

STATE OF GEORGIA  
COUNTY OF CHEROKEE

ORDINANCE NO. 2021-O-010

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AN ORDINANCE OF THE CHEROKEE COUNTY BOARD OF COMMISSIONERS AMENDING ARTICLE 4, ARTICLE 5, AND ARTICLE 15 OF CHAPTER 70 OF THE ZONING ORDINANCE OF CHEROKEE COUNTY, GEORGIA AS DESCRIBED HEREIN; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; 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 as of July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of a county may adopt clearly reasonable ordinances, resolutions, and regulations; and

**WHEREAS**, the Board of Commissioners desires to amend Article 4 – Rules and Definitions, Section 4.3 Definitions, Article 5 – General Provisions, Section 5.6 Accessory Uses and Structures, Section 5.7 Vision Clearance at Intersections, and Article 15 – Zoning Board of Appeals, Section 15.19 Administrative Variances of the Cherokee County Zoning Ordinance pertaining to accessory uses and structures as described in **Exhibit A** which is attached hereto and incorporated herein by reference; and

**WHEREAS**, the amendment includes, but is not limited to, amending the Zoning Ordinance definition of Barn, Guest Quarters, Animal Quarters, Front Lot Line, Dwelling Unit and Building Height; amending the Zoning Ordinance requirements with respect to the location, size, height, lot coverage and incidental uses of accessory uses and structures; amending the Zoning Ordinance

requirements pertaining to fences; and adding additional Zoning Ordinance sections from which an Administrative Variance may be granted.

**WHEREAS**, these Ordinance changes will benefit the safety and welfare of the citizens of Cherokee County; and

**WHEREAS**, the governing authority of Cherokee County, to wit, the Board of Commissioners, desires to exercise its authority in adopting this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED** by the Cherokee County Board of Commissioners, and it is hereby so ordained by authority of the same that:

### **Section 1.**

Section 4.3 of Article 4 of the Cherokee County Zoning Ordinance shall be amended and said Ordinance shall read as follows:

#### **Chapter 70 – Cherokee County Zoning Ordinance.**

#### **Article 4 – Rules and Definitions.**

#### **4.3 – Definitions.**

*Animal Quarters.* Any open space or structure used to shelter, care for, house, feed, exercise, train, exhibit, display or show any animals, other than fenced pasture land for grazing.

*Building Height.* The vertical distance measured from the threshold of the front door entrance to the highest point of roof. Chimneys, flues, and other structures or equipment incidental to the primary use of the building or site shall not be used in determining building height.

*Dwelling Unit.* A single unit providing complete independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation, designed for the exclusive use of a family maintaining a household.

*Lot Line, Front.* The lot line separating a lot with frontage on a street right-of-way or a landlocked lot with frontage on an access easement.

## **Section 2.**

Section 5.6 of Article 5 of the Cherokee County Zoning Ordinance shall be amended and said Ordinance shall read as follows:

### **Chapter 70 – Cherokee County Zoning Ordinance.**

#### **Article 5 – General Provisions.**

#### **Section 5.6 5.6 Accessory Uses and Structures**

No accessory building or use shall be constructed upon a lot until construction of the principal building has commenced, except in the case of a barn in the AG district. The following requirements shall not apply to accessory uses and structures in the TND district.

**Barn** – A building used for the quartering or training of livestock kept on the premises, the storage of agricultural products produced on the premises, the storage and maintenance of farm equipment, and/or the storage of supplies used for the agricultural operations and maintenance of the premises. Animal quarters, as defined in Article 4 of the zoning ordinance, shall be considered a barn. A barn in AG shall be exempt from sections 5.6 (A), (B), and (C). A barn shall be located no less than seventy-five (75) feet from any property line.

**Guest Quarters** – Living area included in an accessory structure for temporary living only. Guest quarters shall not contain complete provisions for eating and cooking. Only one (1) structure containing guest quarters shall be constructed concurrently with or after the construction of a principal, residential structure. The

building footprint shall be limited to 50% of the principal structure or 1,200 square feet, whichever is less.

**Lot Coverage** – The cumulative square foot measurement of the principal building footprint, any accessory buildings' footprints and accessory uses.

A. Location on Lot. No accessory structure(s) shall be located closer to the front lot line of property than the primary structure, except when located on AG property of at least two (2) acres. When located closer to the front lot line than the primary structure, accessory structures shall meet the front building setback(s) of the property, shall not obstruct the viewpoint of the primary structure from the front lot line, and shall be wholly enclosed. The viewpoint shall be measured as the widest part of the primary structure horizontal to the front lot line. See figure 5.6 (A)1 – Accessory Structures in AG.

