



CITY OF CREEDMOOR

P.O. BOX 765
 111 MASONIC STREET
 CREEDMOOR, NC 27522
 WWW.CITYOFCREEDMOOR.ORG
 (919) 528-3332

MAYOR
 ROBERT V. WHEELER

INTERIM CITY MANAGER
 MICHAEL O. TURNER

COMMISSIONERS
 KECHIA BRUSTMEYER-BROWN
 GEORGANA KICINSKI
 DEL MIMS
 ED MIMS
 NEENA NOWELL

ORDINANCE 2020-O-17

AN ORDINANCE AMENDING THE CITY OF CREEDMOOR DEVELOPMENT ORDINANCE ARTICLES 1 AND 4 IN ACCORDANCE WITH ZTA-2020-02

WHEREAS, the City of Creedmoor Planning & Community Development Department has initiated text amendments in Article 1 and Article 4, in order to comply with the reorganization and updating of State land use law per General Statute Chapter 160D – Local Planning and Development Regulation, and assigned the case number ZTA-2020-02; and

WHEREAS, a public meeting was held by the City of Creedmoor Planning Board on September 10, 2020 to consider this text amendment, and the Planning Board unanimously found ZTA-2020-02 consistent with the goals of the City of Creedmoor's CITY PLAN 2030 and recommended for its approval; and

WHEREAS, the Board of Commissioners held a public hearing on October 6, 2020 to consider said request, and gave the public an opportunity to be heard; and

WHEREAS, the public hearing for this matter was conducted during a remote meeting as defined by G.S. 166A-19.24(i)(3). As required by G.S. 166A-19.24(e), the Board of Commissioners shall allow written comments on the subject of the public hearing to be submitted up to twenty-four hours after the hearing. If no written comments are received, this ordinance shall become effective twenty-four hours after being adopted. If written comments are received within the twenty-four hour window, the effective date of the ordinance shall automatically be tolled to the next meeting of the Board of Commissioners, at which time the Board shall vote on whether to allow the ordinance to become effective or to rescind the approval; and

WHEREAS, the Board of Commissioners concur with the Planning Board's consistency findings and have approved, by resolution, a statement of consistency and briefly explained why the Board considers the action taken to be reasonable and in the public interest.

NOW, THEREFORE, IT SHALL BE ORDAINED by the Board of Commissioners of the City of Creedmoor the following:

Section 1. The Creedmoor Development Ordinance Article 1: PURPOSE AND AUTHORITY be amended as follows:

ARTICLE 1

Purpose and Authority

1.1 Short Title

This Ordinance shall be known and may be cited as the "Creedmoor Development Ordinance."

1.2 Enactment and Repeal

1.2-1 ENACTMENT. This Ordinance is hereby enacted and shall be the Land Development Ordinance for the

City of Creedmoor, hereinafter "the City" and the areas within its extraterritorial jurisdiction. This ordinance supersedes "Chapter 154: Zoning", "Chapter 153: Subdivisions", "Chapter 155: Stormwater Management" and "Chapter 152: Flood Damage Prevention", each of which is hereby repealed.

ADOPTED this the 26th day of JUNE, 2012.

Original signed by Mayor Darryl D. Moss Original signed by Korena L. Weichel

Mayor

City Clerk

1.2-2 EFFECTIVE DATE. This Ordinance shall become effective on July 1, 2012.

1.3 Purpose

1.3-1 GENERAL PURPOSE. It is the purpose of this Ordinance to promote the health, safety, and the general welfare of the residents of the City of Creedmoor and its extraterritorial jurisdiction through the stated regulations of this Ordinance which include provisions to regulate zoning, cluster development, planned unit developments, manufactured housing, development of subdivisions, signs, off-street parking and loading, planting yards, watershed protection, and flood damage prevention.

1.3-2 IMPLEMENTATION OF LAND USE AND COMPREHENSIVE MASTER PLANS. This Ordinance shall be used to implement the *2021 Plan - Comprehensive Development Plan*, adopted October 23, 2001, including subsequent amendments, and the *City Plan 2030 – Land Use and Comprehensive Master Plan*, adopted May 14, 2012, including subsequent amendments adopted by the City Board of Commissioners of the City of Creedmoor. See Section 1.5.

