

2017-R-05



CITY OF CREEDMOOR

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MAYOR

DARRYL D. MOSS

CITY MANAGER

MICHAEL P. BONFIELD

COMMISSIONERS

ERNE ANDERSON

THOMAS JACKSON

DEL MIMS

HERMAN B. WILKERSON

ARCHER WILKINS

**RESOLUTION 2017-R-05
A RESOLUTION TO APPROVE THE AMENDED
CHARTER OF THE CITY OF CREEDMOOR**

WHEREAS, the Board of Commissioners has determined that the City Charter adopted in 1969 requires updating in order to preserve and continue current practices, omit obsolete provisions, and remove duplications of state law; and

WHEREAS, attached is a draft of the revised City Charter;

NOW THEREFORE, be it resolved by the Board of Commissioners of the City of Creedmoor, North Carolina, that the proposed Creedmoor City Charter, attached as Attachment A, is hereby approved and the local bill shall be submitted to the North Carolina state delegation for ratification.

The foregoing resolution, having been submitted to a vote, received the following vote and was duly adopted this 21st day of February, 2017.

Ayes: 5

Noes: 0

Absent or Excused: 0

Dated: February 21, 2017

Darryl D. Moss, Mayor

Attest:

Kathleen J. McCorkle, City Clerk



A BILL TO BE ENTITLED
AN ACT TO REVISE AND CONSOLIDATE THE CHARTER
OF THE CITY OF CREEDMOOR

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Creedmoor is revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF CREEDMOOR

"ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES

"Section 1.1. Incorporation. The City of Creedmoor, North Carolina in Granville County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'City of Creedmoor,' hereinafter at times referred to as the 'City.'

"Section 1.2. Powers. The City shall have and may exercise all of the powers, duties, rights, privileges and immunities conferred upon the City of Creedmoor specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. § 160A-1.

"Section 1.3. Corporate Limits. The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the City, showing the current municipal boundaries, shall be maintained permanently in the office of the City Clerk and shall be available for public inspection. Upon alteration of the

corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Granville County Register of Deeds and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY

"Section 2.1. City Governing Body; Composition. The Board of Commissioners, hereinafter referred to as the 'Board,' and the Mayor shall be the governing body of the City.

"Section 2.2. City Board of Commissioners; Composition; Terms of Office. The Board of Commissioners shall be composed of five members, to be elected by all the qualified voters of the City voting at large in the manner provided in Article III, for staggered terms of four years or until their successors are elected and qualified.

"Section 2.3. Mayor; Term of Office; Duties. The Mayor shall be elected by all the qualified voters of the City voting at large in the manner provided in Article III for a term of two years or until his or her successor is elected and qualified. The Mayor shall be the official head of the City government and preside at meetings of the Board, shall have the right to vote only when there is an equal division on any question or matter before the Board, and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. Mayor Pro Tempore. The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law.

"Section 2.5. Meetings. In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. Quorum; Voting. Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law. The quorum provisions of G.S. § 160A-74 shall apply.

"Section 2.7. Vacancies. Vacancies that occur in any elective office of the City shall be filled in accordance with the applicable provisions of general law.

"ARTICLE III. ELECTIONS

"Section 3.1. Regular Municipal Elections. Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. § 163-292.

"Section 3.2. Election of Mayor. A Mayor shall be elected in the regular municipal election in 2017 and every two years thereafter.

"Section 3.3. Election of Commissioners. The Commissioners serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. In the regular municipal election in 2017 and quadrennially thereafter, two Commissioners shall be elected for four-year terms in those positions whose terms are then expiring. In the regular municipal election in 2019 and quadrennially thereafter, three Commissioners shall be elected for four-year terms in those positions whose terms are then expiring.

"Section 3.4. Special Elections and Referenda. Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION

"Section 4.1. Form of Government. The City shall operate under the council-manager form of government, in accordance with G.S. Chapter 160A, Article 7, Part 2.

"Section 4.2. City Manager; Appointment; Powers and Duties. The Board shall appoint a City Manager who shall be responsible for the administration of all departments of the City government. The City Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Board, so far as authorized by general law.

"Section 4.3. City Attorney. The Board shall appoint a City Attorney to represent the City, advise City officials and perform other duties required by law or as the Board may direct.