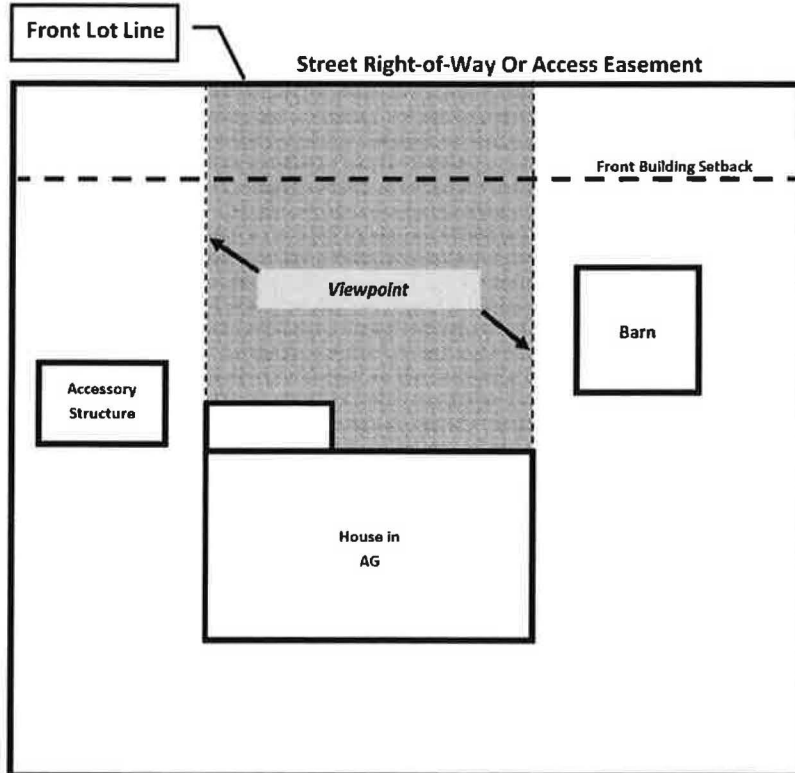


Figure 5.6(A) 1 – Accessory Structures in AG

Where an accessory building is structurally attached to the principal building by a wholly enclosed breezeway, passageway or similar means, it shall comply with the yard requirements of the principal building to which it is accessory.

Accessory uses and structures shall be located on the same lot or parcel as the principal use or structure. No garage or other accessory building or use shall be located closer to ten (10) feet to a side or rear lot line. A two (2) foot overhang for eaves or gutters will be permitted within this ten (10) foot setback.

B. Number and Size. No accessory use, or structure, or combination of, shall exceed the number allowed as shown in Table 5.4. Accessory structures shall be included in the total lot coverage by zoning district allowed per Table 7.1A: Minimum District Development Standards. Structures of less than 200 square feet shall not be included in determining the allowable lot coverage. No accessory structure may exceed the footprint of the principal structure.

C. Height. No accessory building shall exceed twenty-five (25) feet in height or the height of the primary structure, whichever is lower.

D. Structure Limitations. Accessory structures shall not be used as dwelling units or for lodging purposes except as otherwise provided herein. (See Guest Quarters)

E. Incidental Uses. The following accessory uses and structures which are incidental to a residential use are permitted in their respective residential and AG districts.

5.6-1 A children's playhouse, private greenhouse.

5.6-2 A swimming pool for private use. Pools shall be fenced with a sturdy material of chain link or of material and colors compatible with the main dwelling; that prevents entry that is continuous around the pool except for gate openings; that is a minimum of five feet in height; that has latches out of reach of children or at least

five feet off the ground; and locked to exclude all persons unless a responsible person is at the pool.

5.6-3 A garage, shed or building for domestic storage.

5.6-4 Reserved.

5.6-5 Signs (other than advertising sign) as permitted and regulated in each district incorporated in this ordinance.

5.6-6 Public utility communication, electric, gas, water and sewer lines, their supports, and incidental equipment.

5.6-7 Carports.

5.6-8 A satellite disk or dish, subject to the same restrictions and requirements as sheds and storage buildings.

5.6-9 Animal quarters for domestic animals, not including livestock; kennels.

5.6-10 Mini-Warehouse facilities may establish one (1) resident-manager of the facility.