1.4 Guiding Principles

The guiding principles reflected in this ordinance are those stated in the *2021 Plan - Comprehensive Development Plan*, adopted October 23, 2001, including subsequent amendments, and the *City Plan 2030 – Land Use and Comprehensive Master Plan*, adopted May 14, 2012, including subsequent amendments adopted by the City Board of Commissioners of the City of Creedmoor. These principles are:

- A. Ensure that Creedmoor's development policies are conducive to the long-term vision for the future and adequately control the location and appearance of future development;
- B. Improve the effectiveness of City government and achieve greater autonomy through the fostering of greater coordination and consensus among City officials, governing boards, and citizens on development decisions;
- C. Enhance existing City services and add new services and programs to allow for future development in designated areas and to ensure that all citizens have access to essential services;
- D. Encourage the establishment of a City tourism program and coordinate with local tourist attractions to create a regional tourism destination center;
- E. Develop new recreational and cultural facilities, programs, and events that accommodate a variety of uses and appeal to both City residents and visitors; and,
- F. Preserve and protect areas of historic significance and natural countryside throughout the Creedmoor area.

1.5 Relationship to Land Use and Comprehensive Master Plans

The administration, enforcement, and amendment of the Creedmoor Development Ordinance shall be carried out consistently with plans and documents comprising the *2021 Plan - Comprehensive Development Plan*, adopted October 23, 2001, including subsequent amendments, and the *City Plan 2030 – Land Use and Comprehensive Master Plan*, adopted May 14, 2012, including subsequent amendments adopted by the City Board of Commissioners of the City of Creedmoor. New planning documents or small area plans adopted by the City Board of Commissioners are automatically incorporated into this Ordinance. See Section 1.3-2.

1.6 Jurisdiction

The provisions of this Ordinance shall apply to all the territory encompassed in the City of Creedmoor, ~~North Carolina,~~ corporate limits, and its extraterritorial jurisdiction as now or hereafter fixed, as depicted on the City's Official Zoning Map on file at the Creedmoor City Hall. This map is hereby incorporated and made a part of this Ordinance. This Ordinance shall govern the development and use of all land and structures within the City and its area of extraterritorial jurisdiction as provided for by Article 219 Planning and Regulation of Development Development Regulation Jurisdiction, of GS 160A-Cities and Towns-G.S. 160D.

The City's extraterritorial jurisdiction was established April 27, 1993 by Ordinance 93-O-01, recorded in the Granville County Register of Deeds book 629, page 263, as defined in the map titled "Official Extraterritorial Boundary Map of the City of Creedmoor, North Carolina", recorded in the Granville County Register of Deeds book 14, page 112.

