

8. Buildings, material storage and operations used for home occupations shall be setback from side and rear property lines a minimum of 50 feet except for noise generating operations, as determined by staff, in which case the setbacks shall be a minimum of 100 feet. The front setback shall be a minimum of 40 feet and shall be measured from the property line or the edge of the road right of way, which ever is greater.
9. To lesson the impact on adjacent properties, visual screening shall be installed to provide at a minimum a 15 foot wide opaque buffer. This may include but not be limited to a 6 foot high opaque fence and/or the planting of vegetation that at a minimum provides a continuous all season opaque screen at least 6 feet in height within 4 years of planting. Planting shall be a minimum of 3 gallon shrubbery or 10 gallon trees.
10. All required permits (i.e. Chatham County Central Permitting, Chatham County Environmental Health, North Carolina Department of Transportation or other local and state agencies) must be obtained prior to the issuance of the home occupation permit.

Any person wanting to conduct a home occupation within their residence shall apply for a home occupation permit. A home occupation permit approved by the Zoning Enforcement Officer must be received prior to beginning said occupation. Permits are not transferable. The home occupation permit is valid only as long as the use meets the provisions for home occupation specified herein and the permit may be revoked any time the use does not meet the provisions of this or other applicable ordinances.

SECTION 15. CONDITIONAL USE PERMITS

Permits for conditional uses as provided for in this Ordinance may be authorized by the Board of Commissioners in certain circumstances and subject to certain procedures as set forth herein. Two types of conditional uses are provided for in this Ordinance. In some zoning districts certain listed uses are permitted only as conditional uses. In the conditional use zoning districts no use is permitted except pursuant to a conditional use permit.

15.1 Procedure

Requests for conditional use permits as authorized by this Ordinance shall be processed and considered in the same ~~procedure-format~~ as set forth in this Ordinance for rezoning requests ~~and the voting procedure shall be the same as that required in zoning matters~~ and shall follow quasi-judicial procedures. No vote greater than a majority vote shall be required to issue such permits for the Board of Commissioners. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority. In considering an application for a conditional use permit the Board of

Comment [js1]: NCGS 153A-340 (c1)

Commissioners shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured and substantial justice done. If the Board of Commissioners should find, after public hearing, the proposed conditional use permit should not be granted, such proposed permit shall be denied. (#14) Conditional use permits may include time limits for expiration if specified criteria are not met.

In granting a conditional use permit, the Board of Commissioners shall make the following affirmative findings:

1. The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.
2. The requested conditional use permit is either essential or desirable for the public convenience or welfare.
3. The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety or welfare of the community.
4. The requested permit will be consistent with the objectives of the Land Development Plan.
5. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the County's plans, policies and regulations. (#17)

In granting a conditional use permit, the Board of Commissioners may impose such additional restrictions and requirements upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Board of Commissioners shall authorize the issuance of the conditional use permit, otherwise the permit shall be denied. Any conditional use permit so authorized shall be perpetually binding upon the property included in such permit unless subsequently changed or amended by the Board of Commissioners, as provided for in this Ordinance.

A member of the Board of Commissioners 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.

Comment [js2]: NCGS 153A-345 (e1)

15.2 Plans

Departure from or violation of any of those conditions or safeguards shall be deemed a violation of this Ordinance, and shall be subject to the penalties, as provided in Section 19.

4. A variance, once granted, shall continue for an indefinite period of time unless otherwise specified at the time granted.

5. No change in permitted uses may be authorized by a variance.

Comment [js3]: NCGS 153A-345 (d) & 153A-340 (c)

16.4 Appeal Procedure

All appeals from the enforcement and interpretation of this Ordinance, including appeals for variance from the terms of the requirements set forth shall be submitted to the Chatham County Zoning Enforcement Officer within 30 days of enforcement or interpretation (see table below), and shall be addressed to the Chatham County Board of Adjustment. Appeals may be initiated by aggrieved parties.

<u>Enforcement Sequence</u>	<u>Interpretations</u>
<u>1. Notice of Violation – 30 days from receipt</u>	<u>1. Letter of decision – 30 days from date</u>
<u>2. Warning Citation</u>	<u>2. Permit – 30 days from approval date</u>
<u>3. Citation</u>	
<u>4. Criminal Summons (#19)</u>	

Enforcement Sequence	Interpretations
1. Notice of Violation 30 days from receipt from date	1. Letter of decision 30 days
2. Warning	Citation
2. Permit 30 days from approval date	
3. Citation	
4. Criminal Summons (#19)	

1. All appeals shall be in writing, signed and filed with the Zoning Enforcement Officer. Completed appeals shall be received a minimum of 25 days prior to the public hearing at which the proposed amendment is scheduled to be heard.
2. The Board of Adjustment shall conduct public hearings on all appeals and fix a time and place for hearing an appeal. The time set for hearing of an appeal shall not exceed 45 days from the date on which such appeal was filed with the Zoning Enforcement Officer.
3. The Board of Adjustment shall publish notice of the hearing of each appeal in a newspaper published in the County as required by law.

4. The Board of Adjustment shall submit to the applicant, in written form, the decision of the Board. Such notice shall describe the reason or reasons for the Board's actions. A copy of the decision shall be filed in the office of the Zoning Enforcement Officer.
5. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Enforcement Officer certifies to the Board of Adjustment that, based on the records of the case in question, a stay would cause Imminent danger to life or property, in which circumstances proceedings shall not be stayed by an appeal.
6. The Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this section, the Board of Adjustment may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Board of Adjustment pursuant to a subpoena issued in exercise of the power conferred by this section may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor.