Table 5.4: Accessory Structure Standards

<b>ZONE</b>	<b>DISTRICT</b>	<b>MAX NO. ACCESSORY STRUCTURES</b>
AG	Unplatted	-
AG	Platted Subdivision	3
R-80	Estate Residential	3
R-60	Single-Family Residential	3
R-40	Single-Family Residential	3
R-30	Single-Family Residential	2
R-20	Single-Family Residential	2
R-15	Single-Family Residential	2
RD-3	Single-Family Residential	1
RZL	Zero-Lot-Line	1

NOTE: This chart applies to accessory structures only. Homes, pools and tennis courts are excluded.

#### 5.7 Fences.

A. Vision Clearance at Intersections. In all zoning districts, no fence, wall, structure, shrubbery or other obstruction to vision between the heights of three (3) feet and fifteen (15) feet, except utility poles, light or street sign standards or tree trunks shall be permitted within twenty-five (25) feet of the intersection of the right-of-way lines or streets, roads, highways or railroads as long as the same also complies with State Law.

B. Location and Height. No fence or free-standing wall other than a retaining wall shall be more than eight (8) feet in height or be constructed in a public right-of-way or future street right-of-way as defined by the Cherokee County Roadway Functional Classification map. If a fence is adjacent to a public road right-of-way and within the required setback in a residential district such fence shall not exceed six (6) feet in height and meet the requirements in Section 5.7. It is recommended that fences be installed a minimum of six (6) inches off the property line.

5.8 Approvals for Developments along Interstates, State Highways and County Roads.

5.9 Use Occupancy and Erection.

5.10 Classification of Streets.

5.11 Connecting Access Among Adjoining Businesses.

5.12 Requirements of the Cherokee County Development Standards, the Cherokee County Soil Sedimentation and Control Ordinance and the Cherokee County Flood Plain Regulation Ordinance.

### **Section 3.**

Section 15.9 of Article 15 of the Cherokee County Zoning Ordinance shall be amended and said Ordinance shall read as follows:

#### 15.19 Administrative Variances

The Zoning Administrator may grant an Administrative Variance where, in his/her opinion, the intent of the ordinance can be achieved and equal performance obtained by granting an Administrative Variance and upon presentation of evidence indicating that such variance is necessary and/or a practical solution without significant impact to adjoining properties, provided that the same applicant has not requested an Administrative Variance or an Administrative Variance has not been requested for the same property within the preceding six (6) months. The authority to grant such variances shall be limited to variances from the following requirements:

1. Minimum Building Setbacks: Up to ten percent (10%) of the minimum required building setbacks outlined in Table 7.1 of Article 7, Table 16.1.5-B of Article 16, Section 5.6 of Article 5, and Table 23-2 of Article 23 of the Cherokee County Zoning Ordinance.

Any and all administrative variances granted pursuant to this Section shall be reported to the Board of Commissioners on a monthly basis and to the Cherokee County Board of Appeals.

#### Section 4.

It is hereby ordained that the provisions of these Ordinances shall become a part of the Code of Ordinances of Cherokee County, Georgia, and the sections of these Ordinances may be renumbered to accomplish such intention.

#### Section 5.

- (a) It is hereby declared to be the intention of the Cherokee County Board of Commissioners that all sections, paragraphs, sentences, clauses, and phrases of these Ordinances are and were, upon their enactment, believed by the Cherokee County Board of Commissioners to be fully valid, enforceable, and constitutional.
- (b) It is hereby declared to be the intention of the Cherokee County Board of



Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Chapter is severable from every other section, paragraph, sentence, clause or phrase of these Ordinances. It is hereby further declared to be the intention of the Cherokee County Board of Commissioners that, to the greatest extent allowed by law, no section, paragraph, sentence, clause, or phrase of these Ordinances are mutually dependent upon any other section, paragraph, sentence, clause or phrase of these Ordinances.

(c) In the event that any phrase, clause, sentence, paragraph or section of these Ordinances shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Cherokee County Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of these Ordinances and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs, and sections of these Ordinances shall remain valid, constitutional, enforceable, and of full force and effect.

#### **Section 6.**


All Ordinances or parts of Ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed or set aside.

#### **Section 7.**

This Ordinance shall become effective August 2, 2021.

**SO ORDAINED, APPROVED, AND ADOPTED** this 20<sup>th</sup> day of July, 2021.

By:

  
HARRY B. JOHNSTON, Chairman

Attest:

  
CHRISTY BLACK, County Clerk

(SEAL)



## **EXHIBIT A**

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The Cherokee County Board of Commissioners has identified the proposed changes for such amendments included in the aforementioned ordinance. This Exhibit is included for information purposes only to identify the changes that have occurred in the ordinance from the previous version.