- 1.6-1 JURISDICTION LIMITS. Notwithstanding G.S. 160D-202(a), the City of Creedmoor's extraterritorial jurisdiction can not extend more than one mile beyond the City of Creedmoor's contiguous corporate limits, per G.S. 160D-202(a).
- 1.6-2 COUNTY APPROVAL OF CITY JURISDICTION. The City of Creedmoor may not extend its extraterritorial jurisdiction into any area for which Granville County has adopted and is enforcing County zoning and subdivision regulations. The City may extend its extraterritorial jurisdiction into areas where Granville County is not exercising County zoning and subdivision regulations, or when the City of Creedmoor and Granville County have agreed upon the area within which each will exercise the powers conferred by G.S. 160D, per G.S. 160D-202(c).
- 1.6-3 NOTICE OF PROPOSED JURISDICTION CHANGE. If the City of Creedmoor proposes to expand its extraterritorial jurisdiction and exercise the powers of G.S. 160D in a new area, the City of Creedmoor must notify the owners of all parcels of land proposed for addition to the City of Creedmoor area of extraterritorial jurisdiction, as shown on Granville County tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the Granville County tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowner's right to participate in a legislative hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as provided in G.S. 160D-601, and the right of all residents of the area to apply to the Board of County Commissioners to serve as a representative on the Planning Board and Board of Adjustment, as provided in G.S. 160D-303. The notice shall be mailed at least 30 days prior to the date of the hearing. The person or persons mailing the notices shall certify to the City of Creedmoor Board of Commissioners that the notices were sent by first-class mail, and the certificate shall be deemed conclusive in the absence of fraud, per G.S. 160D-202(d).
- 1.6-4 BOUNDARIES. If the City of Creedmoor proposes to expand its extraterritorial jurisdiction and exercise the powers of G.S. 160D in a new area, the City of Creedmoor shall adopt an ordinance specifying the areas to be included in the extraterritorial jurisdiction based upon existing or projected urban development and areas of critical concern to the City, as evidenced by officially adopted plans concerning the City's development. Boundaries shall be defined, to the extent feasible, in terms of geographical features identifiable on the ground. Boundaries may follow parcel ownership boundaries. The City of Creedmoor Board of Commissioners may, in its discretion, exclude from the City's extraterritorial jurisdiction areas lying in another county, areas separated from the City by barriers to urban growth, or areas whose projected development will have minimal impact on the City. The boundaries specified in the ordinance shall at all times be drawn on a map, set forth in a written description, or shown by a combination of these techniques. This delineation shall be maintained in the manner provided in G.S. 160A-22 for the delineation of the corporate limits and shall be recorded in the office of the Granville County Register of Deeds, per G.S. 160D-202(e).
- 1.6-5 TRANSFER OF JURISDICTION. If the City of Creedmoor annexes or extends its jurisdiction to include, an area that is currently being regulated the Granville County, the Granville County development regulations and powers of enforcement shall remain in effect until (i) the City has adopted such development regulations or (ii) a period of sixty (60) days has elapsed following the annexation or extension, whichever is sooner. Prior to the transfer of jurisdiction, the City of Creedmoor may hold hearings and take any other measures consistent with G.S. 160D-204 that may be required in order to adopt and apply its development regulations for the area at the same time it assumes jurisdiction, per G.S. 160D-202(g).
- 1.6-6 EFFECT ON VESTED RIGHTS. Whenever the City of Creedmoor, pursuant to G.S. 160D-202, acquires jurisdiction over a territory that theretofore has been subject to the jurisdiction of another local government, any person who has acquired vested rights in the surrendering jurisdiction may exercise those rights as if no change of jurisdiction had occurred. When acquiring jurisdiction, the City of Creedmoor may take any action

regarding such a development approval, certificate, or other evidence of compliance that could have been taken by the local government surrendering jurisdiction pursuant to its development regulations, per G.S. 160D-202(k).

1.6-7 SPLIT JURISDICTION. If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the local governments may, by mutual agreement pursuant to Article 20 of G.S. Chapter 160A and with the written consent of the landowner, assign exclusive planning and development regulation jurisdiction under G.S. 160D for the entire parcel to any one of those local governments. Such a mutual agreement shall only be applicable to development regulations and shall not affect taxation or other nonregulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the Granville County Register of Deeds within fourteen (14) days of the adoption of the last required resolution, per G.S. 160D-203.

1.6-8 PENDING JURISDICTION. After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date, per G.S. 160D-204.

1.7 Authority

This ordinance is adopted pursuant to portions of one or more of the following authorities in ~~NCGS:~~G.S. Chapter 160DA (~~Cities and Towns Local Planning and Development Regulation~~), Chapter 113A (Pollution Control and Environment), Chapter 121 (Environmental Controls), Chapter 133 (Public Works), and Chapter 136 (Roads and Highways). This Ordinance may be amended from time to time as required or allowed by subsequent legislative enactments.

1.8 Conflict or Inconsistency with Other Laws, Covenants, Deed Restrictions, or Agreements

1.8-1 RELATION OF THIS ORDINANCE TO OTHER REGULATIONS. This Ordinance is not intended to abrogate any other law, ordinance, or regulation. However, where conditions, standards, or requirements imposed by any provision of this Ordinance are either more restrictive or less restrictive than standards imposed by any other law, ordinance or regulation, the provisions which are more restrictive or which impose higher standards or requirements shall govern. In cases where reference is made to the North Carolina General Statutes, or any provision thereof, said reference shall be to the current language of said statute or provision. Whenever a process is prescribed by this Ordinance, and said process contains requirements in addition to those prescribed by state law, the process prescribed in this Ordinance shall be deemed supplemental; state law shall control.

1.8-2 CONFLICTING PROVISIONS OF THIS ORDINANCE. In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Ordinance in applying them to an individual use or structure, the more restrictive provision shall apply. However, the regulations for overlay districts set forth in Article 8 of this Ordinance shall control in the event of any conflict between those regulations and regulations which are set forth in Article 8 of this Ordinance for the underlying district. In the event of a conflict or inconsistency between the text of this Ordinance and any caption, figure, illustration, or map contained herein, the text shall control.