"Section 4.4. City Clerk. The City Manager shall appoint a City Clerk, subject to confirmation by a majority vote of the Board. Otherwise, the City Manager shall direct and supervise the City Clerk and shall have the authority to take disciplinary action regarding the City Clerk, up to and including removal, in accordance with such general personnel rules, regulations, policies, or ordinances as the Board may adopt. The City Clerk shall keep a journal of the proceedings of the Board, maintain official records and documents, give notice of meetings, and perform such other duties required by law or as the City Manager may direct.

“Section 4.5. Finance Director. The City Manager shall appoint a Finance Director to perform the duties designated in G.S. § 159-25 and such other duties as may be prescribed by law or assigned by the Manager.

"Section 4.6. Tax Collector. The Board shall appoint a Tax Collector pursuant to G.S. § 105-349 to collect all taxes owed to the City and perform those duties specified in G.S. § 105-350 and such other duties as prescribed by law.

"Section 4.7. Other Administrative Officers and Employees. The Board may authorize other positions to be filled by appointment by the City Manager, and may organize the City government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. ORDINANCES

“Section 5.1. Adoption and Effective Date. The adoption, amendment, repeal, pleading, or proving of ordinances shall be in accordance with general law not inconsistent with this Charter. All ordinances and resolutions shall take effect upon adoption unless otherwise provided therein.

"Section 5.2. Effect of Ordinances on City Property. All applicable ordinances of the City shall have full force and effect upon and within all property and facilities owned by the City, whether located within or outside the corporate limits.”

Section 2. The purpose of this act is to revise the Charter of the City of Creedmoor and to consolidate certain acts concerning the property, affairs and

government of the City. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

Section 3. This act does not repeal or affect any acts concerning the property, affairs or government of public schools, or any acts validating official actions, proceedings, contracts or obligations of any kind.

Section 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

S.L. 1969-826, except section 4

Section 5. The Mayor and Commissioners serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter those offices shall be filled as provided in Articles II and III of the Charter contained in Section 1 of this act.

Section 6. This act does not affect any rights or interests that arose under any provisions repealed by this act.

Section 7. All existing ordinances, resolutions and other provisions of the City of Creedmoor not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

Section 8. No action or proceeding pending on the effective date of this act by or against the City or any of its departments or agencies shall be abated or otherwise affected by this act.

Section 9. If any provision of this act or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 10. Whenever a reference is made in this act to a particular provision of the General Statutes, and such provision is later amended, superseded or recodified, the reference shall be deemed amended to refer to the amended General Statute, or to the General Statute that most clearly corresponds to the statutory provision which is superseded or recodified.

Section 11. This act is effective upon ratification.

EXPLANATION OF THE REVISED AND CONSOLIDATED CHARTER OF THE CITY OF CREEDMOOR

BACKGROUND

In preparing the revised and consolidated Charter for the City of Creedmoor, several principles were used in deciding which provisions to include and which to exclude, and it might be helpful for city officials to be aware of these principles.

First, a conscious attempt has been made to keep the revised charter as brief and concise as possible. This revised charter consists essentially of provisions dealing with: (1) the general framework of your city government, including the form of government, corporate boundaries, method of election and a listing of the principal city officers and employees; and (2) applicable laws which are not contained in general state law, i.e., those provisions which are unique to the City of Creedmoor.

In addition, all local law provisions comprising the present Charter of the City of Creedmoor that have been repealed, either expressly or by implication, or that otherwise have become obsolete, have been deleted. Obsolete provisions concerning elections, for example, have been omitted from the revision.

A number of provisions of the existing charter, and other provisions which might have otherwise been included, have been omitted because they would duplicate state law. In 1967, the General Assembly created the Local Government Study Commission to recommend changes in laws affecting municipalities and counties. As a result of the extensive work of this Commission, the Legislature in 1971 enacted a comprehensive revision of the General Statutes chapters relating to municipal corporations. The great bulk of all authority retained by the city is now conferred upon it by virtue of G.S. Chapter 160A, making it unnecessary to repeat these provisions in the charter.

Finally, many provisions which might otherwise be included in the charter concern matters which the Board of Commissioners is authorized to address by local ordinance or resolution. Provisions of this type have been deleted in order to give the Board maximum flexibility in decision-making, now and in the future.

