

**STATE OF GEORGIA
COUNTY OF CHEROKEE**

ORDINANCE NO. 2022-O-006

AN ORDINANCE AMENDING ARTICLE 5 – GENERAL PROVISIONS, SECTION 5.5 – SUBDIVISION AND PLAT APPROVAL AND ARTICLE 14 – ADMINISTRATION, SECTION 14.2 – PERMIT PROCEDURE, OF THE 1992 ZONING ORDINANCE OF CHEROKEE COUNTY TO PROVIDE FOR SUBDIVISION REQUIREMENTS AND LAND DISTURBANCE PERMIT 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 5, Section 5.5, Subsection 5.5-1 of the 1992 Zoning Ordinance of Cherokee County provides for the authority, applicability, and general provisions related to the approval of subdivisions and plats in order to protect and promote the health, safety, welfare, and general well-being of the citizens of Cherokee County; and

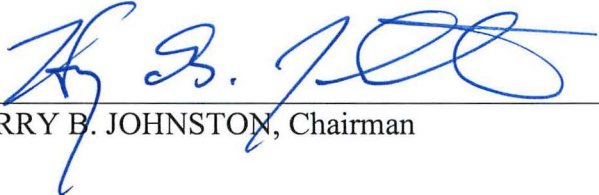
WHEREAS, Article 14, Section 14.2 of the 1992 Zoning Ordinance of Cherokee County provides for permitting procedures and requirements in order to protect and promote the health, safety, welfare, and general well-being of the citizens of Cherokee County; and

WHEREAS, the Board of Commissioners does hereby find that subdivision requirements must be stated more concisely and the issuance of land disturbance permits should not be transferred without verifying zoning compliance; and

WHEREAS, the Board of Commissioners does hereby find the following revisions to Articles 5 and 14 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 5 and 14 of the 1992 Zoning Ordinance of Cherokee County Zoning Ordinance are hereby amended to require the subdivision of property for Dwellings and restrict the transfer of land disturbance permits without verifying zoning compliance.

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

By: 
HARRY B. JOHNSTON, Chairman

Attest: 
CHRISTY BLACK, County Clerk



EXHIBIT A

Cherokee County Development Regulations, adopted by the Cherokee County Board of Commissioners January 15, 2002 and as amended from time to time.

- B. Applicability. The subdivision regulations of Cherokee County shall apply to all real property within unincorporated Cherokee County, but specifically excluding the subdivision of property as outlined in, "Exemptions From Plat Approval."
- C. Effect of Prior Subdivision Regulations. At the subdivider's request, a plat that received preliminary approval under prior subdivision requirements may be processed through the final plat process under such requirements.
- D. Land is One Tract Until Subdivided. Until property proposed for subdivision has received final plat approval and been properly recorded, the land involving the subdivision shall be considered as one tract, or as otherwise legally recorded.
- E. All Land Subdivisions to Comply. No plat of land subdivision shall be entitled to be recorded in the Office of the Clerk of the Superior Court of Cherokee County, and it shall be unlawful to record such a plat of land subdivision, unless and until it shall have been approved in accordance with the requirements of this Ordinance. (State Law Reference O.C.G.A. 15-6-67 (d))

5.5-2 Types of Subdivision

Division of a tract or parcel of land. Any division of a tract or parcel of land into two or more lots, building sites, or other divisions, for the purpose, whether immediate or future, of sale or building development is considered a subdivision. The term subdivision includes all development of land involving a new street or a change in existing streets, includes re-subdivision, and, where appropriate to the context, relates to the process of subdividing or the land area subdivided.

