

Sec. 11-2 Application for Amendment

Sec. 11-2.1 General.

Applications for amendment of these regulations may be in the form of proposals for amendment of the text of these regulations or proposals for amendment of the zoning map. Applications for amendment shall be submitted to the Metropolitan Planning Commission or other designee as determined by the Chatham County Board of Commissioners for acceptance of applications and Ex Officio Judges thereof, in triplicate, on the 11-2 Application Form. Such applications will give the reasons for requesting change of the text and/or zoning map which would support the purpose of the rezoning program. A property owner shall not file a rezoning petition for a map amendment affecting the same parcel within one year from the date a recommendation of denial on an application affecting the same parcel has been made by the Planning Commission. All previous applications for a text or map amendment affecting the same premises shall be listed. The Planning Commission or other designee shall be determined by the Chatham County Board of Commissioners and shall be a local government agent for the Chatham County Board of Commissioners for purposes of the application process.

Sec. 11-2.2 Signature of Applicant Required.

All applications shall be signed and shall state the name and address of the applicant, who must be the owner of the property or the authorized agent or attorney of the owner of the property. If the applicant is the agent of the owner, then said agent shall file, simultaneously with said petition, a notarized letter signed by the owner, authorizing said agent to file on his behalf. No application shall be accepted which fails to meet these requirements.

Sec. 11-2.3 Application for Text Amendment.

In the case of a text amendment, the application shall set forth the next text to be added and the existing text to be deleted.

Sec. 11-2.4 Application for Map Amendment.

An application for a map amendment shall include the following information and a scaled or dimensioned map, plat, or sketch which shall be attached to each of the application forms required. Said map, plat, or sketch shall show the property referred to in the application and all adjoining lots or parcels of land which are in the same ownership as the site(s) in question. Such properties shall also be indicated in respect to the nearby public roads in common use.

- a. The community or area in which is located the land proposed to be reclassified and the street number, if any, or if none, the location with respect to the nearby public roads in common use.
- b. A legal description of the land by lot, block, and subdivision designations, or if none, by metes and bounds.
- c. The property identification number from the tax records of Chatham County.
- d. The present zoning classification and the classification proposed for such land.
- e. The name and address of the owners of the land.
- f. The area of the land proposed to be reclassified stated in approximate square feet if less than one acre, and in acres if one acre or more.
- g. The present and proposed land uses of the property petitioned for rezoning and all adjoining properties if under the same ownership.
- h. The names, address and zip codes, at the date of filing of owners of property being rezoned and of property owners adjacent to and across any public right-of-way from the property being proposed for rezoning, including properties diagonally across an intersection.

Sec. 11-2.5 Posting of Property.

a. **Erection of Sign.** Within 15 days prior to the hearing by the Planning Commission on an application for a map amendment, the applicant shall erect a sign, to be furnished by the planning commission and furnished to planning commission by zoning administrator, on the land proposed to be reclassified. Such sign shall be erected by the applicant within ten feet of whatever boundary line of such land abuts the most traveled public road; if no public road abuts thereon, then such sign shall be erected to face in such a manner as may be most readily seen by the public. The lower edge of the sign face shall be not less than two and one-half feet above the ground.

If the land sought to be reclassified lies within more than one block as shown on a plat recorded in the land records of the County, then a sign shall be erected by the applicant on the land in each such block.

b. Within 15 days prior to the hearing by the Chatham County Commissioners on an application for a map amendment, the applicant shall erect a sign, to be furnished by the Zoning Administrator, on the land proposed to be reclassified. Such sign shall be erected by the applicant within ten feet of whatever boundary line of such land abuts the most traveled public road; if no public road abuts thereon, then such sign shall be erected to face in such a manner as may be most readily seen by the public. The lower edge of the sign face shall be not less than two and one-half feet above the ground.

If the land sought to be reclassified lies within more than one block as shown on a plat recorded in the land records of the County, then a sign shall be erected by the applicant on the land in such block.

c. **Removal of Sign.** Any such sign shall be maintained at all times by the applicant until a decision on the application has been made public by the governing authority. Once the petition is disposed of, the applicant must remove and dispose of the sign.

Sec. 11-2.6 Referral to Planning Commission.

The Planning Commission shall submit its findings to the Commissioner of Chatham County within 30 days from the date it received the petition; provided that such application was submitted to the Planning Commission at least 20 days prior to the regularly scheduled meeting. If the Planning Commission fails to submit a report within a 30 day period, it shall be deemed to have approved the requested change or departure.