The primary intent in this draft was to preserve and continue current practices. In reviewing the preliminary draft of this proposed charter, the Board is encouraged to recommend further changes, as appropriate. The detailed annotations which follow will point out provisions that may need particular attention. These annotations should be read together with the draft of the charter revision bill.

ANNOTATIONS - REVISED CHARTER

ARTICLE I. INCORPORATION, CORPORATE POWERS AND BOUNDARIES

Sections 1.1 and 1.2. These sections contain the basic provisions of incorporation and provide that the city is authorized to exercise all powers granted by general law. Note that the grant of all municipal powers provided under general law renders unnecessary a detailed enumeration of specific power as under previous charters.

Section 1.3. Rather than setting out the boundaries of the city in metes and bounds, this section incorporates by reference the official map of the corporate limits maintained at the city office. State law requires that either a description of the city boundaries or a map of the boundaries, or a combination of these devices, be maintained in the office of the city clerk. In accordance with state law, the corporate boundaries may be changed from time to time, and the map or written description should be periodically amended to conform to the most recent delineation of the corporate limits. (State law references: G.S. 160A-21; 160A-22). Care should be taken to ensure that a correct map is in place before the revised charter act is adopted.

ARTICLE II. GOVERNING BODY

Section 2.1. This section establishes the city's Board of Commissioners and the Mayor as the governing body of the city responsible for the exercise of all municipal powers. (State law references: 160A-66; 160A-67)

Section 2.2. This section establishes the number of Commissioners and their terms of office, preserving the current system of five Commissioners elected at large for four-year staggered terms, as provided in Chapter 826, Session Laws of 1969. (State law reference: 160A-66)

Section 2.3. This section sets out the powers of the Mayor and provides for election by the people for a two-year term. These provisions reflect the town's current practice as established in Chapter 826, Session Laws of 1969. This section also provides that the Mayor votes only in case of a tie as under general law. (State law references: G.S. 160A-67; 160A-69)

Section 2.4. This section provides for the office of the Mayor Pro Tempore. (State law reference: G.S. 160A-70).

Sections 2.5 and 2.6. These sections make reference to various general laws relating to governing body operating procedures, including meetings, voting, and quorum requirements. These provisions are consistent with the current practices of the Board as set forth in Ordinance 2016-O-19 (Rules of Procedure of the Creedmoor Board of

Commissioners) adopted September 20, 2016. (State law references: G.S. 160A-71; 160A-74; 160A-75).

Section 2.7. This section relates to filling vacancies in elected office. It brings forward the existing charter provision which departs somewhat from general law. Under G.S. 160A-63, vacancies occurring during the first two years of a four-year term are only filled until the next municipal election, at which time a successor is elected to serve the remaining two years of the term. The draft provides for the filling of vacancies for the remainder of the unexpired term. This is a common modification in charters around the state. (State law references: G.S. 160A-59; 160A-63; 160A-64)

Final version reads:

Section 2.7. Vacancies. Vacancies that occur in any elective office of the City shall be filled in accordance with the applicable provisions of general law.

ARTICLE III. ELECTIONS

Section 3.1. This section provides the timetable for holding regular municipal elections in the City, in accordance with the uniform municipal election laws, as codified in Articles 23 and 24 of G.S. Chapter 163. Rather than including specific provisions relating to election procedures as under previous charter provisions, reference is made to general law. This section continues the use of the nonpartisan plurality method for determining the results of elections.

Section 3.2. This section continues the direct election of the Mayor for a two-year term. Section 5 of the bill, following the charter, provides that the current Mayor continues to serve until the end of the current term.

Section 3.3. This section preserves four-year staggered terms for Commissioners and the schedule of those terms, so that the appropriate number of Commissioners are elected at each regular municipal election. Section 5 of the bill, following the charter, provides that those currently in office serve the remainder of their terms.

Section 3.4. This section states the general law that municipal special elections and referenda may be held only as authorized by the General Assembly.

