

**STATE OF GEORGIA
COUNTY OF CHEROKEE**

ORDINANCE NO. 2022-O-005

AN ORDINANCE AMENDING ARTICLE 4 – RULES AND DEFINITIONS, SECTION 4.3 – DEFINITIONS, AND ARTICLE 7 – DISTRICT USES AND REGULATIONS, SECTION 7.1 - PURPOSE, SECTION 7.2 DEVELOPMENT STANDARDS ADDITIONAL REQUIREMENTS, AND TABLE 7.2 – PERMITTED USES OF THE 1992 ZONING ORDINANCE OF CHEROKEE COUNTY TO PROVIDE FOR DEFINITIONS, REVISED DISTRICT USES, DESCRIPTIONS, PURPOSE, AND REVISED DEVELOPMENT STANDARDS; AND FOR OTHER PURPOSES.

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions, and regulations; and

WHEREAS, O.C.G.A. § 36-1-20 authorizes counties to enact ordinances for protecting and preserving the public health, safety, and welfare of the population of the unincorporated areas of the County; and

WHEREAS, Article 4, Section 4.3 of the 1992 Zoning Ordinance of Cherokee County provides for definitions in order to protect and promote the health, safety, welfare, and general well-being of the citizens of Cherokee County; and

WHEREAS, Article 7, Sections 7.1 and 7.4 of the 1992 Zoning Ordinance of Cherokee County set for the purpose for each zoning district uses and regulations as well as development standards in order to protect and promote the health, safety, welfare, and general well-being of the citizens of Cherokee County; and

WHEREAS, Article 7, Table 7.2 of the 1992 Zoning Ordinance of Cherokee County sets for the permitted uses in order to protect and promote the health, safety, welfare, and general well-being of the citizens of Cherokee County; and

WHEREAS, the Board of Commissioners does hereby find that definitions must be established to revise and clarify certain residential uses and the purpose of the district uses and development requirements must be revised to update single-family and multi-family residential development standards; and

WHEREAS, the Board of Commissioners does hereby find the following revisions to Articles 4 and 7 of the 1992 Zoning Ordinance of Cherokee County, attached hereto as **Exhibit A**, to be a reasonable exercise of Cherokee County's police power, and in the best interests of the public health, safety, and welfare;

NOW, THEREFORE, BE IT RESOLVED THAT by the Cherokee County Board of Commissioners, and it is hereby so resolved by the authority of the same, that Articles 4 and 7 of the 1992 Zoning Ordinance of Cherokee County Zoning Ordinance are hereby amended to revise and clarify certain residential uses, while updating the purpose of the district uses and development requirements to revise single-family and multi-family residential development standards.

SO RESOLVED, APPROVED, AND ADOPTED this 15th day of February, 2022.

By:


HARRY B. JOHNSTON, Chairman

Attest:


CHRISTY BLACK, County Clerk

(SEAL)



EXHIBIT A

Farm Winery. A winery which makes at least 40% of its annual production from agricultural produce grown in the state where the winery is located and is located on the premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery; or is owned and operated by persons who are engaged in the production of a substantial portion of the agricultural produce used in its annual production. (Ordinance No. 2019-O-010, 05-21-19)

Farming. The business of cultivating land, or employing it for the purposes of animal husbandry; the fertilization of the soil as well as caring for and harvesting the crops.

FAA. Federal Aviation Administration.

FCC. Federal Communications Commission.

Fence. An artificially constructed barrier of any materials or combination of materials erected to enclosed or screen areas of lands. A privacy fence is one that is solid and of a height designed to effectively limit visibility.

Final plat: The final drawing of a subdivision and, as applicable, dedication, prepared for filing for record with the Clerk of the Cherokee County Superior Court, and containing all elements and requirements set forth in this Ordinance.

For Rent: Constructed for the express purpose and intent of offering to the general public for lease and not intended For Sale.