A. Minor Subdivision.

It is the intent of the Board of Commissioners to provide for minor subdivisions, whereby an original tract of land may be divided into not more than ten (10) individual tracts of land provided all tracts of land within the subdivision have appropriate frontage, access, and otherwise comply with these and other County regulations.

i. 1. Chain Subdivisions Prohibited. It is the intent of the Board of Commissioners to prohibit the practice of "chain" subdivisions where a land owner subdivides a parcel of land by way of consecutive and/or contiguous minor subdivisions which collectively total five (5) or more lots instead of filing for a Rural Subdivision or Major Subdivision. It is further intended to prohibit minor subdivision development adjacent to each other within a two-year time period, where part of an original tract of land is now owned by another person or entity and was transferred or sold to another owner with the intent to circumvent the rural or major subdivision process.

ii. 2. Parcels created by a minor subdivision, and the parent parcel(s) from which the minor subdivision is created, shall not be further divided for a period of two years, unless such land is submitted as a Rural Subdivision or Major Subdivision pursuant to this article.

iii. 3. Limitations. This provision shall not be construed to prohibit the approval of two contiguous minor subdivisions under separate ownership; however, this provision is

intended to be construed liberally so that one property owner does not develop a minor subdivision on part of an original tract and transfer or sell another part of the original tract for the purposes of subdivision within a two-year period. It is the intent that land abutting a minor subdivision that was previously owned by the sub-divider of the abutting minor subdivision shall not be considered for further subdivision for a period of two years, regardless of ownership unless such land is submitted as a Rural Subdivision or Major Subdivision pursuant to this article.

~~4.~~ a. Lot Split

~~a.~~ i. A subdivision of a tract or parcel of land into two parcels.

~~b.~~ a. ii. Each parcel shall have a minimum of 50 ft. of frontage on a county-maintained road, or have access to a county-maintained road by an exclusive 20 ft. access and utility easement.

~~c.~~ b. iii. Where an access and utility easement crosses a property, the building setbacks for said property shall be measured from edge of easement.

~~2.~~ b. Minor Plat

~~a.~~ c. i. A subdivision of one (1) parcel into three (3), not more than five (5) parcels.

~~b.~~ d. ii. Each parcel shall have a minimum of 50 ft. of frontage on a county-maintained road, or access to a county-maintained road by an individual and exclusive 20 ft. access and utility easement.

~~c.~~ e. iii. Building setbacks shall be measured from edge of easement where applicable.

~~3.~~ B. Rural Subdivision

~~a.~~ 1. A subdivision of one (1) parcel into three (3), not more than ten (10) parcels.

~~b.~~ 2. A rural subdivision is a common plan of development. "Common Development" means a contiguous area where multiple, separate, and distinct construction activities will be taking place at different times on different schedules under one plan of development.

~~c.~~ 3. Each parcel shall have a minimum of 50 ft. of frontage on a county-maintained road, or have access to a county-maintained road by way of a non-exclusive and shared 60 ft. access and utility easement

~~i.~~ a. The shared easement is considered a private street for purposes of this ordinance

~~ii.~~ i. b. The easement / private street shall be named

~~iii.~~ ii. c. Each parcel using the easement/ private street for access shall have a physical address relative to the name of the easement / private street

~~d.~~ 4. Property lines of the parcels within the subdivision may run to the centerline of the easement / private street.

~~e.~~ 5. The area of each parcel shall meet the zoning district minimum lot area outside of the area of the shared access easement / private street.

~~f.~~ 6. Each lot within a rural subdivision shall contain a minimum of 60,000 square feet unencumbered area or the minimum lot size required by the zoning district of the property subject to subdivision, whichever is greater.

~~g.~~ 7. Building setbacks shall be measured from the edge of the shared access easement / private street.

~~h.~~ 8. The front lot line shall be established where the shared easement provides access to the lot.

- i. 9. Each parcel within an approved, recorded rural subdivision shall not be further subdivided to create additional parcels.
- j. 10. The subdivision shall be named on the recorded plat
- k. 11. Covenants shall be recorded concurrent with the approved subdivision plat and shall
 - i. a. restrict future or further subdivision of parcels created by the approved subdivision plat; and
 - ii. b. provide for the maintenance of the private street / shared easement; and
 - iii. c. prohibit the extension of or annexation to the subdivision as platted and recorded.
- l. 12. Rural subdivisions shall be exempt from Article 27 Tree Preservation and Replacement.

