

Article 18 – Amendments and Zoning Procedures

18.1 Zoning Decision. A decision is the final action by the Cherokee County Governing Authority or Zoning Board of Appeals when, in carrying out their respective duties, it results in:

18.1-1 The adoption of a Zoning Ordinance.

18.1-2 The adoption of an amendment to a Zoning Ordinance which changes the text of the Zoning Ordinance.

18.1-3 The adoption of an amendment to a Zoning Ordinance which rezones property from one zone classification to another.

18.1-4 The approval or disapproval of a special use exception, variance, or appeal to a decision by the Zoning Administrator.

18.2 Amendments. This Ordinance, including the Official Zoning Map, may be amended as follows:

18.2-1 By the Commission, upon its own motion, in accordance with the requirements of the State Zoning Procedures Law (Ga. Laws 1985, page 1139; O.C.G.A. Sections 36-66-1 through 36-66-5) and this Ordinance; or,

18.2-2 By the Commission, upon the recommendation of the Cherokee County Municipal Planning Commission which, prior to such recommendation, shall have given public notice of the proposal and held a public hearing thereon as required by the State Zoning Procedures Law and this Ordinance.

18.2-3 Nothing herein shall preclude the Commission's submission of any proposed amendment to the Ordinance to the Cherokee County Municipal Planning Commission for its review and recommendations as set out in Section 18.1-2 herein and, in mere particularity, in Section 18.2 of this Article.

18.3 Zoning Procedures.

18.3-1 Initiation of Amendments.

a) Applications to amend this Ordinance may be in the form of proposals to amend the text or proposals to amend the Official Zoning Map. No amendment shall become effective unless it shall have been initiated by the Board of Commissioners, the Cherokee County Municipal Planning Commission, the property owner or an individual who has the owner's power of attorney authorizing him/her to act.

b) No amendment to this Ordinance shall become effective unless it shall first have been submitted to the Cherokee County Municipal Planning Commission

for review and recommendation. All proposed amendments shall be initiated by an application on forms provided by the Zoning Administrator. A standard fee shall be paid with the application in the amount of the advertising costs for the required public hearing.

- c) Unless initiated by the Commissioners of the Cherokee County Municipal Planning Commission, all applications for map amendments shall be submitted by the owner(s) of such property or the authorized agent of the owner(s) of such property or the authorized agent of the owner(s), shall cover only contiguous property(ies). All applications for an amendment affecting the same property shall not be submitted more often than once every twelve (12) months; however, this provision shall not apply to those properties affected by an Amendment filed by the County Government Authority or Cherokee County Municipal Planning Commission. Upon good cause shown, the Board of Commissioners may direct the consideration by the Cherokee County Municipal Planning Commission of an application for a map amendment by the owner of property within the zoning jurisdiction of the county, or the authorized agent of such owner, notwithstanding that the application pertains to property for which an amendment was submitted within the twelve (12) months next preceding that application, upon payment by the applicant of the application fee again and upon notice requirement being met again.

18.3-2 Application for Map Amendments. Each application to amend the Official Zoning Map shall be filed with the Zoning Administrator. Each application shall be submitted in conformance with the requirements of this section.

a) Application Information. The application shall include the following information:

1. A legal description of the tract(s) proposed to be rezoned.
2. A site plan if required (See Section 18.3-3 below) or a plat showing the dimensions, acreage and location of the tract(s) prepared by an architect, engineer, landscape architect or land surveyor, whose State registration is current and valid.
3. The present and proposed zone district classification of the applicant property(ies), tract(s) and the existing zone district classification(s) of abutting properties.
4. The name and addresses of the owner(s) of the applicant property(ies) and their agent(s).
5. The names and addresses of owners of abutting properties, including properties across a public right-of-way (determined by projecting the intersecting tract boundaries of the applicant's property across the right-of-way).

6. Existing Site Resources Map

A detailed site resources map of the proposed development site identifying all special and noteworthy elements of the natural or cultural landscape is a required submittal with any zoning application. The purpose of this key submission is to familiarize County staff and officials with all existing resources on a parcel of land, and to ensure that the important site features have been adequately identified. The Existing Site Resources Map shall be provided with the submission of a request to rezone a parcel of land.