Sec. 11-2.7 Hearing Procedure.

a. Hearing Called: Before taking action on a proposed amendment, the Commissioners of Chatham County shall hold a public hearing thereon, at least 15 days notice and not more than 45 days notice of the time and place of such hearing shall be published in a newspaper of general circulation within Chatham County. Such notice shall state the application number, and shall contain a summary of the proposed amendment, if a text amendment, and in the case of a map amendment, the location of the property, its area, name of owner, and the proposed change or classification.

b. Notice to Interested Parties: least ten days prior to the date of the public hearing a notice setting forth the date, time and place for such public hearing shall be sent by mail to the applicant, the Planning Commission, and all owners of property located adjacent to or across a public right-of-way from the property being proposed for rezoning. The names and address of owners of such properties shall be provided by the applicant as set forth in subsection 11-2.4 - Application for Map Amendment, provided, however, where a map amendment is initiated by the Planning Commission such names and address of owners of property located adjacent to or across a public right-of-way from property being proposed for rezoning shall be provided by the Planning Commission and submitted to the Department of Inspections.

c. Deferrals: Once a petition for a map or text amendment has been legally advertised it cannot be withdrawn or deferred without County Commission approval. All requests for withdrawal or deferral shall be submitted in writing by the petitioner to the Department of Inspections, who shall forward such request to the County Commission for action at the next available commission meeting.

(1) Deferral of map and text amendments for a period of sixty (60) calendar days or less: All request for deferrals less than sixty (60) calendar day swill require re-notification of all adjacent property owners. Deferrals initiated by the petitioner will require the petitioner to pay an additional administrative fee as specified in the Chatham County Zoning Ordinance Schedule of Fees. Deferral of a zoning text or map amendment initiated and approved by the Board of Commissioners will be at the County's expense.

(2) Deferral of map and text amendments for a period greater than sixty (60) calendar days: All request for deferrals whose cumulative total exceeds sixty (60) calendar days will require the re-notification of adjacent property owners, the re-advertisement in a newspaper of general circulation, and the property posted with a new sign. Deferrals initiated by the petitioner will require the petitioner to pay administrative fees as specified in the Chatham County Zoning Ordinance Schedule of Fees. Deferral of a zoning text of map amendment initiated and approved by the Board of Commissioners will be at the County's expense.

d. Rules of Procedure: The Chatham County Board of Commissioners shall adopt rules of procedure consistent with this chapter for the conduct of their respective hearing; provided, however, that the rules of procedure

adopted by the Commissioners shall be filed with the clerk of the Board of Commissioners and are subject to review by the Board of Commissioners at its discretion. Unless released or modified by the Board of Commissioners, such rules and provisions of this chapter shall govern the conduct of all proceedings under this zoning code. All such rules shall, at a minimum, afford all persons who desire to be heard a reasonable opportunity to do so, subject to reasonable restrictions as to length, relevancy and repetition of testimony, and to the maintenance of order and decorum of the proceedings.

e. Evidence and Witnesses:

(1) In a proceeding under this chapter, evidence means any thing offered for the record by way of written or unwritten communication, or offered for the record as a representation or illustration of a fact or idea. The Board of Commissioners shall be the sole and exclusive judge as to what evidence may be received by it provided that:

(a) Rules of evidence applicable to proceedings in law or equity shall not bind the board of commissioners;

(b) The Board of Commissioners shall be guided by the precept that any evidence of a kind commonly relied on by reasonably prudent persons in the conduct of their serious affairs should be received unless clearly irrelevant, immaterial or unduly repetitious;

(c) Any person may express any relevant opinion or conclusion. All opinions and conclusions shall be given whatever weight the Board of Commissioners deems appropriate.

(2) Witnesses shall not be sworn, provided that evidence of a factual nature in the form of a sworn affidavit may be given greater weight than unsworn contradictory evidence.

(3) No decision shall be deemed invalid on the basis that any evidence was excluded except where such exclusion amounts to a denial of due process of law to the substantial prejudice of the rights of the person offering it.

f. Official Notice and Personal Investigation:

(1) The Chatham County Board of Commissioners may, at any time, take notice of judicially cognizable facts.

(2) The Board of Commissioners may take official notice of general facts or facts peculiar to the pending proceeding within the person knowledge of any member of the body; provided that in a quasi-judicial proceeding such facts shall be disclosed on the record before the close of the hearing, or they may not be used by the Board of Commissioners in rendering a decision. Except as to judicially cognizable facts, any person present at the hearing shall be accorded an opportunity during the hearing to rebut such facts.