Comment [js4]: NCGS 153A-345 (g)

16.5 Vote Required - Judicial Appeal

The Board of Adjustment, by a vote of 4/5 of its members, may reverse any order, requirement, decision, or determination of an administrative officer charged with enforcing this Ordinance, or may decide in favor of the applicant a matter upon which the Board is required to pass under this Ordinance, or may grant a variance from the provisions of this Ordinance. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members. Each decision of the Board is subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the Board is filed in such office as this Ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Secretary or Chairman of the Board at the time of its hearing of the case, whichever is later. The decision of the Board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

Comment [js5]: NCGS 153A-345 (e)

A member of the 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.

Comment [js6]: NCGS 153A-345 (e1)

SECTION 17. AMENDMENT TO ZONING ORDINANCE

17.1 Statement of Intent

For the purpose of establishing and maintaining sound, stable and desirable development within Chatham County this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the County generally, or to extend the boundary of an existing zoning district or to rezone an area to a different zoning district, or to change the regulation and restrictions of the Zoning Ordinance. These amendments shall be reasonably necessary to promote the public health, safety and general welfare and to achieve the purposes of the adopted Land Development Plan.

17.2 Amendment Initiation

Subject to the limitations of the foregoing statement of intent an amendment to this Ordinance may be initiated by:

1. Textual Amendment
 - a. The Board of County Commissioners on its own motion;
 - b. The Planning Board;
 - c. Application by any person who owns property or resides in the area of jurisdiction of this Ordinance.
2. Map Amendment
 - a. The Board of County Commissioners on its own motion;
 - b. The Planning Board;
 - c. The owner or authorized agent of the owner;
 - d. Anyone who owns property or resides in the area of jurisdiction of this Ordinance. Provided, however, map amendments involving conditional use districts may only be initiated by the owner or authorized agent of the owner.

17.3 Procedure for Submission and Consideration of Applications for Amendment

- A. Submitted to the Planning Department

manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with principles underlying the County's comprehensive zoning plan, he shall apply for rezoning to the appropriate conditional use district and simultaneously apply for a conditional use permit specifying the nature of his proposed development. No permit shall be issued for any development within a conditional use district except in accordance with an approved conditional use permit.

17.4 The Board of County Commissioners and the Planning Board Shall Hold a Public Hearing

The Board of County Commissioners and the Planning Board shall receive public comment on applications for amendments to this Ordinance in a public hearing at the County Commissioners' last regular meeting in January, March, May, July, September and November. The lack of quorum of the Planning Board at such meetings shall not affect the proceedings nor require further hearings.

17.5 Public Hearing and Notice Thereof

A public hearing shall be held by the Board of County Commissioners before adoption of any proposed amendment to this Ordinance. Notice of the public hearing shall be given according to State law. When a zoning map amendment is proposed, a notice of the public hearing shall be prominently posted on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but sufficient notices shall be posted to provide reasonable notice to interested parties.

Comment [js7]: NCGS 153A-343 (d)

Mailed notice shall be required in compliance with State law when the County initially zones property.

Comment [js8]: Result of a repeal of exemption in NCGS 153A-343 (c).

17.6 Planning Department Prepares Final Analysis and Recommendation (#22)

Following the public hearing the Planning Department shall prepare an analysis of the application and a recommendation to approve, deny, or defer action on the application. This information shall be presented to the Planning Board at least by the second regular meeting following the public hearing.

17.7 Planning Board Action on the Amendment Application (#23)

The Planning Board shall consider the amendment upon receipt of the Planning Department recommendation beginning no later than the second regular meeting following the public hearing. The Planning Board's recommendation concerning the disposition of the application shall be forwarded to the Board of County Commissioners. The Planning Board shall provide a written recommendation to the Board of County Commissioners that addresses consistency with the adopted comprehensive plan and other matters as deemed appropriate. A recommendation by the Planning Board that a proposed amendment is

inconsistent with the comprehensive plan shall not preclude consideration of approval of the proposed amendment by the governing board.

Comment [js9]: NCGS 153A-341

The Planning Board has a maximum of three regularly scheduled meetings to consider the request, following receipt of the Planning Department recommendation. Failure of the Planning Board to make a recommendation to the Board of County Commissioners following the Planning Board's third regular meeting shall be considered a favorable recommendation without conditions.

A Planning Board member shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is likely to have a direct, substantial, and readily identifiable financial impact on the member.

Comment [js10]: NCGS 153A-340 (g)

17.8 Board of County Commissioners Receives Recommendation of Planning Board

The Board of County Commissioners shall not consider the adoption of the proposed amendment until after the Planning Board makes a recommendation, or fails to make a recommendation within the time allowed. A member of the Board of County Commissioners shall not vote on any zoning map 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. Prior to adopting or rejecting any zoning amendment, the Board of Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan, is reasonable, and in the public interest.

Comment [js11]: NCGS 153A-340 (g)

Comment [js12]: NCGS 153A-342 (b) & NCGS 153A-341

17.9 Withdrawal of Application

An applicant may withdraw his application at any time by written notice to the Planning Department. However, any withdrawal of an application after the giving of the first notice as required in Subsection 17.5 shall be considered, for the purposes of Subsection 17.10, a denial of the petition.

17.10 Effect of Denial on Subsequent Petitions

When the Board of County Commissioners shall have denied a map application or the application shall have been withdrawn after the first notice of the public hearing thereon, the Board of County Commissioners shall not entertain another application for the same or similar map amendment, affecting the same property or a portion of it until the expiration of a one year period, extending from the date of denial or withdrawal, as applicable. Provided, however, one additional application may be made before the expiration of the one year period for the same property or a portion of it if the second application is for a zoning district designated as a conditional use district.

17.11 Vested Rights