1.8-3 CONFLICTS WITH COVENANTS, DEED RESTRICTIONS, ETC. This Ordinance is not intended to abrogate any easement, covenant, or other private agreement. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this Ordinance shall govern.

1.8-4 EFFECT ON EXISTING AGREEMENTS. This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, vested rights, or permits previously adopted or issued pursuant to law.

1.9 Severability

If any section or specific provision or standard of this ordinance or any regulating district boundary arising from it

is found by a court to be invalid or unenforceable for any reason, the decision of the court shall not affect the validity or enforceability of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect, impair, or invalidate the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

1.10 Interpretation of Ordinance

1.10-1 MINIMUM REQUIREMENTS; GREATER RESTRICTIONS GOVERN. In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements. If any federal or state law or other ordinance or regulation allows lesser regulation, this Ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by any governmental authority, the regulations imposed by that authority shall govern.

1.11 Rules of Construction

1.11-1 WORD INTERPRETATION.

- A. Words not defined in this Ordinance shall be given their ordinary and common meaning.
- B. Words used in the present tense include the future tense.
- C. Words used in the singular number include the plural number and the plural number includes the singular number unless the context of the particular usage clearly indicates otherwise.
- D. Words used in the male gender include the female gender.
- E. The words "shall," "will," and "must" are mandatory in nature implying an obligation or duty to comply with the particular provision.
- F. Any act authorized by this Ordinance to be carried out by a specific official of the City is, by implication, authorized to be carried out by a designee of that official.

1.11-2 RELATIONSHIP OF THIS ORDINANCE TO ANY PENDING ACTION. The adoption of this Ordinance shall not affect any action, suit, notice of violation, citation, or proceeding that may be pending at the date this Ordinance becomes effective. All rights and liabilities that have been received or created and any violation that has occurred under any previous provisions of the Code of Ordinances of the City of Creedmoor that have been superseded by this Ordinance are still valid and may be preserved and enforced.

1.12 Compliance

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land use shall be commenced, maintained, or modified except as authorized by this Ordinance.

No applicable permit shall be issued or granted that does not conform to the requirements of this Ordinance. Developments that have received staff approval, Enforcement Officer approval, or a building permit before the effective date of this Ordinance may proceed in accordance with such approval or permit while such approval or permit remains in effect.

1.13 Establishment of Official Zoning Map

1.13-1 OFFICIAL ZONING MAP. The City, and its extraterritorial jurisdiction as now or hereafter fixed, is hereby divided into zones, or districts, as established in Article 8 (Zoning Districts) and as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map is on file with the City Clerk and the Planning, Zoning and Subdivision Administrator at the Creedmoor City Hall.

1.13-2 MAP CERTIFICATION AND CHANGES. The Official Zoning Map shall be attested by the City Clerk and shall bear the seal of the City together with the effective date of the adoption of this Ordinance. If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map.

1.14 Interpretation of District Boundaries

1.14-1 BOUNDARY INTERPRETATION. Where uncertainty exists as to the boundaries of any district shown on

the Official Zoning Map, the following rules shall apply in the interpretation of area boundaries and the location of lines shown on the map:

- A. CENTERLINE: Where a boundary line lies within and follows a street or *alley* right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or *alley* right-of-way, railroad right-of-way, or utility easement. If such a street or *alley* right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is *abandoned* or removed from dedication, the district boundaries shall be construed as following the centerline of the *abandoned* or vacated road bed or utility easement.
- B. LOT LINE: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located. Split zoning of lots should be avoided to the extent possible, with zoning boundaries following lot lines where feasible.
- C. CITY LIMITS: Boundaries indicated as approximately following the City limits or extraterritorial boundary lines of the City of Creedmoor shall be construed as following the City limits or extraterritorial boundary lines.
- D. WATERCOURSES: Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines and shall be construed to reflect the naturally occurring changes to the location of the watercourse which may occur over time.
- E. EXTENSIONS: Boundaries indicated as parallel to or extensions of street or *alley* rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, City limits, county lines, or extraterritorial boundaries shall be so construed.
- F. SCALING: In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Hazard Area, Corps of Engineering work maps, if available, shall be used for scaling.
- G. OTHER: Where the actual location of existing physical or natural features vary with those shown on the Official Zoning Map, or in other circumstances not addressed in this section, the Planning Board shall have the authority to interpret the district boundaries.