6.1 Required information. To provide a full understanding of the site's potential and to facilitate the most effective exchange with the planning staff and other officials, the existing site resources map shall include the information listed below:

(A) Property boundaries, including:

1. Name and address of the professional engineer, surveyor, planner, architect, landscape architect, or the site designer responsible for preparing the plan;
2. Graphic scale (not greater than 1 inch = 200 ft., however, dimensions on plan need not be exact) and north arrow;
3. Approximate tract boundaries, sufficient to locate the tract on a map of the community;
4. Location Map;
5. Existing streets on and adjacent to the tract

(B) All streams (perennial and intermittent), rivers, lakes, wetlands and other hydrologic features, including:

1. The 100-year floodplain.
2. Streams within 200 ft. of existing boundary.
3. Riparian zones of at least 50 ft width on either side along all perennial and intermittent streams.
4. Riparian zones of at least 150 ft width on either side of the Etowah River Corridor or the Little River Corridor.
5. Wetlands that meet the definition used by state and/or federal regulations

(C) Topographic contours of no less than 10-foot intervals

(D) Vegetation characteristics, including:

1. Existing healthy, native forests of at least one acre contiguous area
2. Individual existing healthy trees greater than 14 inches caliper measured at dbh identified by type and size
3. Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads
4. Prime agricultural lands of at least five acres contiguous area
5. Other features including fields, pastures, meadows, wooded areas, hedgerows and other significant vegetation, rock outcrops,

ponds, ditches, drains, dumps, storage tanks, streams within 200 feet of tract,

(E) Groundwater recharge areas

(F) Significant wildlife habitats, if known

1. Populations of endangered or threatened species, or habitat for such

(G) Historic, archeological and cultural features, including:

1. Archaeological sites, cemeteries and burial grounds subject to approval indicating that these structures are compatible with the Cherokee Zoning Regulations.
2. Site identified in any State or local historic site survey.
3. US Geological Service survey control monuments.

(H) General soil types

(I) Existing roads and structures, including:

1. Existing ROW
2. All easements describing their purpose and depicting their location on the property
3. All structures, foundations, walls, wells, trails, and abandoned roads;
4. Existing trails that connect the tract to neighboring areas

(J) Identification of surrounding property type/land use

6.2 Review of existing resource map. The existing resources map shall be reviewed by the Planning Director or his/her designee. If found inadequate by the reviewer, the reviewer shall state the reasons for its inadequacy, and the existing resources map shall not be accepted until adequate changes are made.

6.3 Exemptions. Zoning applications that meet the following criteria are exempt from the Existing Site Resources Map requirements above:

- Any Residential application of 5 acres or less.
- Any Commercial application of 1 acre or less.
- Any application without new building construction.

(b) Conformance with Development Standards. The property and its use proposed in the map amendment application shall conform to the applicable development standards of the district for which application is made.

(c) Application Submission and Limitation. An application shall be filed with the Zoning Administrator no later than 45 days prior to the scheduled Cherokee County Municipal Planning Commission. Such applications shall be accompanied by fees as listed under the Zoning and Permit Fee Schedule and under no

conditions shall said sum of money be refunded for failure of such amendment to be enacted. Such fees shall not be charged if an official governmental agency files the application. Applications shall be limited to no more than six (6) filed per month on a first come, first served basis. In addition to said six (6), two (2) non-residential applications shall be accepted. This eight (8) application limit shall not apply to the number of cases heard each month by the Cherokee County Municipal Planning Commission nor the Board of Commissioners of Cherokee County.

- (d) Supporting Information and Data. When it is determined by the Zoning Administrator or the Cherokee County Municipal Planning Commission that it is necessary or appropriate to action on an individual rezoning, the applicant shall present a map showing the location of the property for which an application is submitted, and its relationship to adjoining properties and public facilities and services. He may also be required to submit applicable information concerning the service demands that will be placed on public facilities and services including, but not limited to, information on such matters as total anticipated population density; traffic volumes, effect on schools, drainage, traffic and utility facilities. Any site plans, renderings, or other exhibits depicting construction or development which are submitted by the applicant may be recommended as a condition of rezoning by the Cherokee County Municipal Planning Commission or the Zoning Board.
- (e) Application Withdrawal or Amendment. An application may not be postponed or amended by the applicant after the regularly scheduled Cherokee County Municipal Planning Commission Work Session. However, the Cherokee County Municipal Planning Commission may allow an application to be withdrawn prior to the conduct of the public hearing without prejudice with respect to the twelve (12) month limitation of this section. The Cherokee County Municipal Planning Commission may recommend to amend an application prior to acting thereon, with the consent of the applicant, to reduce its size; to change the district required to a less intensive or lower density district than that requested; or to specify as part of the zone district classification the particular use or uses proposed by the applicant. (Ord. No. 2008-Z-002, 09-16-08)

18.3-3 Site Plan Requirements. In addition to the application information required in section 18.3-2a above, a site plan shall be required prior to the Cherokee County Municipal Planning Commission's consideration of rezoning requests in all the non-residential districts and major subdivisions. Such plan shall be prepared in accordance with the requirement of this section, other applicable requirements or development standards of this Ordinance, and applicable requirements of other regulations of Cherokee County and the State of Georgia. For Traditional Neighborhood Development, Neighborhood Plans shall be prepared in accordance with the requirements listed in Article 8 – Traditional Neighborhood Development, Section 8.4 Neighborhood Plans.

