

ARTICLE 5
AMENDMENTS TO DEVELOPMENT ORDINANCE AND ZONING MAP
[Amended Oct. 19, 2015 per Ord. 2015-O-21, ZTA-2015-03]

5.1 General

The Creedmoor City Board of Commissioners may amend, supplement, modify, or repeal any provision of this ordinance or amend the zoning maps according to the procedure established by NCGS§160A-384. Such amendments shall be evaluated for compliance with the City's Land Use Plan, Comprehensive Master Plan and other applicable adopted plans, and may require a land use plan and/or comprehensive master plan amendment to ensure compatibility between the plan(s) and the amendment. Amendments and modifications shall be acted upon by the City Board of Commissioners, after recommendation from the *Planning Board*.

5.2 Initiation of Amendments

Proposed changes or amendments to the text of this chapter or to the Official Zoning Map may be initiated by the Creedmoor City Board of Commissioners, the Creedmoor *Planning Board*, the *Board of Adjustment*, the *Planning, Zoning and Subdivision Administrator*, any owner of a legal or equitable interest in land located in the City or its extraterritorial jurisdiction, or any resident of the City or its extraterritorial jurisdiction (NCGS§ 160A-385).

5.3 Amendment Process

5.3-1 Initial Application Process.

- (A.) Pre-filing meeting. Before filing a petition for an amendment or a request for a zoning study, an applicant shall meet with the *Planning, Zoning and Subdivision Administrator* to discuss the proposed amendment or request and to become more familiar with the applicable requirements and approval procedures.

- (B.) Neighborhood meeting. Before filing a petition for an amendment other than single family residential lots, an applicant shall meet with representatives of the neighborhood in which the property for which the map amendment (rezoning) is proposed is located. This meeting shall be held at the pre-application stage to allow the applicant to explain the proposed map amendment (rezoning) and to be informed of the concerns of the neighborhood. The meeting will help the developer address major concerns of the Neighborhood prior to the Public Notification process described in 5.3-4(B) below. The neighborhood meeting should include a presentation of the plan and an opportunity for concerned parties to ask questions and be provided responses to those questions. The Planning, Zoning & Subdivision Administrator should be notified of the time, date, and place of the neighborhood meeting at least five days prior to the meeting.

- (C.) Filing.
 - (1.) A petition requesting an amendment or a zoning study shall be filed with the Planning Department on a form provided by the *Planning, Zoning and Subdivision Administrator*.
 - (2.) Applicable fees shall be payable as set forth by the Creedmoor City Board of Commissioners.
 - (3.) Petitions must be submitted by 12:00 noon on the third Friday of the month in order for the petition to be heard at the meeting of the Creedmoor *Planning Board* scheduled at least 30 days later.
- (D.) Content of applications.
 - (1.) Each application shall contain or be accompanied by all information required on the application form provided by the *Planning, Zoning and Subdivision Administrator*.
 - (2.) Every amendment proposing to change the district boundary lines shall be accompanied by a metes and bounds description, a survey of the area involved, or reference to existing lots, sufficient in the estimation of the *Planning, Zoning and Subdivision Administrator* to plot or otherwise identify the amendment on the official zoning maps of the City of Creedmoor.
 - (3.) Any person designated by the owner(s) of the property included in the petition to serve as agent for the owner shall submit such authorization in writing with the application.

5.3-2 Reserved.

5.3-3 Review by the Creedmoor *Planning Board*. (Revised August 27, 2013 per 2013-O-12)

- (A.) General. Upon submission of a request for a Creedmoor Development Ordinance amendment or an Official Zoning Map amendment, the request shall be scheduled for review by the Creedmoor *Planning Board*. The Creedmoor *Planning Board* shall hold a meeting to consider the requested amendment(s).
- (B.) Review – General. The public meeting shall be conducted in accordance with the rules of procedure of the Creedmoor *Planning Board*. The Board shall make recommendations to the Creedmoor City Board of Commissioners regarding whether to approve or deny each proposed amendment. When considering an amendment, the *Planning Board* shall consider the compliance and compatibility of the amendment with the City’s Land Use Plan, Comprehensive Master Plan and other adopted plans for the area affected by the proposed amendment.
- (C.) No action by the Creedmoor *Planning Board*. If the Creedmoor *Planning Board*

has made neither a positive nor a negative recommendation on a proposed amendment within 30 days of first considering it, the proposed amendment shall be forwarded to the City Board of Commissioners for consideration. The proposed amendment shall be accompanied by a record of the Creedmoor *Planning Board's* comments regarding the amendment and the reasons, if any, for their lack of action.

- (D.) Content of recommendation and statement of consistency. Any recommendation made by the Creedmoor *Planning Board* to the Creedmoor City Board of Commissioners pursuant to this section shall be in writing and shall include a statement describing whether the proposed amendment is consistent with the comprehensive plan that has been adopted by the City and any other officially adopted plan that is applicable, and shall address any other matter deemed appropriate by the *Planning Board*. A comment by the *Planning Board* that a proposed amendment is inconsistent with the City's Land Use Plan, Comprehensive Master Plan and other adopted plans for the area affected shall not preclude consideration of approval of the proposed amendment by the City Board of Commissioners. (NCGS§160A-383)
- (E.) Conflict of Interest. No member of the *Planning Board* shall vote on a recommendation regarding any zoning map (rezoning) or text amendment where the outcome of the matter being considered is reasonable likely to have a direct, substantial, and readily identifiable financial impact on the member. (NCGS§160A-381(d))

5.3-4 Review by the Creedmoor City Board of Commissioners.