1.15 State of Emergency

These rules may be temporarily suspended during federal disaster “state of emergency” declarations by the Executive Office of the President and/or Federal Emergency Management Administration (FEMA) and/or during “Imminent Threat Alert” declared by the U.S. Department of Homeland Security by resolution adopted by the Board of Commissioners during a regular, continued, special or emergency meeting of the Board of Commissioners. The Planning, Zoning and Subdivision Administrator may suspend the application of all or part of these rules during a state of emergency declared either by the Governor of the State of North Carolina, or by the Mayor of the City of Creedmoor. Upon the conclusion, lifting, and/or resending of the declared “state of emergency” by the authorized federal and/or state official, these rules are reinstated without further action by the City and shall be in full force and effect.

Section 2. The Creedmoor Development Ordinance Article 4: BOARDS AND COMMISSIONS be amended as follows:

**ARTICLE 4
Boards and Commissions**

*[Amended Sept. 21, 2015 per Ord. 2015-O-20, ZTA-2015-02]
[Amended Nov. 21, 2017 per Ord. 2017-O-18, ZTA-2017-03]*

4.1 Boards and Commissions Established

The following boards and commissions are hereby established to carry out the duties and responsibilities set forth in this Ordinance and in fulfillment of the goals and purposes of this Ordinance:

- A. Planning Board
- B. Board of Adjustment
- C. Technical Review Committee

~~4.1-1 Bylaws and rules of procedure for each board are adopted by the City Board of Commissioners, and are on file with the City Clerk.~~ OTHER ADVISORY BOARDS. The City of Creedmoor Board of Commissioners may by ordinance establish additional advisory boards as deemed appropriate. The ordinance establishing such boards shall specify the composition and duties of such boards, per G.S. 160D-306.

4.2 Planning Board

- 4.2-1 AUTHORITY. There is hereby created a ~~P~~lanning Board agency, pursuant to ~~G.S. 160D-301, NCGS 160A-361~~ to be known as the City of Creedmoor Planning Board.
- 4.2-2 MEMBERSHIP. The Planning Board shall consist of eight members, five members who shall reside within the City limits, and three members residing in the City's area of extraterritorial jurisdiction. Members residing inside the City limits shall be appointed by the Creedmoor City Board of Commissioners. Members residing in the City's extraterritorial area shall be appointed by the Granville County Board of Commissioners.
- 4.2-3 POWERS AND DUTIES. The Planning Board shall have the following powers and duties:
- A. To provide recommendations to the City Board of Commissioners with regard to zoning map amendments (rezoning), text amendments, large site plans, watershed waivers, and other matters on which the ~~Council~~ City Board of Commissioners seeks advice;
 - ~~B.~~ To develop and update a Land Use Plan and/or Comprehensive Master Plan prepare, review, maintain, monitor, and periodically update and recommend to the City Board of Commissioners a comprehensive plan, and other such plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis for the territory under its jurisdiction, subject to specific direction from the City Board of Commissioners;
 - ~~B-C.~~ To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
 - ~~D.~~ To render opinions and make recommendations on all issues, requests, and petitions related to the Creedmoor Development Ordinance and City Plan 2030, including subsequent comprehensive city plans that may be adopted from time to time and that require approval by the City Board of Commissioners;
 - ~~C-E.~~ To facilitate and coordinate citizen engagement and participation in the planning process, as directed by the City Board of Commissioners;
 - ~~D-F.~~ To interpret zoning maps and pass upon disputed questions of district boundary lines and similar questions that may occur in the administration of the Ordinance; and
 - ~~E-G.~~ To make such other studies and plans and review such other related matters, as directed by the City Board of Commissioners.

4.3 Board of Adjustment *[Amended May 27, 2014 per Ord. 2014-O-03]*

- 4.3-1 AUTHORITY. ~~Pursuant to NCGS 160A-388, there is hereby created a Board of Adjustment.~~ There is hereby created a Board of Adjustment, pursuant to G.S. 160D-302, to be known as the City of Creedmoor Board of Adjustment.
- 4.3-2 MEMBERSHIP. *[Amended May 2, 2017 per Ord. 2017-O-07]*
- A. ~~NUMBER OF MEMBERS AND TERM.~~ The Board of Adjustment shall consist of five members; no more than four members appointed by the ~~Creedmoor~~ City Board of Commissioners and no fewer than one member who is a resident of Creedmoor's extraterritorial area, appointed by the Granville County Board of Commissioners, each member to be appointed for a term of three years, per G.S. 160D-302(a). In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the City Board of Commissioners may appoint certain members for less than three years so that the terms of all members shall not expire at the

same time.