(Ord. No. 2007-Z-002, 08-07-07)

- (a) **Waivers and Exemptions.** In those instances where the rezoning request is for the purpose of extending and existing zone district or establishing the zone district to conform to existing land use, the Cherokee County Municipal Cherokee County Municipal Planning Commission may waive the site plan requirement. When the rezoning is initiated by the Board of Commissioners or the Cherokee County Municipal Planning Commission or is for conventional one and two family residential units exclusively, the site plan requirements of this section shall be waived.
- (b) **Plan Submission.** Three (3) copies of the site plan shall be submitted with the original and two copies of the application. One copy shall be retained for the official records of the Cherokee County Municipal Planning Commission and one (1) copy shall be forwarded to the Board of Commissioners with the Cherokee County Municipal Planning Commission's recommendation.
- (c) **Site Plan Format.** All site plans shall be prepared by design professionals such as planners, engineers, architects and landscape architects in the following formats:
1. **Scale.** The scale of plan shall not be smaller than one (1) inch equals one hundred (100) feet.
 2. **Sheet Size.** All site plans shall be drawn on sheets no larger than 24" x 36". If more than one (1) sheet is necessary to cover the applicant property, an index map at a reduced scale shall be provided to key the sheets.
 3. **Boundary Survey.** Shown and described by metes and bounds.
 4. **Title Block.** The following information shall be provided on all site plans as applicable:
 - 4.1. Name and address of owner-applicant and the names, addresses of the registered architect, engineer, landscape architect and/or land surveyor who prepared the plan.
 - 4.2. Date, scale and north arrow.
- (d) **Site Plan Information.** Prior to the approval of a rezoning request in all non-residential districts and major subdivisions, the following information shall be prepared, where applicable:
1. **Location Map.** A general location map at a scale of one inch equals to two thousand feet (1" = 2,000') indicating existing zoning on the site, adjoining roads and the adjacent areas are required.

2. Survey Boundaries. Surveyed boundaries of the entire tract and their relationship to adjoining properties, public rights-of-way, and easements.
3. Building Locations. Location of all proposed buildings, their shape, size and setback in appropriate scale.
4. Right-of-Way. Location and right-of-way of streets, roads, alleys, railroads, public crosswalks, with lengths and widths, road names or designations.
5. Buffers. Proposed buffers and landscaping.
6. Topography. Existing topographic conditions with contour intervals of five (5) feet or less; areas that have slopes greater than fifteen percent (15%) shall be identified when developing under Article 23 – Conservation Subdivisions.
7. Flood Plain. Location of streams, lakes, swamps, and if applicable, the boundary and elevation of the 100-year flood plain as determined by the past history of flooding or the best available data.
8. Sketches. Representative architectural sketches or renderings of typical proposed structures, signs, landscaping, screening and/or fencing.
9. Off-Street Parking and Loading. Show the access point to the public street system, off-street parking and loading plan.
10. Technical Data. Statistical or technical data as necessary to accurately describe the proposed development including, but not limited to, the following shall be included in the Development Report:
 - 13.1 Total land area.
 - 13.2 Amount of land to be used for recreational or open space purpose.
 - 13.3 Total number of dwelling units and gross density by type of land use.
 - 13.4 Amount of space to be occupied by streets and parking areas.
 - 13.5 Amount of any submerged land within the project boundary.

13.6 The total ground coverage and floor area of all buildings.

13.7 A breakdown of the number of kinds of proposed buildings, including square footage, and the number and range of lot sizes and proposed setback and yard dimensions for typical lots and/or building types.

14. Deed record names of adjoining property owner(s) or subdivisions.

18.3-4 Site Plan Review and Approval. Site plan review and approval shall be undertaken in accordance with provisions of Section 18.3-5 and 18.3-6.

18.3-5 Site Plan Effect and Amendments. When developments are approved as site plan specific, those site plans contained in the rezoning shall become effective upon approval for a period of five (5) years, subject to the provisions of Section 18.3-6 below. If amendment of the site plan is desired or necessary to change the proposals represented on the site plan, the applicant shall request a review by the Cherokee County Municipal Planning Commission. The Cherokee County Municipal Planning Commission may recommend approval of minor and incidental changes by the Board of Commissioners or may determine the need to initiate an amendment procedure as provided in Section 18.3-1 above, in the case of major changes.