ARTICLE IV. ORGANIZATION AND ADMINISTRATION

Section 4.1. This section preserves the council-manager form of government under which the city currently operates. This was first implemented in a charter amendment adopted in 1997 by the ordinance procedure specified in G.S. 160A-101 and the statutes that following it. (State law reference: G.S. Chapter 160A, Article 7, Part 2)

Section 4.2. The powers and duties of the City Manager are set out in this section. The Manager is given the full range of authority contained in G.S. 160A-48 and related statutes, including the power to hire and fire all City employees, with the exception of those appointed by the Board under the authority of general law or the revised Charter. (State law references: G.S. 160A-147; 160A-148)

Section 4.3. This section provides for the appointment of the City Attorney by the Board. This practice conforms with general law. This section does not specify the duties of the City Attorney as currently set out in the existing Charter. These duties are adequately stated in G.S. 160A-173. (State law reference: 160A-173)

Section 4.4. This section provides for the appointment of the City Clerk by the City Manager, subject to confirmation by the Board. This preserves the current practice as provided in Section 2-2001 of the City Code as modified in 2014-R-08. The general law, G.S. 160A-171, states that there shall be a city clerk, but does not designate who shall appoint the clerk. Charters generally provide that either the governing body or the manager appoint the clerk. The existing provision is somewhat uncommon. The section also sets forth the powers and duties of the City Clerk. (State law reference: G.S. 160A-171)

Final version reads:

Section 4.4. City Clerk. The City Manager shall appoint a City Clerk, subject to confirmation by a majority vote of the Board. Otherwise, the City Manager shall direct and supervise the City Clerk and shall have the authority to suspend or remove the City Clerk in accordance with such general personnel rules, regulations, policies, or ordinances as the Board may adopt. The City Clerk shall keep a journal of the proceedings of the Board, maintain official records and documents, give notice of meetings, and perform such other duties required by law or as the City Manager may direct.

Section 4.5. This section provides for the appointment of the Finance Officer by the City Manager. G.S. 159-24 states that each local government shall appoint a finance officer, but does not designate who shall appoint the finance officer. The proposed language is not inconsistent with the existing charter as the existing charter provides only that the Board may appoint a city accountant. It preserves the current practice of authorizing the City Manager to appoint the Finance Officer. Section 4.5 also states the powers and duties of a Finance Director. (State law reference: G.S. 159-24)

Section 4.6. This section provides for the appointment of a Tax Collector by the Board. This practice conforms with general law. Note that the tax collector's position in most municipalities is the county tax official, through interlocal agreement. (State law reference: G.S. 105-349; 105-350)

Section 4.7. This section provides that the Board may organize the city government as appropriate. Note that state law grants broad authority to the Board to establish positions, and it is therefore unnecessary to list all positions and their duties. (State law references: G.S. 160A-146)

Section 5.1. This section brings forward a portion of section 3.8 of the existing Charter regarding procedural matters associated with various actions that may be taken regarding ordinances. The remaining provisions of the original charter section are duplicative or unnecessary.

Section 5.2. This section brings forward a provision from the existing Charter relating to the effect of ordinances on city property.

[Section 5.2 is the last section of the charter itself.]

Sections 2 through 11 of the bill, following the charter, are standard charter revision bill provisions. Note that Section 4 repeals a number of local acts expressly. Please refer to the Existing Charter Disposition Table and the Local Act Disposition Table for further information on the disposition of local acts passed, beginning with the most recent Incorporation Act.

CITY OF CREEDMOOR
EXISTING CHARTER DISPOSITION TABLE

The following table shows the provisions from the existing Charter as codified in the City Code of Ordinances and indicates whether those provisions have been carried forward into the Revised Charter or deleted because ample authority exists within the General Statutes and a specific charter provision is not necessary.

<u>Subject</u>	<u>Existing Section</u>	<u>Statute</u>	<u>Revised Charter Section</u>
Incorporation and general powers	1.1	160A-11	1.1 & 1.2
Exercise of powers	1.2	160A-12	1.2
Enumerated powers not exclusive	1.3		1.2
Existing corporate boundaries	2.1		1.3
Extension of corporate boundaries	2.2		1.2 & 1.3
Composition of board of commissioners	3.1		2.1 & 2.2
Mayor and mayor pro tempore	3.2		2.3 & 2.4
Terms; qualifications; vacancies	3.3(a)	160A-68	2.2 & 2.3
	(b)	160A-59	
	(c)	160A-63	2.7
Compensation of mayor and councilmen	3.4 ¹	160A-64	
Organization of board; oaths of office	3.5	160A-68; 160A-61	
Meetings of board	3.6(a)	160A-71	2.5
	(b) ²	143-318.10	
Quorum; votes	3.7(a)	160A-74	2.6
	(b)	160A-75	2.6
Ordinances and resolutions	3.8	160A-72	5.1
Regular elections	4.1		3.1, 3.2 & 3.3
Filing of candidates ³	4.2 ⁴	Chapter 163	
Ballots	4.3	Chapter 163	
Voting	4.4	Chapter 163	
Regulation of elections	4.5	Chapter 163	
(City Attorney)	5.1	160A-173	4.3
Appointment; qualifications; term; compensation			
Duties of city attorney	5.2	160A-173	4.3
City clerk	6.1	160A-171	4.4