- (A.) Review-general. Following receipt of a recommendation on a proposed amendment, or in the case of no action by the Creedmoor *Planning Board* as described in section 5.3-3 above, the Creedmoor City Board of Commissioners shall hold a public hearing on the proposed amendment. The public hearing will be scheduled and conducted as provided by the City Board of Commissioners rules of procedure.
- (B.) Notification. The *City Clerk* shall prepare a public notice as described below that indicates the official receipt of an application for a Creedmoor Development Ordinance amendment or an Official Zoning Map amendment. This notice for publication shall include the following:
 - (1.) Brief description of the requested amendment;
 - (2.) The time, date, and place at which the request will be considered; and
 - (3.) Contact information for staff receiving comments concerning the request.

The notice shall be published in a newspaper of general circulation prior to the date on which the request is to be considered. Publication shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

If the adoption or modification of the ordinance would result in any of the changes listed in this subsection and those changes would be located five miles or less from the perimeter boundary of a military base, the Clerk shall provide written notice of the proposed changes by certified mail, or by any other written means reasonably designed to provide actual notice, to the commander of the military base or the commander's designee not less than 10 days nor more than 25 days before the date fixed for the public hearing. Prior to the date of the public hearing, the military may provide comments or analysis to the City Board of Commissioners regarding the compatibility of the proposed changes with military operations at the base. If the Board does not receive a response within 30 days of notice, the military is deemed to waive the comment period. If the military provides comments or analysis regarding the compatibility of the proposed amendment with military operations at the base, the Board of Commissioners shall take the comments and analysis into consideration before making a final determination on the amendment. The proposed changes requiring notice are:

- (1.) Changes to the Official Zoning Map
- (2.) Changes that affect permitted uses of land.
- (3.) Changes relating to wireless telecommunication towers.
- (4.) Changes to proposed new major subdivision preliminary plats.
- (5.) An increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area including developed and undeveloped land. (NCGS§ 160A-364(b))

When a change is proposed in a zoning boundary or classification of a parcel, notice of the public hearing shall be sent by first class mail to the owner of that parcel and the owners, as shown on the appropriate county tax listing, of all parcels abutting that parcel of land at least ten days before the date on which the request is to be considered. This notice also shall be mailed to the owners of any property located within 500 feet of the property in question at least ten days before the date on which the request is to be considered. The person or persons mailing such notices shall certify to the City Board of Commissioners that proper notice has been given.

The first class mail notice shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the City elects to use the expanded published notice provided for in this subsection. In this instance, the City may elect to either make the mailed notice provided for above, or may as an alternative elect to publish notice of the hearing as required by NCGS§ 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that published the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first- class mail according to the provisions above. (NCGS§ 160A-384 (b))

When a zoning map amendment (rezoning) is proposed, the City shall, within the same time period before the scheduled public hearing, prominently post a notice of the public hearing on the property proposed for a zoning map amendment (rezoning) or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment (rezoning), a posting on each individual parcel is not required, but the City shall post sufficient notices to provide reasonable notice to interested persons. (NCGS§ 160A-384 (c))

In addition, the subject property shall be posted in a conspicuous location(s) with the time, date, and notice of public hearing. A sign stating such information shall be posted on the subject property ten (10) days before the date on which the request is to be considered.

(C.) Action.

- (1.) Before acting on any proposed amendment, the Creedmoor City Board of Commissioners may consider any recommendation made by the Creedmoor *Planning Board*, the recommendation submitted by the *Planning, Zoning and Subdivision Administrator* to the *Planning Board*, the comments made at the public hearing, and any other relevant additional information.
- (2.) When considering a proposed amendment, the Creedmoor City Board of Commissioners shall not evaluate the petition based on any specific proposal for the use or development of the property. The petitioner shall not use any graphic materials or descriptions of the proposed development except for those that would apply to all uses permitted by the requested classification.

- (3.) Upon reviewing all pertinent information, the Creedmoor City Board of Commissioners shall:
 - (a.) Adopt the proposed amendment;
 - (b.) Reject the proposed amendment;
 - (c.) Continue the consideration of the request to their next regularly scheduled meeting or other agreed upon time;
 - (d.) Refer the proposed amendment back to the Creedmoor *Planning Board* for further consideration or edits; or
 - (e.) Modify the proposed amendment.

- (D.) Statement of Consistency. Prior to adopting or rejecting any amendment, the City Board of Commissioners shall adopt a statement describing whether its action is consistent with the City's Land Use Plan, Comprehensive Master Plan and any other applicable plan adopted by the City, and shall state why the action taken is considered to be reasonable and in the public interest. (NCGS§ 160A-383)

- (E.) Conflict of Interest. A City Board of Commissioners member shall not vote on any zoning map (rezoning) or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. (NCGS§ 160A-381(d); 160A-75)

5.3-5 Citizen Comments.

Any resident or property owner in the city may submit a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance or the Official Zoning Map to the Clerk at least two business days prior to the proposed vote on such change. The Clerk shall deliver such written statements to the Board of Commissioners.

5.3-6 Waiting period for subsequent applications.

- (A.) Waiting period-general. When an application for a zoning amendment has been approved or denied by the Creedmoor City Board of Commissioners, no rezoning application covering the same property shall be accepted or considered within 12 months after the date of the approval or denial. This restriction shall apply regardless of whether or not the new application is for a zoning classification different from the original application.

- (B.) Waiting period-waiver. The waiting period required by this section may be waived by a three-fourths vote of Creedmoor City Board of Commissioners if it determines that there have been substantial changes in conditions or circumstances which may relate to the request. A request for a waiver of the waiting period shall be submitted to the *Planning, Zoning and Subdivision Administrator*, who shall review and prepare a recommendation regarding action

on the request. Said recommendation shall be considered by the City Board of Commissioners in their review of the request for a waiver. If the request for the waiver is approved, the application shall go through the full review process as set forth above.