18.3-6 Study Required for Amendment. Upon the filing of the application for rezoning, the Zoning Administrator may consult with other County departments or governmental units to evaluate the impact of the proposed zoning change upon public facilities and services and may otherwise study the application with reference to appropriateness and effect on existing and proposed land use. The Zoning Administrator shall report any findings and recommendations to the Cherokee County Municipal Planning Commission in writing as a part of the public record or verbally at the public hearing.

When zoning district boundary changes are proposed by an applicant seeking a modification, revision or amendments, the applicant may be responsible for submitting information, or where the proposal is by the Zoning Administrator, the Administrator shall be responsible for submitting information, as follows:

- (a) The existing land use pattern.
- (b) The possible creation of an isolated district unrelated to adjacent and nearby districts.
- (c) The population density pattern and possible increase or overtaxing of the load on public facilities, including, but not limited to, schools, utilities, and roads.
- (d) The cost to the County in providing, improving, increasing or maintaining public utilities, schools, roads, and public safety measures.

- (e) Impact on the environment, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality, and water quality and quantity.
- (f) Whether the proposed change will be a detriment to the value, or improve the development, of adjacent property in accordance with existing zoning regulations.
- (g) Whether there are substantial reasons why property affected cannot be used in accordance with existing zoning.
- (h) The aesthetic effect of existing and future use if the property as it relates to the surrounding area.
- (i) The extent to which the proposed changes are consistent with existing plans and studies.
- (j) Any other factors relevant to the balancing of interests in promoting the public health, safety, morality, or general welfare and in the right of the landowner to use of his property as he chooses.

The Board of Commissioners or the Cherokee County Municipal Planning Commission may make such changes as they deem appropriate to the submission by the Zoning Administrator.

18.3-7 Public Notification. Public Notification of the hearing on a proposed amendment to this Ordinance shall be given as follows:

(a) Legal Notice. At least fifteen (15) but not more than forty-five (45) days prior to the date set by the Cherokee County Municipal Planning Commission for the hearing a written notice shall be published in a newspaper of general circulation within the Cherokee County by advertising the application and date, time, place and purpose of the hearing.

(b) Notice Requirements. Notice shall additionally be given as follows:

1) Published Notice. The published notice shall include the time and date of the hearing, the location of the property, and state the present zoning classification of the property and the proposed zoning classification of the property.

Notice of hearing before the Cherokee County Municipal Planning Commission shall be prepared and presented for publication by the Zoning Administrator.

(2) Sign Posted. A sign shall be placed in a conspicuous location on the property sought to be rezoned setting forth the time, date, place and

purpose of the public hearing, the present zoning classification on the property at least thirty (30) days prior to the public hearing.. Acts of vandalism or natural occurrences limiting the effectiveness of notice by a sign posted on the property shall not invalidate any proceedings or action taken on the proposed amendment.

- (c) Letters to Abutting Property Owners and the Applicant. The Zoning Administrator shall notify by regular mail all abutting Cherokee County property owners (defined in Section 18.3-2a.5 above) of the requested zoning change, as shown by county tax records as the last known address available, of the application and date, time and place of the public hearing, which shall be mailed at least seven (7) days prior to the public hearing. The Zoning Administrator shall notify the applicant of the date, time and place of the public hearing by mail to the address indicated on the application, which shall be mailed at least ten (10) days prior to the public hearing. Receipt of such letter by the applicant or his agent(s) named in the application shall constitute notice to be present and present a case.

(d) Public Participation Plan

- 1) Purpose: The proposed Public Participation Plan is intended to be used in the application for an amendment (rezoning) to the official zoning map of Cherokee County.
- 2) Background: The rezoning process, by nature, often creates a contentious atmosphere for all parties involved. This is primarily because of lack of meaningful interaction between the parties. This, therefore, creates an “information void”, leading to a misunderstanding of the issues at hand among the involved parties.
- 3) Goals of the Plan: In light of the above observations, the proposed Public Participation Plan is designed to facilitate on-going communication among the proponents of the rezoning proposals, the adjoining property owners, interested citizens, elected officials and staff throughout the application review process. Specifically, the Plan is aimed at ensuring the following:
 - a. That the adjoining property owners and interested citizens have adequate opportunity to learn about applications that may affect them and to work with applicants to resolve concerns at an early stage of the process.
 - b. The applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts that applications may have on the community. The proposed plan is not intended to produce complete consensus on all applications, but to encourage applicants to be good neighbors and to foster an atmosphere for informed decision making.