City tax collector	6.2	105-349	4.6
City accountant	6.3	159-24	4.5
Consolidation of functions	6.4	160A-146	4.7
Custody of city money	7.1	Chapter 159, Art. 3, Part 3	
Issuance of bonds	7.2	Chapter 159, Subchapter IV	
Purchase and contracts	7.3	160A-11 Chapter 143, Art.8	
Independent audit	7.4	159-34	
Jurisdiction extended	8.1	160A-286	
Effect of ordinances on city property	8.2		5.2
Presentation of claims; suits upon claims	9.1 ⁵	1-539.16	

¹ G.S. 160A-64(b) repeals all charter provisions in effect as of January 1, 1972 fixing the compensation or allowances of city officers.

² Repealed by section 3 of S.L. 1979-655

³ S.L. 1971-835 enacted uniform laws governing the registration of voters and the conduct of elections in municipalities. Section 3 of that act repeals all laws to the extent that they are in conflict with the act.

⁴ S.L. 1969-826, the existing City Charter, omitted section numbers 4.3 and 4.4. The numbering used here is as currently set forth in the Charter as codified in the City Code.

⁵ Preempted by G.S. 1-539.16.

CITY OF CREEDMOOR
LOCAL ACT DISPOSITION TABLE

The following Disposition Table explains the proposed disposition of each local act adopted since 1969 affecting the City. Please review the table carefully. If you have questions about a particular act or its proposed disposition, please do not hesitate to ask.

<u>Local Act</u>	<u>Subject</u>	<u>Disposition</u>
S.L. 1969-826	Charter revision and consolidation	Repealed, except for section 4 ¹
S.L. 1971-372	Special election for mayor in 1971	Not repealed ²
S.L. 1987-610	Motor vehicle tax (\$10.00)	Not repealed ³
S.L. 2006-159	Transfer of certain Butner assets to South Granville Water & Sewer Authority	Not repealed ⁴
S. L 2007-269	Butner incorporation and annexations	Not repealed ⁵
S.L. 2008-45	Granville Co. Tourism Development Authority	Not repealed ⁶
S.L. 2012-49	Division of profits from Granville Co. ABC stores	Not repealed ⁷
S.L. 2012-55	Collection of delinquent stormwater utility fees	Not repealed ⁸
S.L. 2012-117	Description of Butner corporate limits and annexation	Not repealed ⁵

¹ The substance of this act has been carried forward to the Revised Charter or its terms are otherwise provided for under the general law. Section 4 is not repealed because that section specifically repeals other local acts.

² This act provides for the special election of the mayor in 1971. This act was time limited and its purpose has been served.

³ This act is a local modification to G.S. 20-97 authorizing the City to levy a motor vehicle tax of not more than \$10.00. To retain this authority as set forth in the act, it is suggested that this act not be repealed.

⁴ This act is not an act that applies particularly to the City of Creedmoor. It concerns the transfer of assets of the Town of Butner to the South Granville Water & Sewer Authority.

⁵ These acts are not acts that apply particularly to the City of Creedmoor. They concern restrictions placed upon the Town of Butner's authority to annex certain areas without the approval of the City of Creedmoor Board of Commissioners.

⁶ This act relates to the membership of the Granville County Tourism Development Authority, a member of which is appointed by the Creedmoor Board of Commissioners.

⁷ This act concerns the division of Alcoholic Beverage Control profits in Granville County of which the City of Creedmoor receives a percentage.

⁸ The provisions of this act relate to the collection of delinquent stormwater fees and modify provisions of G.S. 160A-314 as they apply to the City. These provisions are codified in the General Statutes. To avoid confusion, it is suggested that this act not be rewritten into the Revised Charter, but rather remain as it exists.