## **Article 4 – Rules and Definitions**

### **4.3 Definitions.**

*Animal Quarters.* Any open space or ~~structures which surrounds or is~~ used to shelter, care for, house, feed, exercise, train, exhibit, display or show any animals, other than fenced pasture land for grazing.

*Building Height.* The vertical distance measured from the threshold of the front door entrance to the highest point of roof. Chimneys, flues, and other structures or equipment incidental to the primary use of the building or site shall not be used in determining building height. surface of a flat roof, the deck line of a mansard floor, and to the mean height level between eaves and ridges of a gable hip, or gambrel roof.

*Dwelling Unit.* A single unit providing complete independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation, designed for the exclusive use of a family maintaining a household. One or more rooms designed for the occupancy, cooking and sleeping of one or more persons living as a family.

*Lot Line, Front.* The lot line separating a lot with frontage from on a street right-of-way or a landlocked lot with frontage on an access easement.



**5.1 Interpretation.**

- ~~Section 1.025.2~~ **Scope of Regulations.**  
~~Section 1.035.3~~ **Building Permits.**  
~~Section 1.045.4~~ **Access to Public Street.**  
~~Section 1.055.5~~ **Subdivision and Plat Approval**

~~Section 1.065.6~~ **Accessory Uses and Structures.**  
(Ord. No. 1995-0-010, 08-08-95)

No accessory building or use shall be constructed upon a lot until construction of the principal building has commenced, except in the case of a barn in the AG district. ~~which may be permitted before construction of principal building. The~~ The preceding following requirements shall not apply to accessory uses and structures in the TND district. (Ord. No. 2007-Z-002, 08-07-07)

**Accessory Structure** – A structure detached from a principal building on the same lot and incidental and subordinate to the principal building.

**Barn** – ~~Building traditionally used for storing hay, grain, etc., and often for housing livestock. A building used for the quartering or training of livestock kept on the premises, the storage of agricultural products produced on the premises, the storage and maintenance of farm equipment, and/or the storage of supplies used for the agricultural operations and maintenance of the premises. Animal quarters, as defined in Article 4 of the zoning ordinance, shall be considered a barn. A barn in AG shall be exempt from sections 5.6 (A), (B), and (C). A barn shall be located no less than seventy-five (75) feet from any property line.~~

**Guest Quarters** – ~~Living area included in an accessory structure for temporary living only. Guest quarters shall not contain complete provisions for eating and cooking. Only one (1) structure containing guest quarters shall be constructed concurrently with or after the construction of a principal, residential structure. The building footprint shall be limited to 50% of the principal structure or 1,200 square feet, whichever is less.~~

**Farm Outbuilding** – ~~A detached accessory structure used in AG only for farm related storage or activity.~~

**Lot Coverage** – The cumulative square foot measurement of the principal building footprint, any accessory buildings' footprints and accessory uses. ~~such as pools along with the concrete decking and tennis courts, as well as patios of impervious material.~~

A. Location on Lot. ~~No accessory structure(s) shall be located closer to the front lot line of property than the primary structure, except when located on AG property of at least two (2) acres. When located closer to the front lot line than the primary structure, accessory structures shall meet the front building setback(s) of the property, shall not obstruct the viewpoint of the primary structure from the front lot line, and shall be wholly enclosed. The viewpoint shall be measured as the widest part of the primary structure horizontal to the front lot line. See figure 5.6 (A)1 – Accessory Structures in AG.~~