4) Contents of the Plan:

At a minimum, the Public Participation Plan shall include the following information: Which property owners, interested parties, political jurisdictions and public agencies may be affected by the application.

- a. Which property owners, interested parties, political jurisdictions and public agencies may be affected by the application.
- b. How those interested in and potentially impacted by an application will be notified that an application has been made.
- c. How those interested and potentially impacted parties will be informed of the substance of the development proposed by the applicant.
- d. How those potentially impacted and interested parties will be afforded an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues or problems that they may have with the proposal, in advance of the public hearing.
- e. The applicant's schedule for completion of the Public Participation Plan process.
- f. **Minimum Public Notification Target Area**

The minimum public notification target area for the public participation meeting will include:

- (1) All properties that lie within 750 feet of the legal boundary of the subject property.
- (2) Any homeowners associations which represent subdivisions or properties, that falls within the 750 foot boundary.
- (3) Other interested parties who have requested that they be placed on the Interested Parties Notification List, to be maintained by the Planning and Zoning Office.

These requirements will apply, in addition to the formal notification provisions typically undertaken by the County. The basis for this target area is to provide an expanded notification area beyond the legal notification required for rezoning requests (adjacent properties) to enhance public participation opportunities.

5) Public Participation Meeting and Report:

It is mandatory for the rezoning applicant to schedule and hold a public participation meeting. The public notification letter sent shall identify the date, time, and place of the meeting. In order to formalize the Public Participation Plan process, the applicant shall provide a written report on the results of the public participation meeting **to the Planning and Zoning Office 1 week prior to the Planning Commission Work Session.** This report will be attached to the Planning and Zoning Office's Technical Staff Report, which is

prepared for each rezoning case and is sent to the Planning Commission and Board of Commissioners. At a minimum, the Public Participation Report shall include the following information:

- a. Details of methods of applicant used to involve the public, including:
 - (1) Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;
 - (2) Content, dated mailed and numbers of mailings, including letters, meeting notices, newsletters and other publications;
 - (3) Where property owners and interested parties receiving notices or other written materials, are located; and
 - (4) The number of people that participated in the process.
- b. A summary of concerns, issues and problems expressed during the process, including:
 - (1) The substance of the concerns, issues and problems;
 - (2) How the applicant has addressed or intends to address concerns, issues and problems expressed during the process; and
 - (3) Concerns, issues and problems the applicant is unable or unwilling to address and why.
- c. **Submittal Requirements**
 - (1) **The Public Participation Plan shall be required for all rezoning applications that require the submittal of a site plan.**

This includes all office, commercial, multi-family residential, industrial, and single family residential rezoning requests that consist of five (5) or more lots. (This excludes rezone requests to R-80, R-60, R-40, R-20, and R-15 for minor subdivisions of 2 to 4 lots that do not create new public streets.)
 - (2) A site plan and public participation report will also be required for AG rezoning requests proposing any commercial agriculture activity. (e.g. Breeding of livestock, sales of produce). This would exclude and AG rezoning request that is proposed for non-commercial agricultural uses. (e.g. livestock for personal pleasure, single family home).
 - (3) The applicant will be required to submit a certificate of mailing for those property owners within the public participation target area.

(4) The applicant may submit a Public Participation Plan and begin implementation prior to formal application at his discretion; however, implementation shall not begin prior to a pre-application meeting and consultation with the staff of the Planning and Zoning Office.

d. Meeting Requirements and Protocol:

A. The applicant or authorized representative shall be available to answer questions of the general public for at least 30 minutes.

B. The meeting location shall be held at a public facility within the community for which the applicant is seeking re-zoning request.

C. The meeting shall not begin prior to 6:30 p.m. on the evening the meeting is to be held.

D. The applicant or authorized representative shall provide the following material for the general public to view:

1. Cherokee County Future Land Use Map.
2. Site plan proposed on application.
3. Contact information (name and phone number and/or e-mail address) for the applicant or authorized representative.
4. Procedure and contact information provided by Cherokee County Planning and Zoning Department.
5. The application as submitted.

E. Notice of the actual meeting shall be submitted to the Cherokee County Planning and Zoning Department to be kept in the re-zoning file.

6) Conclusion:

These are just minimum requirements, prepared in the hope that applicants will reach out further. This plan is not put in place to ensure that the citizens' needs or demands are met entirely. The plan does, however, envision an interactive process whereby applicants and citizens treat each other honestly, fairly and with respect and defuse the contentious nature of the rezoning process. Emerging out of the process should be a better understanding of the issues and, therefore, an atmosphere for informed decision making.