For Rent Community: A residential Subdivision or Development with more than ten (10) percent of the Dwellings therein occupied, or intended to be occupied, by tenants rather than owners.

For Sale: Constructed for the express purpose and intent of offering to the general public for purchase.

For Sale Community: A residential Subdivision or Development with no more than ten (10) percent of the Dwellings therein occupied, or intended to be occupied, by tenants rather than owners.

Floor Area, Gross. The sum of the gross horizontal area of the several floors of a building measured from the exterior face of exterior walls or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six (6) feet.

Floor Area Ratio. The gross floor area of all buildings on a lot divided by the lot area.

Frontage. The side of a lot abutting on a street; the front lot line.

Full Service Kitchen. A kitchen designed, intended, and equipped to produce meals for sale to the general public as a major function of the business. (Ordinance No. 2019-O-010, 05-21-19)

Funeral Establishment. A place where the embalming or funeral directing is practiced and which

Article 7 – District Uses and Regulations

7.1 Purpose.

7.1-1 General Agricultural District (AG). The purpose of this district is to maintain the integrity of agricultural activities predominate in the rural area of Cherokee County. Within the district, the subdivision of land for suburban development is discouraged, while agriculture and livestock production are strongly encouraged in order to maintain the rural character of these areas. On-site sales should be limited to live animals, plants and produce that have been raised on the property, unless this Ordinance specifically provides for limited related commercial activities for particular uses. This district is intended for the development of large lot Dwelling, Single Family "For Sale" detached residential subdivisions and For Sale Communities. Includes two-acre Dwelling, Single Family, "For Sale", Lots or larger. (Ord. No. 2018-O-003, 04/03/2018)

7.1-2 Estate Residential District (R-80, R-60). The purpose of this district is to permit "For Sale" residential development in those areas that are expected to become more nearly urban in character. The areas involved are generally in transition from agricultural to residential development and are considered appropriate for low density residential development and For Sale Communities. Limited agricultural uses, such as crop production and animal husbandry, on tracts of 5 acres or more are also compatible with this district.

7.1-3 Single-Family Residential Districts (R-40, R-30). The purpose of these residential districts is to enable "For Sale" residential development and For Sale Communities of a low density urban character. The regulations are designed to permit and encourage residential development in areas where urbanization is taking place. Limited agricultural uses, such as crop production and animal husbandry, on tracts of 5 acres or more are also compatible with this district.

7.1-4 Single-Family Residential Districts (R-20, R-15). The purpose of ~~these~~this residential districts is to permit and encourage development of medium density "For Sale" single-family residential uses and For Sale Communities in a moderately spacious surrounding. The R-20 development district shall be served with an approved community water system.

7.1-5 Single-Family Residential ~~District~~ (R-15, RD-3, RZL). The purpose of ~~these~~this residential districts is to permit and encourage development of high density "For Sale" single family residential uses and For Sale Communities in a moderately spacious surrounding. These development districts shall be served with an approved community water system and a central sewerage system.

7.1-6 Single-Family Residential District (RD-3). The purpose of this residential district is to permit and encourage development of high density "For Sale" or "For Rent" single family residential uses, For Sale Communities and For Rent Communities in a moderately spacious surrounding. This district is intended to be served with an approved community water system and a central sewerage system.

7.1-~~76~~ Single-Family Attached ~~Residential Districts~~ Residential Districts (RA, RTH). The purpose of this district is to provide for intermediate housing types and densities between single-family detached and multi-family dwellings. Such development may include duplexes, triplexes, quadruplexes or townhouses to be located in the urban portion or suburban portion of the county where apartment buildings would not be compatible. Innovative design with cluster development is encouraged. Such development districts are intended to be served with central sewerage system

except for lot sizes exceeding 20,000 square feet.

7.1-~~87~~ Multi-Family Residential "For Sale" or "For Rent" District (RM-10, RM-16). The purpose of these residential districts is to permit development of high density multi-family "For Sale or "For Rent" residential dwellings. These zoning districts are to be located where public water supply and sewerage facilities are available or can be obtained and where there is convenient access to collector streets or major thoroughfares. The use of these districts can be developed as a transition zone between residential districts and commercial districts.