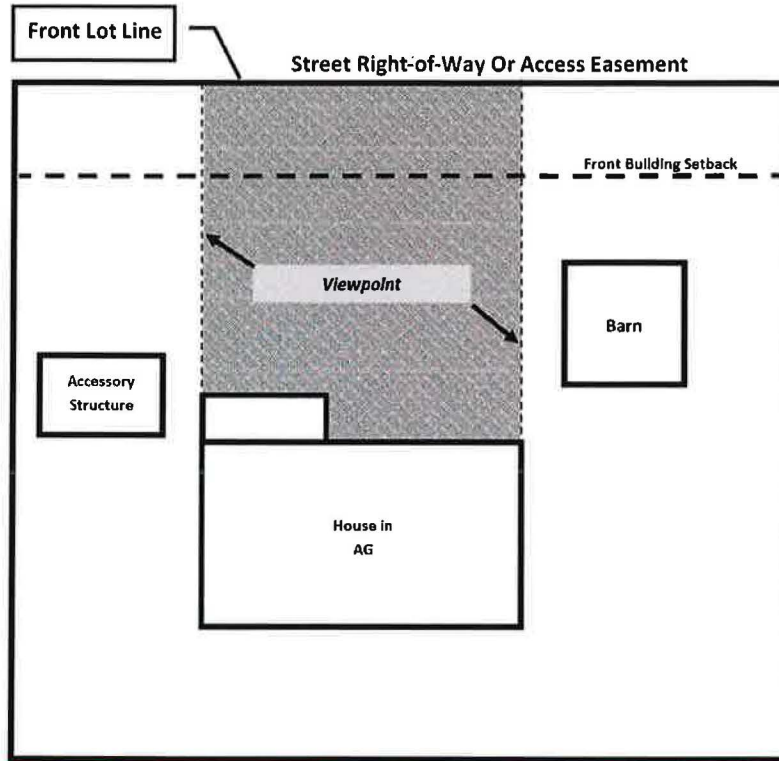


Figure 5.6(A)1 – Accessory Structures in AG

Where an accessory building is structurally attached ~~to a main building it shall be subject to and must conform to all regulations of the Ordinance applicable to the main building.~~

~~When an accessory building is attached~~ to the principal building by a wholly enclosed breezeway, passageway or similar means, it shall comply with the yard requirements of the principal building to which it is accessory.

On a corner lot, no accessory building or use shall be located closer to any street right-of-way line than the principal building setback.

Accessory uses and structures shall be located on the same lot or parcel as the principal use or structure. No garage or other accessory building or use shall ~~be allowed within a front yard area~~ ~~or~~ be located closer to ten (10) feet to a side or rear lot line. A two (2) foot overhang for eaves or gutters will be permitted within this ten (10) foot setback.

B. Number and Size. No accessory use, or structure, or combination of, shall exceed the number ~~allowed as shown in Table 5.4. Accessory structures shall be included in the total lot coverage by zoning district allowed per Table 7.1A: Minimum District Development Standards. or total lot coverage area shown in the attached chart.~~ Wells, pump houses, and well houses of less than



~~thirty-five (35) square feet, gazebos and other decorative structures of less than 120-200 square feet, farm outbuildings, and barns shall not be included in determining the allowable number or size lot coverage. Except for barns and farm outbuildings in AG, No~~ accessory structure may exceed the footprint of the principal structure.

C. Height. No accessory building ~~or portion thereof located in the required side or rear yard~~ shall exceed twenty-five (25) feet in height or the height of the primary structure, whichever is lower.

D. Structure Limitations. Accessory structures shall not be used as dwelling units or for lodging purposes except as otherwise provided herein. (See Guest ~~Houses~~Quarters Section 5.6-11)

E. Incidental uses. The following accessory uses and structures ~~and similar uses and structures~~ which are incidental to a residential use ~~or use~~ are permitted in their respective residential and AG districts, ~~except for farm outbuildings which shall be permitted in the AG district only.~~

5.1-15.6-1 A children's playhouse, private greenhouse.

5.1-25.6-2 A swimming pool for private use. Pools shall be fenced with a sturdy material of chain link or of material and colors compatible with the main dwelling; that prevents entry that is continuous around the pool except for gate openings; that is a minimum of five feet in height; that has latches out of reach of children or at least five feet off the ground; and locked to exclude all persons unless a responsible person is at the pool.

5.1-35.6-3 A garage, shed or building for domestic storage.

5.1-45.6-4 Reserved.

5.1-55.6-5 Signs (other than advertising sign) as permitted and regulated in each district incorporated in this ordinance.

5.1-65.6-6 Public utility communication, electric, gas, water and sewer lines, their supports, and incidental equipment.

5.1-75.6-7 Carports.

5.1-85.6-8 A satellite disk or dish, subject to the same restrictions and requirements as sheds and storage buildings.