(3) Any member of the Board of Commissioners may, at any time prior to entry of a decision on a proposed land use action, view the subject property alone or with any other person, subject to the provisions of Section 11-2.7 g.

(4) Any member of the Board of Commissioners may, at any time prior to a final decision, seek the advice of the county attorney, or any other county employee or member of the Metropolitan Planning Commission or its staff, as to matters of opinion or policy; as to factual matters prior to the hearing; or as to clarifications of factual matters appearing on the record at the hearing.

(5) The Board of Commissioners may, at any time, take official notice of the provisions of:

(a) The Zoning Ordinance of Chatham County;

- (b) Prior ordinances of Chatham County;
 - (c) Recorded public actions of the Board of Commissioners;
 - (d) Prior recorded land use actions of the Metropolitan Planning Commission and the Chatham County Board of Commissioners as to policies, interpretations or precedents expressed or implied therein;
 - (e) Written administrative policies and regulations of Chatham County;
 - (f) Written opinions of the county attorney;
 - (g) The comprehensive plan and its predecessors; and
 - (h) The legislative history behind any provision of the Chatham County Code of Ordinances or comprehensive plan.
- (6) Any document mentioned in subsection e. of this section, any portion of which was officially noticed, shall, but virtue of such notice, be automatically incorporated in its entirety into the record of a quasi-judicial proceeding. Any reference to such provisions by the Board of Commissioners in the record or in its decision shall constitute official notice.

g. Ex Parte Contacts:

- (1) As used in this section, ex parte contact means any communication concerning the merits of a proposed quasi-judicial land use action made to a member of the Chatham County Zoning Board of Appeals, or the Chatham County Board of Commissioners before whom an action is pending or before whom it may likely come in the future, which communication is initiated by or on behalf of any person interested in or advocating a position as to the outcome of the proceeding. Such communication may be a factual information or argument, or by way of direct or indirect attempt to influence a decision. This section does not apply to contacts with the manager or staff of Chatham County, the Metropolitan Planning Commission, or its staff.

(2) No person shall initiate any ex parte contact with any member of the Chatham County Zoning Board of Appeals or Chatham County Board of Commissioners before a quasi-judicial land use proceeding is pending, knowing such contact is prohibited.

(3) In the event there is any ex parte contact with a member of the Chatham County Zoning Board of Appeals, or Chatham County Board of Commissioners, such member shall place on the record a statement of the substance of such ex parte contact, and shall not participate further in the proceeding unless he or she declares on the record that he or she remains impartial with respect to the merits of the evidence and argument presented to rebut any matters the hearing shall notify all persons present of their right to rebut any matter subject of the ex parte contact. Any shall not be considered in reaching a decision unless independently brought forth on the record by way of evidence or by official notice by some member of the Chatham County Zoning Board of Appeals, or Chatham County Board of Commissioners other than the one with whom the ex parte contact was made.

(4) Communications permitted in Sec. 11-2.7 f. (4), subject to the restrictions and limitation therein, shall not be deemed ex parte contacts.

Sec. 11-2.8 Standards and Criteria for Making Zoning Map Amendments.

Prior to making a zoning map amendment, the Chatham County Commissioners shall evaluate the merits of a proposed amendment according to the following criteria:

(a) Will the proposed zoning district permit uses that would create traffic volumes, noise levels, odor, airborne particulate matter, visual blight, reduce light or increase density of development that would adversely impact the livability or quality of life in the surrounding neighborhood.

(b) Will the proposed zoning district permit uses that would adversely impact adjacent and nearby properties by rendering such properties less desirable and therefore less marketable for the type of development permitted under the current zoning.

(c) Will the proposed zoning district permit uses that would generate a type of mix of vehicular traffic on a street or highway that is incompatible with the type of land use development along such street or highway.

(d) Will the proposed zoning district permit uses that would generate greater traffic volumes at vehicular access points and cross streets than is generated by uses permitted under the current zoning district to the detriment of maintaining acceptable of current volume capacity (V/C) ratio for the streets that provide vehicular access to the propose zoning district and adjacent and nearby properties.

(e) Will the proposed zoning district permit uses or scale of development that would require a greater level of public services such as drainage facilities, utilities, or safety services above the required for uses permitted under the current zoning district such that the provision of these services will create a financial burden to the public.

(f) Will the proposed zoning district permit uses or scale of development that would adversely impact the improvement of development of adjacent and nearby properties in accordance with existing zoning regulations and development controls deemed necessary to maintain the stability and livability of the surrounding neighborhood.

(g) Will the proposed zoning district permit development that is inconsistent with the comprehensive land use plan.