7.1-~~98~~ Traditional Neighborhood Development (TND). Traditional Neighborhood Development is a floating district which may be located within any "For Sale" or "For Rent" residential district if it meets all the standards for a Traditional Neighborhood Development. The purpose of this district is to encourage flexible and innovative design in site planning and building arrangements under a unified plan of development regulation instead of standard zoning regulation. Traditional Neighborhood Developments shall be planned as integral units and may be residential, commercial or a combination of land uses. The developer benefits from better land utilization, economy in the provision of roads and utilities and flexibility in design. The community benefits from efficient use of land, preservation of natural amenities and environmental sensitive areas and lower development and housing costs. Review and approval of the development plan provides the opportunity to assure that the development will be in harmony with the character of the neighborhood in which it is located.

7.1-~~109~~ Office/Institutional District (OI). The purpose of this district is to provide a location for office, institutional, medical and educational development. Limited related retail business and service activities may be permitted but not involved with storage and processing.

7.1-~~110~~ Corporate Park District (CP). The purpose of this district is to provide for suitable areas for developments that are primarily for offices for businesses, professional services, and sales activities with a limited amount of retail uses within master-planned developments or parks. This district should be accessible to an arterial. An overall concept plan is required within this zoning district in order to guide each development. (Ord. 2011-Z-001, 03-01-11)

7.1-~~124~~ Neighborhood Commercial District (NC). The purpose of this district is to provide for limited retail activities, commercial sales, personal services and professional offices to serve the general need of a residential neighborhood. Development of commercial uses is regulated for compatibility with the surrounding residential areas. Districts are located to create commercial centers or clusters and to discourage commercial strip development. In addition, these uses shall have a maximum allowed floor space of 10,000 square feet per acre of total building floor space. (Ord. 2006-Z-006, 06-06-06)

7.1-~~132~~ General Commercial District (GC). The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of commercial sales and service activities which generally serve a wide area. The permitted uses are generally located along the major thoroughfares of the county. Activities with limited storage may be permitted. Districts are located to create centers or concentrations of commercial activities and to discourage commercial strip development.

7.1-~~143~~ Light Industrial District (LI). The purpose of this district is to provide suitable areas for industrial development but whose proximity to residential or commercial districts makes it desirable to limit the intensity of industrial operations and processes. This district limits industrial, manufacturing and warehousing uses to those which are wholly conducted indoors, with the exception of limited amounts of outdoor storage which shall be screened and situated in a side or rear yard. The district should be accessible to a major arterial or State Highway. Permitted uses are restricted to those which are not characterized by smoke, dust, fumes, gas, heat, glare, fire

hazards, noise, vibrations and other nuisances. (Ord. 2011-Z-001, 03-01-11)

7.1-1~~54~~ Heavy Industrial District (HI). The purpose of this district is to provide suitable areas for industrial operations and processes conducted both indoors and outdoors. Due to the intensity of these uses, the district should be located on or have ready access to a major arterial or State Highway and separated from residential areas by significant natural barriers and/or buffers. (Ord. 2011-Z-001, 03-01-11)

7.2 Development Standards Additional Requirements.

7.4-1 Single-Family Residential (R-15)

- a. Development in district R-15 shall be served with public or private central sewerage.

7.4-1.1 Single-Family Residential (RD-3)

- a. Intent:

The RD-3 district shall be designed around the Public Realm. The area between the front of house on one side of a street and the front of the house on the other side of the street comprise a public space, or the Public Realm. This area is differentiated from the private space located in the backyards of the homes. Generally, homeowners concern themselves with the “street presence” of their home. Yards are neatly trimmed, landscaping is installed, and decorations adorn the front face of the house so as to be seen by the neighbors. The Public Realm is the area in a neighborhood where residents engage one another. The design of the Public Realm is focused on the experience of the pedestrian so the presence of automobiles should be minimized to enhance the community’s enjoyment of the public streetscape.