- B. ALTERNATES. The City Board of Commissioners may, in its discretion, appoint alternate members to serve on the Board of Adjustment in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the ~~board~~ Board of Adjustment and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member, per G.S. 160D-302(a). ~~(G.S. 160A-388(a))~~

4.3-3 POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

- A. To hear and decide appeals from an order, denial of a permit or other decision made by an administrative official charged with enforcing this Ordinance;
- B. To hear and decide requests for variances from the ~~zoning~~ provisions of this Ordinance in cases where ~~special conditions would make strict and literal interpretation result in a loss of privileges shared by other properties within the same zoning district~~ strict application of a particular requirement or the literal interpretation of the Ordinance will create a practical difficult or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Ordinance; and
- C. To hear and decide all matters referred to it or upon which it is required to act under this Ordinance and G.S. 160D.

~~4.3-4~~ VOTING.

~~A. FOUR FIFTHS VOTE REQUIRED. A four fifths vote of the members shall be required to grant a variance; otherwise, a simple majority of the Board membership shall be required to affirm, reverse or modify any order, decision, or interpretation of the Enforcement Officer charged with enforcing this Ordinance. Vacant positions on the Board of Adjustment and members who are disqualified from voting on a matter before the Board of Adjustment shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.~~

~~B. CONFLICTS. A member of the Board of Adjustment or any other body exercising the functions of a Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. (G. S. 160A-388).~~

~~4.3-5~~ PROCEEDINGS.

~~All meetings of the Board of Adjustment shall be open to the public. The Board shall keep minutes showing the vote of each member on each question and the absence or failure of any member to vote.~~

~~The final disposition of each matter decided by the Board of Adjustment shall be by recorded resolution indicating the reasons for the decision, based on findings of fact obtained by testimony under oath or affirmation and conclusions of law which shall be public record.~~

~~On all appeals, applications and other matters brought before the Board of Adjustment, the Board shall inform in writing all the parties involved of its decision and the reasons for that decision.~~

~~4.4~~ [Reserved]

~~4.5~~ 4.4 **Technical Review Committee**

~~4.5-1~~ 4.4-1 **AUTHORITY.** An agency known as the Creedmoor Technical Review Committee (TRC) is hereby established pursuant to G.S. 160D-306.NCGS 160A-361.

~~4.5-2~~ 4.4-2 **MEMBERSHIP.**

A. **COMPOSITION.** The TRC shall be composed of the following members or their

designee/alternate:

1. Planning, Zoning and Subdivision Administrator
2. Public Works Director
3. Stormwater Administrator
4. City Manager
5. Other agencies/individuals as appropriate

B. OFFICERS. The Planning, Zoning and Subdivision Administrator shall serve as TRC Chair.

~~4.5-3~~ 4.4-3 POWERS AND DUTIES. The Technical Review Committee shall have the following powers and duties:

- A. To review technical aspects of development occurring within the City and the areas within its extraterritorial jurisdiction as specified by this Ordinance;
- B. To compile a summary of their findings and forward to the Planning Board and Board of Commissioners.

4.5 Extraterritorial Representation on Boards

4.5-1 PROPORTIONAL REPRESENTATION. The City of Creedmoor shall provide a means of proportional representation based on population for residents of the extraterritorial area to be regulated. The population estimates for this calculation shall be updated no less frequently than after each decennial census. Representation shall be provided by appointing at least one resident of the entire extraterritorial planning and development regulation area to the Planning Board and Board of Adjustment, and any other boards or commissions, as established in this Ordinance.

