapping information may be viewed by accessing the Randolph County website at www.co.randolph.nc.us, or at the County Planning Department.

C. The Randolph County Tax Department shall add a special notice to the Tax Inquiry Land Records System so that anyone doing title searches and record searches for outstanding tax bills will be advised to contact the County Planning Department concerning location of the Voluntary Agricultural District or Enhanced Voluntary Agricultural District prior to change of parcel ownership.

D. Notice of these methods of District notification and identification shall be included in all Randolph County Voluntary Agricultural District Program information brochures, which are made available to the public by the Cooperative Extension Service, County Planning Department, and the County Tax Department.

ARTICLE IX--PUBLIC HEARINGS ON PROPOSED CONDEMNATIONS

A. Purpose

No state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a District until such agency or unit has requested the Advisory Board hold a public hearing on the proposed condemnation, this ordinance provides for such hearing.

B. Procedure

1. Upon receiving a request, the Advisory Board shall direct the Cooperative Extension Director to publish notice describing the proposed action in a newspaper of general circulation in Randolph County within five (5) business days of the request, and in the same notice to notify the public of a public hearing on the proposed condemnation to be held within ten (10) days of receipt of the request.
2. The Advisory Board shall meet to review
   a. if the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved;
   b. alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.
3. The Advisory Board shall consult with the County Extension Director, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies or organizations deemed by the Advisory Board to be necessary for its review of the proposed action. Land value will not be a factor in the selection between properties under consideration for the proposed action.
4. The program requires the Randolph County Commissioners to use farmland "as a last resort" if they are attempting to condemn county lands;

5. Within five (5) days after the public hearing, the Advisory Board shall make a report containing its findings and recommendations regarding the proposed action. The report shall be made available to the public for comment prior to its being conveyed to the decision-making body of the agency proposing acquisition.
6. There will be a period of ten (10) days allowed for public comment on the report of the Advisory Board.
7. After the ten- (10-) day period for public comment has expired, the Advisory Board shall submit a final report containing all of its findings and recommendations regarding the proposed action to the decision-making body of the agency proposing the acquisition.
8. The total time period, from the day that a request for a hearing has been received to the day that a final report is issued to the decision-making body of the agency proposing the acquisition shall not exceed thirty (30) days. If the agency agrees to an extension, the agency and the Advisory Board shall mutually agree upon a schedule to be set forth in writing and made available to the public.
9. No state or local agency may formally initiate a condemnation action while the proposed condemnation is properly before the Advisory Board within these time limitations.

ARTICLE X--WAIVER OF WATER AND SEWER ASSESSMENTS

A. No Requirement to Connect

No requirement to connect to Randolph County water and/or sewer systems shall be imposed upon qualifying farms inside a District.

B. Abeyance

Water and sewer assessments will be held in abeyance, without interest, for qualifying farms, inside a District, until improvements on such property are connected to the water or sewer system for which the assessment was made.

C. Termination of Abeyance

When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

D. Suspension of Statute of Limitations

Statutes of limitations are suspended during the time that any assessment is held in abeyance without interest.

E. Other Statutory Abeyance Procedures

Nothing in this section is intended to diminish the authority of Randolph County to hold assessments in abeyance under N.C.G.S. 153A-201.

ARTICLE XI--NORTH CAROLINA AGENCY NOTIFICATION

A. Adoption

Upon adoption of this ordinance and any subsequent amendment, the Clerk to the Board of County Commissioners shall record this ordinance with the North Carolina Commissioner of Agriculture and Consumer Services.

B. Annual Report

The Cooperative Extension Director, on behalf of the Advisory Board, shall make an annual report each January to the North Carolina Commissioner of Agriculture and Consumer Services as specified in N.C.G.S. 106-743.

ARTICLE XII--LEGAL PROVISIONS

A. Limit of Liability

In no event shall the County or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by this ordinance.

B. No Cause of Action

In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or District as defined in this ordinance

C. Severability

If any article, section, subsection, clause, phrase or portion of this ordinance is for any reason invalid or unconstitutional as determined by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

D. Conflict with other Ordinances and Statutes

Whenever the provisions of this ordinance conflict with other ordinances of Randolph County, this ordinance shall govern to the extent allowed by law. Whenever the provisions of any federal or state statute require more restrictive provisions than are required by this ordinance, the provisions of such statute shall govern.

E. Repeal of Previous Ordinance

The ordinance entitled "RANDOLPH COUNTY VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE," adopted February 4, 2002, is hereby repealed.

F. Effective Date

This ordinance shall become effective upon the date of its adoption.

Upon motion of Commissioner Davis, seconded by Commissioner Kemp, the foregoing ordinance was passed by the following vote: Aye - 5 No - 0

I, Alice D. Dawson, Clerk of the Randolph County Board of Commissioners, do hereby certify that the foregoing ordinance was duly adopted on February 7, 2005, by the governing body of Randolph County at a regular meeting thereof, a quorum being present.

Alice D. Dawson
Clerk to the Board of Commissioners

Upon motion of Haywood, seconded by Lanier, the foregoing ordinance was unanimously amended on February 5, 2007 to include an option for farmers to participate in an Enhanced Voluntary District Program. Also included in the amendment was a name change from the six (geographic) Voluntary Agricultural Districts to Voluntary Agricultural Areas.

I, Cheryl A. Ivey, Clerk of the Randolph County Board of Commissioners, do hereby certify that the foregoing ordinance was duly amended on February 5, 2007, by the governing body of Randolph County at a regular meeting thereof, a quorum being present.