- b. Infrastructure:

Development in RD-3 district shall be served with public water and public or private central sewage.

- c. Documentation:

1. Zoning – A proposed site plan must be submitted to Planning and Zoning for review and comment prior to RD-3 rezoning request. The applicant shall indicate whether the units in the proposed project will be constructed “For Sale” or “For Rent,” or a combination thereof. Typical lot layouts with building footprints and elevations/renderings of the proposed housing product are also required. More information about specific requirements when requesting RD-3 zoning can be found in Article 18 of the Zoning Ordinance.

- 1.2. Development Plan – If property is already zoned RD-3, a preliminary technical review meeting is required with Development Review staff. At this time, actual lot layouts with building footprints, elevations/renderings and design palette of the final housing product are required for review and comment by staff.

- 2.3. Building Permit – A house location plan must be approved by Cherokee County prior to the issuance of a building permit for a RD-3 lot.

7.4-5 Multi-Family Residential (RM-10, RM-16)

- a. Prior to development, a conceptual site plan is required to show the locations of all

buildings, uses, fences, property lines, landscaping, open spaces, parking areas and uses and any other features deemed appropriate by the County Commissioners. Site plan shall be prepared in accordance to requirements indicated in Section 7.5 and indicate whether the project will include "For Sale" or "For Rent" units, or a combination thereof.

- b. Development shall be served with central sewerage facilities.
- c. Townhomes are allowed in the RM-10 and RM-16 zoning classifications. Where townhomes are chosen, the density and all design criteria will be consistent with the RTH zoning classification. ~~(Ord. No. 2006-Z-05-16-06)~~ Townhome Dwellings in For Sale Communities must be subdivided in accordance with Section 5.5-1 (F). (Ord. No. 2006-Z-05-16-06)

- d. **Special Use.** A principal use listed in Table 7.2 in any district denoted by the letter “S” is designated as a Special Use within that district and permitted only upon compliance with Article 18.4 Special Use Permits of this Ordinance and the grant of a Special Use Permit by the Board of Commissioners. In addition, any Special Use is subject to the Section 7.7 Permitted Uses Additional Requirements for that Special Use.
- e. **Classification Standards and Codes.** The Permitted Uses in Table 7.2 are organized utilizing the Land Based Classification Standards (LBCS) developed by the American Planning Association and the North American Industrial Classification System (NAICS) used by the U.S. Census Bureau. The LBCS classifies land uses across five dimensions, Activity, Function, Structure Type, Site Development Character, and Ownership. For the purposes of this ordinance, the Function classification has been used because it refers to the economic function or type of establishment using the land. The NAICS is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. Cherokee County uses the NAICS codes to classify businesses for the purpose of issuing Occupational Tax Certificates (i.e., commonly referred to as Business Licenses). The use of these two classification systems together allows for a comprehensive and detailed regulation of Land Use. Each use provided for in Table 7.2 should be read in conjunction with the applicable LBCS and NAICS permitted uses and description of uses. If a conflict exists between the LBCS and NAICS permitted uses and description of uses and the terms and conditions of this Zoning Ordinance, this Zoning Ordinance shall govern and control. (Ord. No. 2018-O-003, 04/03/2018)

7.7 Permitted Uses Additional Requirements.

7.7-1 Residential Households (LBCS 1100)

- a. **Manufactured Home Regulations.**
 - (1) **Definition:** “Manufactured home” means a structure, transportable in one or more section, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built of a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq. (Ga. L. 1968, p.415, Section 2; Ga. L. 1973, p.4, Section 2; Code 1981, Section 8-2-131; Ga. L. 1982, p. 1376, Section 3, Section 7; Ga. L. 1989, p. 14, Section 8.)
 - (2) **Development Standards:** As to manufactured homes constructed in compliance with the HUD Code (June 15, 1976), the following development standards must be met:

- i. The home has a length not to exceed three (3) times its width measured at the most narrow point and have a minimum floor area of 900 square feet.
 - ii. The pitch of the home's roof has a minimum vertical rise of 2.3 feet for every 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.
 - iii. The exterior siding will consist of wood, vinyl, hardboard or stucco brick comparable in composition, appearance and durability to the exterior siding and use in standard residential construction. Such homes will not be allowed to utilize metal siding.
 - iv. A manufactured home must be placed and anchored on permanent foundation, either slab or pier, which meets the requirements of the Standard Building Code until such time as the Building Code is supplanted by state law or regulations pertaining to placement and anchoring of manufactured housing, January 1, 1993. Thereafter, State law shall control. In addition, masonry curtain wall, unpierced except for the required ventilation and access, must be installed so that it encloses the area under the manufactured home to ground level.
 - v. Landscaping must consist of at least grass seed and straw.
 - vi. Utility meters for the manufactured home are to be mounted to the structure rather than on a utility pole. This does not apply to units within existing manufactured home parks.
 - vii. A manufactured home must have at each door, steps and landing, as per Section 1113-Stairway Construction, Chapter X1 of the Georgia State Building Code.
 - viii. All the above requirements must be met prior to the issuance of a Certificate of Occupancy and plans must be submitted to the Building Department verifying the above standards. (Ord. No. 2008-Z-002, 09-16-08)
- (3) Zoning Districts:
- i. Manufactured Housing is permitted exclusively in the AG, R-80, R-60, and R-40 zoning districts. Manufactured Housing is not allowed in any other zoning district except temporarily according to the terms of this Ordinance.
 - ii. Single-wide manufactured homes are permitted only in the AG zoning district with the following provisions:
 - (A) Where the access to the property is on a paved road, the minimum area shall be at least two (2) acres or more; or;
 - (B) Where the access to the property is on an unpaved road, the minimum area shall be at least five (5) acres or more.
 - iii. Single-wide manufactured homes so allowed in the AG zoning district pursuant to subsection (ii) shall not be required to meet the requirements contained in Section 7.7-1 (a)(2). (Ord. No. 2018-O-015, 12-04-2018)
- (4) Manufactured homes existing in Cherokee County as of August 25th, 1991 may continue to exist in whatever district it may be located as a legal non-conforming use and may be replaced if destroyed by natural disaster, such as storms, tornadoes, or natural fires. Additionally, such manufactured homes or mobile

homes may be upgraded or replaced by manufactured homes, meeting the HUD code standards without having been destroyed and without losing the legal non-conforming or grand-fathered status as a parcel in use of that property. All existing manufactured homes, parks and subdivisions will continue to exist as a legal non-conforming uses after the adoption or amendment of the Cherokee County Zoning Ordinance. (Resolution #94-9, amended 6-14-94).