4.5-2 APPOINTMENT. Membership of the City of Creedmoor Planning Board and Board of Adjustment may be appointed as agreed by the City of Creedmoor and Granville County. The extraterritorial representatives on a City advisory board authorized by Article 3 of G.S. 160D shall be appointed by the Granville County Board of Commissioners, with jurisdiction over the area. Granville County shall make the appointments within ninety (90) days following the receipt of a request from the City of Creedmoor that the appointments be made. Once the City provides proportional representation, no power available to the City under G.S. 160D is ineffective in its extraterritorial area solely because Granville County appointments have not yet been made. If there is an insufficient number of qualified residents of the extraterritorial area to meet membership requirements, the Granville County Board of Commissioners may appoint as many other residents of the County as necessary to make up the requisite number. If the Granville County Board of Commissioners fails to make these appointments within ninety (90) days after receiving a resolution from the City of Creedmoor Board of Commissioners requesting that they be made, the City of Creedmoor Board of Commissioners may make them, per G.S. 160D-307.

4.5-3 VOTING RIGHTS. The extraterritorial representatives on the City of Creedmoor Planning Board and Board of adjustment have equal rights, privileges, and duties with the other member of the board to which they are

appointed, regardless of whether the matters at issue arise within the City of Creedmoor corporate limits or within the extraterritorial area.

B.

4.6 Meetings, Hearings, and Procedures of all Boards and Commissions

All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedures set forth in these regulations and with the rules of procedure and bylaws adopted by for the Planning Board, Board of Adjustment, and Technical Review Committee. ~~Such rules of procedure may be amended by the respective board or commission membership.~~ The rules of procedure adopted by for any board or commission shall be kept on file with the City Clerk, at the office of the Planning, Zoning and Subdivision Administrator, shall be posted on the City of Creedmoor website, and shall be made available to the public at any meeting or hearing. No rules or procedures shall conflict with this Ordinance; if conflicts occur this Ordinance shall take precedence.

4.6-1 BYLAWS AND RULES OF PROCEDURE. Rules of procedure and bylaws that are consistent with the provisions of G.S. 160D may be adopted by the City of Creedmoor Board of Commissioners for any or all boards created by this Ordinance. In the absence of action by the City Board of Commissioners, each board created by this Ordinance is authorized to adopt its own rules of procedure and bylaws that are consistent with G.S. 160D. A copy of any adopted rules of procedure and bylaws shall be maintained by the City Clerk and posted on the City of Creedmoor website. Each board shall keep minutes of its proceedings, per G.S. 160D-308.

4.6-2 APPOINTMENTS TO BOARDS. Unless specified otherwise, all appointments to boards authorized by G.S. 160D and this Ordinance shall be made by the City of Creedmoor Board of Commissioners. The City Board of Commissioners may establish reasonable procedures to solicit, review, and make appointments, per G.S. 160D-310.

4.6-3 OATH OF OFFICE. All members appointed to boards established by this Ordinance and consistent with Article 3 of G.S. 160D, before entering their duties, qualify by taking an oath of office as required by G.S.153A-26 and G.S. 160A-61, per G.S. 160D-309.

4.7 Conflicts of Interest

4.7-1 CITY BOARD OF COMMISSIONERS. A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

4.7-2 APPOINTED BOARDS. Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to G.S. 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

4.7-3 ADMINISTRATIVE STAFF. No staff member shall make a final decision on an administrative decision required by G.S. 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest as defined herein, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by this Ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under G.S. 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City of Creedmoor to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the City of Creedmoor, as determined by the City.

4.7-4 QUASI-JUDICIAL DECISIONS. A member of the Board of Adjustment or any board exercising quasi-judicial functions pursuant to G.S. 160D shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

4.7-5 RESOLUTION OF OBJECTION. If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse herself or himself, the remaining members of the board shall by majority vote rule on the objection.

4.7-6 FAMILIAL RELATIONSHIP. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

4.7.4.8 Staff

The Planning, Zoning and Subdivision Administrator shall serve as staff to the Planning Board, and Board of Adjustment, and shall provide technical assistance to the Planning Board, and Board of Adjustment, as requested. The Planning, Zoning and Subdivision Administrator shall serve as the lead member of the Technical Review Committee, and shall coordinate development reviews and summarize comments from the other TRC members

Section 3. All provisions of any City ordinance or resolution in conflict with this ordinance are repealed.

HEREBY ADOPTED in regular session by the City of Creedmoor Board of Commissioners by motion from **Commissioner Kicinski** this, the **6th day of October, 2020.**

Ayes: 5

Noes: 0

Absent or Excused: 0

Robert V. Wheeler
Robert V. Wheeler, Mayor

ATTEST:

Terry A. Hobgood, Jr.
Terry A. Hobgood, Jr., City Clerk