Cheryl A. Ivey
Clerk to the Board of Commissioners

Upon motion of Kemp, seconded by Haywood, the foregoing ordinance was unanimously amended on December 3, 2012 to redefine qualifying farmland so that the definition is in line with new North Carolina statutory requirements. This includes removal of the requirement that the farmland be in the "present use" deferred tax program, but keeping the size requirements of said program as a guideline for acceptance into Randolph County Voluntary Agricultural District Programs. The amendment also includes changes regarding the advisory board composition, such that there will no longer be alternates; all 14 members will be full members.

I, Cheryl A. Ivey, Clerk of the Randolph County Board of Commissioners, do hereby certify that the foregoing ordinance was duly amended on December 3, 2012, by the governing body of Randolph County at a regular meeting thereof, a quorum being present.

Cheryl A. Ivey
Clerk to the Board of Commissioners

Voluntary Agricultural Areas

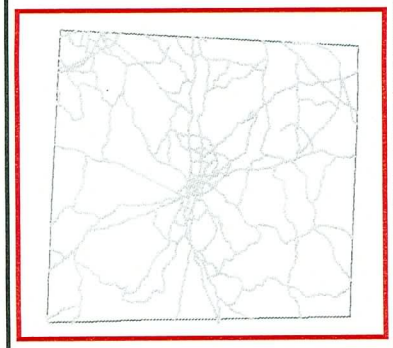
Legend

Roads

Agricultural Areas

Area number

- 1
- 2
- 3
- 4
- 5
- 6
- Municipal limits



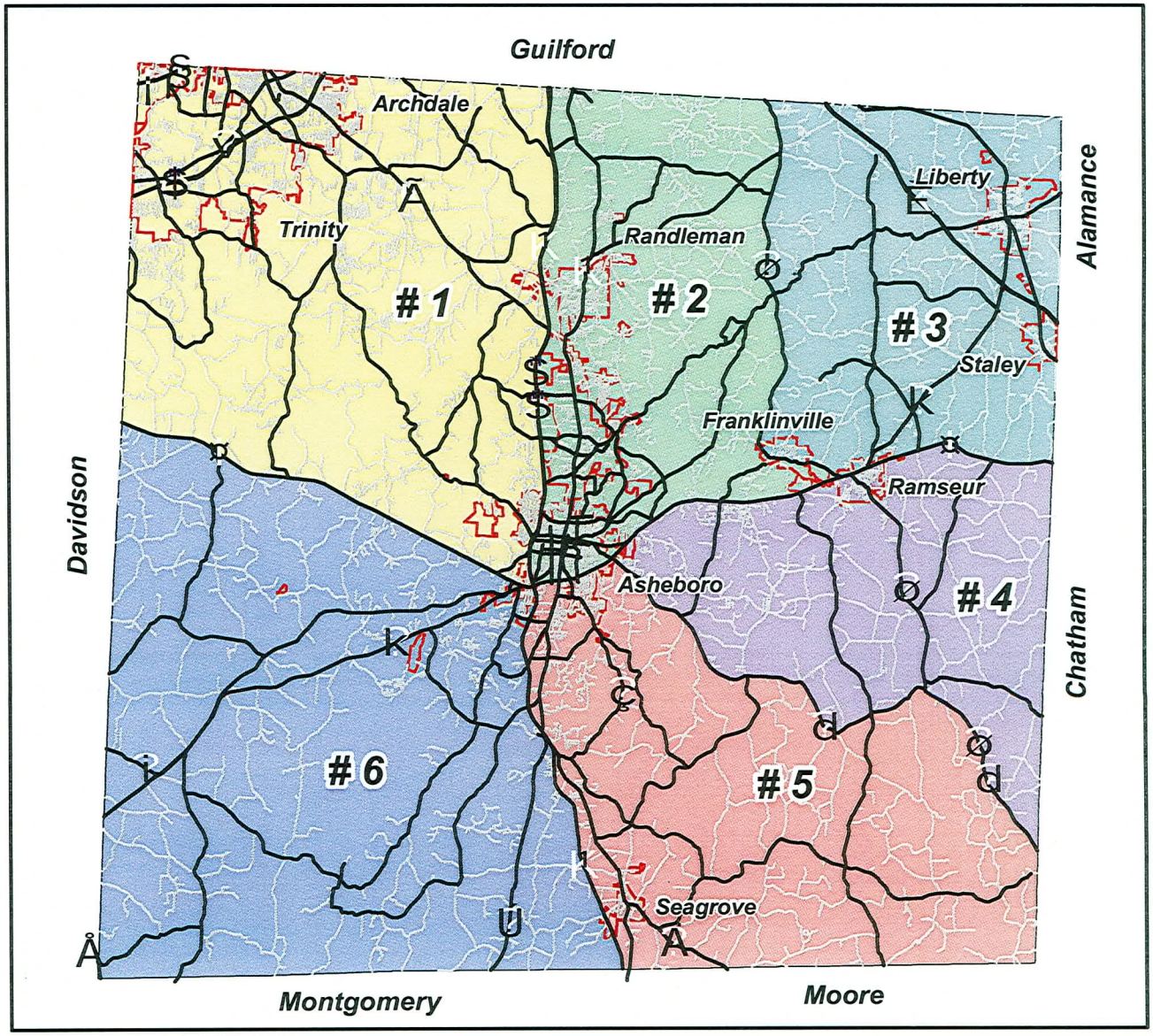


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EXHIBIT A