5.1-95.6-9 ~~Domestic pets such as dogs and cats of an appropriate type and number kept inside or outside a structure but not violating health standards, constituting inhumane treatment or constituting a nuisance to neighbors. Farm animals, including horses are not domestic pets for purposes of this provision. Animal quarters for domestic animals, not including livestock, kennels.~~

~~5.1-10 No fence or free-standing wall other than a retaining wall shall be more than eight (8) feet in height or be constructed in a public right-of-way or future street right-of-way as~~

~~defined by the Cherokee County Major Thoroughfare Plan. If a fence is adjacent to a public road right-of-way and within the required setback in a residential district such fence shall not exceed six (6) feet in height respectively and shall further meet the requirements set forth in 5.7. If a fence is placed on the property line then it becomes an adjoining fence with that property owner. We recommend that fences be placed a minimum of six (6) inches off the property line onto your property.~~

#### ~~5.1-115.6-10~~

~~Guest Houses. Guest houses are accessory structures which are allowed in the AG and Residential districts. Only one (1) guest house shall be constructed concurrently with or after the construction of the principal structure. Any living area included in any accessory structure detached garage or swimming pool cabana is shall be considered a guest house. Mini-Warehouse facilities may establish one (1) resident-manager of the facility.~~

Table 5.4: Accessory Structure Standards

ZONE	DISTRICT	MAXIMUM LOT COVERAGE BY ACCESSORY STRUCTURES	MAX NO. ACCESSORY STRUCTURES
AG	Unplatted	-	-
AG	Platted Subdivision	4.60%	3
R-80	Estate Residential	4.75%	3
R-60	Single-Family Residential	6%	3
R-40	Single-Family Residential	7%	3
R-30	Single-Family Residential	8%	2
R-20	Single-Family Residential	9%	2
R-15	Single-Family Residential	10%	2
RD-3	Single-Family Residential	12%	1
RZL	Zero-Lot-Line	14%	1

NOTE: This chart applies to accessory structures only. Homes, pools and tennis courts are excluded.

(Ord. No. 2007-Z-001, 04-03-07)

### 5.7 Fences.

#### Vision Clearance at Intersections.

~~In all zoning districts, no fence, wall, structure, shrubbery or other obstruction to vision between the heights of three (3) feet and fifteen (15) feet, except utility poles, light or street sign standards or tree trunks shall be permitted within twenty-five (25) feet of the intersection of the right-of-way lines or streets, roads, highways or railroads as long as the same also complies with State Law.~~ A. Vision Clearance at Intersections. In all zoning districts, no fence, wall, structure, shrubbery or other obstruction to vision between the heights of three (3) feet and fifteen (15) feet, except utility poles, light or street sign standards or tree trunks shall be



permitted within twenty-five (25) feet of the intersection of the right-of-way lines or streets, roads, highways or railroads as long as the same also complies with State Law.

B. Location and Height. No fence or free-standing wall other than a retaining wall shall be more than eight (8) feet in height or be constructed in a public right-of-way or future street right-of-way as defined by the Cherokee County Roadway Functional Classification map. If a fence is adjacent to a public road right-of-way and within the required setback in a residential district such fence shall not exceed six (6) feet in height and meet the requirements in Section 5.7. It is recommended that fences be installed a minimum of six (6) inches off the property line.

**Section 1.075.8 Approvals for Developments along Interstates, State Highways and County Roads.**

**Section 1.085.9 Use Occupancy and Erection.**

**Section 1.095.10 Classification of Streets.**

**Section 1.105.11 Connecting Access Among Adjoining Businesses.**

**Section 1.115.12 Requirements of the Cherokee County Development Standards, the Cherokee County Soil Sedimentation and Control Ordinance and the Cherokee County Flood Plain Regulation Ordinance.**

**Article 15 – Zoning Board of Appeals**

E.

**15.19 Administrative Variances**

The Zoning Administrator may grant an Administrative Variance where, in his/her opinion, the intent of the ordinance can be achieved and equal performance obtained by granting an Administrative Variance and upon presentation of evidence indicating that such variance is necessary and/or a practical solution without significant impact to adjoining properties, provided that the same applicant has not requested an Administrative Variance or an Administrative Variance has not been requested for the same property within the preceding six (6) months. The authority to grant such variances shall be limited to variances from the following requirements:

1. Minimum Building Setbacks: Up to ten percent (10%) of the minimum required building setbacks outlined in Table 7.1 of Article 7, Table 16.1.5-B of Article 16, Section 5.6 of Article 5 and Table 23-2 of Article 23 of the Cherokee County Zoning Ordinance.

Any and all administrative variances granted pursuant to this Section shall be reported to the Board of Commissioners on a monthly basis and to the Cherokee County Board of Appeals.

(Ord. No. 2009-Z-002, 10-06-09, Ord. No. 2019-O-012, 08-06-19)