18.3-8 Public Notification of County Initiated Re-Zoning. The Cherokee County Municipal Planning Commission, of its own motion or at the request of the Board of Commissioners, or the Board of Commissioners may hold public hearings on the proposal of the Zoning Administrator.

- a. Upon the decision by the Cherokee County Municipal Planning Commission to hold public hearings, the Zoning Administrator shall prepare and cause to

be published in a newspaper of general circulation in the County for at least fifteen (15) days, but not more than forty-five (45) days before the hearing date, a notice of public hearing, such notice to contain a summary of the proposals to be considered by the Cherokee County Municipal Planning Commission, and the date, time and place of such hearing.

- b. Copies of the proposal, zoning ordinance, and zoning maps, plus the Zoning Administrator's evaluation of any public inspection in the Planning and Zoning Department during normal working hours between the date of the first appearance of the notice of the public hearing and the time of such hearing.
- c. A public hearing on any proposed amendment to this Ordinance properly initiated shall be held before the Cherokee County Municipal Planning Commission, which is delegated the duty to conduct such public hearing as is required by "The Zoning Procedure Law" (title 36, chapter 66 of the Official Code of Georgia Annotated). A public hearing on any proposed amendment to this Ordinance properly initiated shall be conducted at the time and place specified by the Cherokee County Municipal Planning Commission and as set forth in the public notification described in Section 18.3-7 of this Article. The purpose of such hearing shall be to present to the public the proposed zoning amendment and to receive comments thereon from the public. The Cherokee County Municipal Planning Commission shall consider the proceedings and comments of such hearing in making its recommendation to the Board of Commissioners as to any zoning decision on the proposed zoning amendment. The Cherokee County Municipal Planning Commission shall prescribe the rules of order for its deliberations on matters with which it is charged to advise the Commissioner under this Ordinance and said rules of order shall be consistent with the general requirements and purposes set forth in this article and other general laws of the State of Georgia concerning conduct of proceedings of public commissions, bodies and governmental units.

18.3-8A Membership of Cherokee County Municipal Planning Commission

There is hereby established a Cherokee County Municipal Planning Commission for the purposes of providing recommendations to the Board of Commissioners of Cherokee County concerning re-zoning applications, zoning, land use, and other recommendations to the Board of Commissioners of Cherokee County.

The Cherokee County Municipal Planning Commission shall consist of nine (9) members. The Board of Commissioners of Cherokee County shall appoint seven (7) of the members with each Commissioner having one (1) appointment to run concurrently with the term of the person so appointing. In addition, two members shall be appointed by the Board of Commissioners of Cherokee County as a whole to serve at the pleasure of the Commission.

Two members of the Cherokee County Municipal Planning Commission shall consist of representatives of the City of Waleska and the City of Ball Ground.

The City of Waleska and the City of Ball Ground shall appoint the respective members.

There is hereby established a Chairman of the Cherokee County Municipal Planning Commission to be appointed annually by the members of the Cherokee County Municipal Planning Commission. In addition, a Vice-Chair shall be designated by the members of the Cherokee County Municipal Planning Commission.

18.3-9 Conduct of Hearings. The following policies and procedures shall govern the conduct of hearings under this Article.

- (a) The Chairman shall open any hearing with an explanation of the purpose of the hearing and description of the general rules for the conduct of the hearing and the authority and role of the hearing body in any zoning decision. The order of cases may be altered at the discretion of the Chairman. An individual requesting to be heard on a matter germane to the purpose of the hearing must be recognized by the Chairman before addressing the body. The Chairman shall chair the hearing and shall determine germaneness of any comment or presentation to the Cherokee County Municipal Planning Commission in the hearing and is authorized to rule any individual or a portion of any comment or presentation out of order. However, the Chairman may pre-determine the length of any hearing allotting equal time to proponents and opponents of any proposed zoning amendment. To the extent that there are both proponents and opponents of any proposed zoning amendment and the fact that equal time is not in fact utilized by either position shall not invalidate any proceedings or action taken on the proposed amendment.
- (b) The Cherokee County Municipal Planning Commission may determine that an application for zoning amendment was or was not properly filed or that the type of decision for which the application calls can or can not be heard by it. The Chairman may make determinations as to whether proper public notice of the hearing was given and continue the case where it was not.
- (c) The Chairman shall allow the person initiating the proposed zoning amendment request or his/her designee to present a description of the proposed zoning amendment and the reason(s) for initiating the proposed zoning amendment. Materials or evidence which could have, but were not, filed with the application may be rejected and not admitted. All materials except those which are clearly for rebuttal purposes shall be submitted by the close of the presentation of the case in order to be considered.
- (d) Speakers at the public hearing for or against the application may be required by the Chairman to sign in, giving name and residential address before being allowed to speak. Speakers may be allowed ten (10) minutes for each presentation of new evidence or information. Any person requesting to address the body upon being recognized by the Chairman shall state his

name and residence address before proceeding with any comment, remarks or presentation. Any person addressing the body shall respond to questions of the Chairman or members.