- (5) Real estate sales or construction manufactured housing shall be permitted upon a temporary basis until 100% of the subdivision or phase being constructed has been issued Certificates of Occupancy. (Ord. No. 2008-Z-002, 09-16-08)
- (6) Hardship Situations: A manufactured home may be temporarily placed upon an individual lot when the applicant can show extreme hardship resulting from loss of use of a home or building due to fire, flood or other damage making it unfit or; unsafe for use or occupancy; resulting from extensive remodeling of a home or business making it unsuitable for use or occupancy; or a health or health related problem of a family member which warrants proximity of that relative for monitoring purposes. In cases of hardship, where a temporary use permit is granted, such use is limited to a period not to exceed twelve (12) months without specific written approval of the Board of Commissioners, who may require new evidence of the conditions upon which the hardship was based. Prior to the issuance of a temporary use permit based on hardship, the applicant must execute a statement that he acknowledges and agrees that the permit is valid only so long as the conditions of the permit are met, that upon the termination of any of the conditions, the applicant shall cause the removal of the manufactured home at his own expense and failure to do so grants to Cherokee County the right to remove the same from the premises at the applicant's expense.
 - i. An application for hardship due to the loss of use of a home or building due to fire, flood, or other damage making it unfit or unsafe for occupancy must be supported by affidavits as to the facts alleged, which affidavits are submitted to the Zoning Administrator at the time of application on the form provided by Planning and Zoning.
 - ii. An application for hardship due to extensive remodeling of a home or building making the structure unsuitable for use or occupancy must be supported by affidavits as to the facts alleged, which affidavits are submitted to the Zoning Administrator at the time of application on the form provided by Planning and Zoning.
 - iii. An application for hardship due to a health or health related problem of a family relative which warrants proximity of that relative for monitoring purposes must be supported by affidavits as to the facts alleged, which affidavits are submitted to the Zoning Administrator at the time of application on forms provided by Planning and Zoning. Both the lack of space within the applicant's home to accommodate the family relative and the health or health related problem must be evidenced and certified to the Zoning Administrator and the application based upon health considerations must be accompanied by an affidavit from a physician stating the health problems necessitating monitoring. The affidavit from the doctor stating the health problem shall contain the sworn statement of such physician that:
 - a. The family relative for whom the temporary use of a mobile home is requested requires 24-hour nursing care involving the physical

presence of a monitor, nurse or attendant or the presence of such monitor, nurse or attendant within voice communication of the attended relative; OR

- b. The health or health related condition or disability of the family relative has existed for six (6) or more months before the date of the application for the temporary use permit, and/or in the professional medical opinion of the physician completing the affidavit, the condition of disability is likely or continue for six (6) or more months. (Ord. 2008-Z-002, 09-16- 08)
- (7) A manufactured home may be placed on a site temporarily for six (6) months for residential purposes while a site-built home is constructed in all residential zoning districts. Upon appeal to the Board of Commissioners, one (1) six (6) month extension shall be allowed. The applicant/property owner shall sign an acknowledgement letter authorizing Cherokee County to stop the provision of utilities to the manufactured home at the end of the approved time limit for this temporary placement of a manufactured home. (Ord. No. 2008-Z-002, 09-16-08)

b. For Rent Communities. For Rent Communities shall be permitted by right in the RD-3, RM-10, and RM-16 zoning districts. For Rent Communities shall be permitted in the TND zoning district with an exceptional variance. For Rent Communities shall be prohibited in any district where the use is not permitted by right.

c. Parking of Commercial, Industrial, and Heavy Vehicles. Parking of commercial, industrial, and heavy vehicles, and any other vehicles, in AG and residential districts shall be governed by the Cherokee County Property Maintenance Ordinance. (Ord. No. 2009-Z-006, 10-20-09)

7.7-2 Hotels, Motels or Other Accommodations (LBCS 1300)

- a. Lodge, Retreat, and/or Campground (facilities to include lodging and food service for social, educational, and/or recreational purposes) are permitted provided that:
 - (1) Minimum lot size shall be 10 acres.
 - (2) Permitted curb cut access shall not be derived from a local street.
 - (3) A minimum 50-foot wide buffer is required adjacent to all property except Right-of-Way.
 - (4) Length of the stay for all but permanent staff shall not exceed 30 consecutive days.
 - (5) Sanitary facilities or trash receptacles shall be located a minimum of 200 feet from any residential district and/or AG district when used for single family.
 - (6) Recreational facilities associated with the use shall be for staff and guests only.
 - (7) One parking space per lodging unit or five (5) per 1000 square feet of floor area, whichever is greater.
- b. Bed and Breakfast Inns
 - (1) Definition - A use that takes place within a structure that was primarily used as a single-family dwelling, consisting of renting from one to six dwelling rooms on a daily basis to tourists, vacationers, and business travelers, where only breakfast meals are served and provided for those guests only. The homeowner shall reside

Table 7.2 – Permitted Uses

Delete "2322" "Rental housing-related," NAICS 531110 use

[illegible]