- (e) Failure of the applicant or his agent(s) to be present at the public hearing constitutes abandonment and dismissal of the case unless the applicant shows just cause by reason of illness or health or other emergency within a reasonable time, in writing, and accompanied by new costs for re-advertisement and hearing.
- (f) Evidence or documents presented for consideration become part of the public file; however, substitutions of copies may be made where approved of by the Chairman.
- (g) The Chairman may alternate the order of persons speaking to accommodate unusual situations. The Chairman may divide presentations into blocks of time beginning with proponents and followed by opposition. The Chairman may direct that proponents and opponents designate one or more spokesperson(s) for presentations of favorable and opposing views on the proposed zoning amendment.
- (h) All materials or evidence which persons in opposition wish to be considered must be submitted by the conclusion the opposition of the opposition portion of the hearing.
- (i) The Chairman may poll the public assemblage at any hearing concerning their concurrence or opposition. However, upon the request of the applicant or a spokesman for the opposition, persons responding may be required to give written information as to name, residential address, and the county in which each resides. The count of those in favor and in opposition will be entered in the record of the hearing.
- (j) Any remark amounting to attack on the character or personal integrity of another individual or comment not factually supportable or comment in the form of an emotional outburst shall be non-germane to the purpose of any hearing, may be ruled out of order, and may be disregarded.
- (k) Upon conclusion of the presentation of persons opposing the proposed zoning amendment, the Chairman shall afford the person initiating the petition an allotted time to address the body in rebuttal of any issue(s) raised by persons in opposition and the applicant may submit materials or evidence associated with rebuttal. The Chairman may rule out or order the raising of any new issue(s) which are not clearly rebuttal unless the information was requested by a member of the hearing body. Where a new issue is allowed to be raised in rebuttal, a spokesman for persons opposing the proposed zoning amendment shall be allocated an equal amount of time to address such new issue(s). The applicant does not thereafter have additional rebuttal time except in the discretion of the Chairman.

- (l) When proponents and opponents of the proposed zoning amendment request have been heard in accordance with the foregoing procedures, the public hearing is closed and no further evidence or testimony may be presented unless either the record is left open based on a request for additional material or report, or questions are asked of the applicant or opposition, in which case both sides shall be entitled to response but there is no right of rebuttal.

18.3-10 Planning Commission Action

- (a) The Cherokee County Municipal Planning Commission may recommend approval, approval with conditions, denial of the proposed zoning amendment, or a substitute zoning classification. If a decision is not reached, the matter continues to be tabled for consideration until a vote carries. A report of minutes of the Cherokee County Municipal Planning Commission's recommendation accompanying a summary of the proceedings of the hearing shall be submitted to the Board of Commissioners. The Cherokee County Municipal Planning Commission shall include recommendations for conditions or limitations on uses appropriate to mitigate the impact on the surrounding area. Where the applicant does not agree to such conditions or limitation on uses, the recommendation shall be interpreted as a recommendation for denial unless the conditions or limitations are accepted by the applicant. If the Cherokee County Municipal Planning Commission fails to recommend action on the application within sixty-five (65) days and the applicant does not agree to a waiver of this time limit, the applicant may take it to the Board of Commissioners without a Cherokee County Municipal Planning Commission recommendation.
- (b) In carrying out its responsibilities in reviewing and taking action on an application, the Cherokee County Municipal Planning Commission may adopt rules and regulations for the conduct of public hearings and meetings as are consistent with State and County law and appropriate to its responsibilities. Robert's Rules of Order may be used as a procedural guide in the absence of a rule or regulation.
- (c) The Cherokee County Municipal Planning Commission shall consider any proposed zoning amendment properly initiated in light of the factors set forth in this Article and in light of the purposes for the district affected or considered. In evaluating the factors, the policy and intent of the Cherokee County Land Use Plan shall be considered. It is further the policy of the Cherokee County Planning and Zoning Commission to exercise the zoning power for purposes of assuring the compatibility of use of adjacent and nearby properties and the preservation of the economic value of adjacent and nearby properties and the County's tax base while enabling a reasonable use of all property.

- (d) The decision of the Cherokee County Municipal Planning Commission is advisory only.

18.3-11 Action by the Board of Commissioners. The Board of Commissioners, after receiving the recommendation of the Cherokee County Municipal Planning Commission, shall take appropriate official action on the application and shall notify the applicant of the action taken. If the Board of Commissioners has not approved, denied, approved with conditions, approved a substitute classification, or voted to postpone consideration with respect to the application within ninety (90) days of the Planning Commission's recommendation, the application shall be deemed to be denied without prejudice. (Ord. No. 2008-Z-002, 09-16-08)

18.3-12 Modification, Revision, or Amendment of Zoning Ordinance by Public Authority.

- (a) The Zoning Administrator may conduct a continued study of the needs of the County and from time to time, prepare such modifications, revisions, or amendments to the Zoning Resolution and Ordinance of Cherokee County as may be necessary to conform to the land use plan, land use studies, major thoroughfare plans, and other governing documents. The modifications, revisions, or amendments shall include each text providing definitions, specifications, and conditions as may be appropriate to the matter considered, as well as maps delineating any geographical changes. Submission shall be made to the Board of Commissioners of Cherokee County and to the Cherokee County Municipal Planning Commission.

18.4 Resubmission. If an application for rezoning is denied by the Board of Commissioners of Cherokee County, then the same property may not again be considered for rezoning until the expiration of at least twelve (12) months immediately following the denial of the rezoning application by the Board of Commissioners.

18.5 Copies of the Policies and Procedures. Copies of this Ordinance and of the Zoning Resolution and Ordinance of Cherokee County, Georgia, and of the Cherokee County Municipal Planning Commission Rules of Procedure shall be available for distribution to the general public by the Zoning Administrator at a reasonable cost.

18.6 Zoning Standards. Exercise of the zoning power of Cherokee County shall constitute an effort to balance the interest of the community in promoting the public health, safety, morality or general welfare against the right of property owners to the unrestricted use of their property. The following factors are determined to be relevant in balancing these interests:

18.6-1 Factors Determining a Zoning Decision.

- (a) Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and the uses and zoning of adjacent and nearby properties.

- (b) Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties.
- (c) Whether the property to be affected by the proposed amendment can be used as currently zoned.
- (d) Whether the proposed amendment, if adopted, would result in a use which should or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities.
- (e) Whether the proposed amendment, if adopted, is in conformity with the policy and intent of the Cherokee County Land Use Plan.
- (f) Whether there are other conditions or transitional patterns affecting the use and development of the property sought to be rezoned, which give ground for either approval or disapproval of the proposed amendment.

18.6-2 Evaluation Criteria for Amendments.

- (a) Land development plans, including projected densities in plan and zoning change applications.
- (b) Suitability of subject property for zoned purposes.
 - 1) Development efforts by landowners
 - 2) Needs for special construction
 - 3) Cost of development within present classification
 - 4) Cost of marketing and market considerations in use as zoned
 - 5) Present use by landowner
 - 6) Ownership by applicant for adjacent lands
 - 7) Other land development in vicinity
- (c) Existing uses and zoning of nearby property.
 - 1) Public support or opposition evidencing these criteria
 - 2) Use and classifications of other property
 - 3) Effect upon residents of adjoining property
- (d) Land Values.
 - 1) Value in present classification
 - 2) Value in requested classification
 - 3) Relative values of residential and commercial or other use
 - 4) Impact of change on values of adjacent and nearby properties
 - 5) Expenditures made by owner
 - 6) Opinions as to highest and best use or most advantageous use
 - 7) Loss of tax revenue to the County

(e) Roads and traffic.

- 1) Character of adjacent and boundary roads
- 2) Intersections
- 3) Planned development by public offices
- 4) Planned private developments
- 5) Effect of increased traffic on existing roads
- 6) Effect of increased traffic on safety

(f) Rivers, streams and drainage.

- 1) Flood plains
- 2) Soil Erosion and Sedimentation
- 3) Protected areas
- 4) Pollution of surface and sub-surface water

(g) Utilities.

- 1) Septic tanks or sewerage treatment
- 2) Water supply

(h) Other special consideration

- 1) Buffer zones
- 2) Noise
- 3) Odor
- 4) Fire protection
- 5) Terrain or topography
- 6) Schools
- 7) Animals
- 8) Visual intrusions on neighbors
- 9) Esthetics
- 10) Site plans and plats