B. C. Major Subdivision

1. A division of one (1) parcel of land into more than eleven (11) lots, and / or includes the construction of public improvements.
2. Common Plan of Development. A major subdivision is a common plan of development.
3. Construction Plans required. A major subdivision requires the submittal, review and approval of a construction plan for any and all grading, infrastructure improvements associated with the subdivision.
4. Major Subdivision Plat Criteria:

The following criteria shall be utilized by the County in determining whether a submitted major subdivision plat is acceptable:

 - a. Whether the proposed development is in compliance with all pertinent sections of the Cherokee County Zoning Ordinance and the Cherokee County Development Regulations, including but not limited to densities, height restrictions, lot size, setbacks, buffers, roadway access, overlay districts, uses, streets, and open spaces.
 - b. Whether the proposed development is in compliance with all conditions of zoning affixed to the subject property by resolution of the Board of Commissioners; all terms and conditions of any development agreement entered into between the applicant and the Board of Commissioners; all conditions of relief or appeal as may have been granted by resolution of the Zoning Board of Appeals; or any other decree or agreement between the applicant and the Board of Commissioners.
 - c. Whether the proposed development is in compliance with all other Cherokee County ordinances, codes and regulations, where applicable, including but not limited to the Tree Preservation Ordinance, Soil Erosion and Sedimentation Ordinance, Storm Water Management Ordinance, Flood Damage Prevention Ordinance, the Tributary Protection Act, and the Public Sewer System Ordinance.
 - d. Whether provision has been made for a water supply system that is compliant with pertinent County ordinances and regulations and is otherwise sufficient in

terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of development proposed.

- e. If a public sewage system is proposed, whether adequate provision has been made for such a system under pertinent County ordinances and regulations and, if other methods of sewage disposal are proposed including septic, that such systems comply with all pertinent federal, state, and local laws and regulations.
- f. If the tendered plat reveals areas deemed by the Director or County Engineer or their designee to be unsuitable for development due to the likelihood of flooding or improper drainage, or due to rock formations, topography, utility easements, or other characteristics rendering the proposed development harmful to the safety, health, and general welfare of the citizens of the county or whether the proposed development makes accommodations for such characteristics such that the health, safety and welfare of the county is not unduly impacted.
- g. Whether proposed roads provide safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation and are otherwise consistent with the Cherokee County Comprehensive Land Use Plan and Cherokee County Comprehensive Transportation Plan.

~~C.~~ **D. County Reservation.** Cherokee County reserves the right to require any person seeking to subdivide land within the unincorporated areas of Cherokee County to submit a Subdivision Plat for review and approval where the Director of Planning and Zoning or County Engineer find that such plan review is necessary to conform to state laws and regulations.

5.5-3 Plans Required Prior to Construction.

No person shall commence construction of any improvements on any lot prior to approval of construction plans for said improvements as required by this Ordinance, the Cherokee County Zoning Ordinance and by Cherokee County Development Regulations.

5.5-4 Building and Other Permits.

No building permit or certificate of occupancy shall be issued for a building, structure, or use, nor shall any excavation, grading, or land disturbance applications be approved, on any parcel of land regulated by this Ordinance that has not been approved in accordance with the provisions of this Ordinance except as specifically exempted.

5.5-5 Public Streets and Lands.

No land dedicated as a public street or for other public purpose shall be accepted as a public street or for other public land unless such improvements are constructed in accordance with the specifications of this Ordinance and the Cherokee County Development Regulations, and said land and/or improvements are formally approved and accepted as public improvements by the Board of Commissioners in accordance with procedures established in this Ordinance.

5.5-6 Appeals.

Any person aggrieved by an interpretation or decision of the Director of Planning and Zoning, County Engineer, or other official responsible for the administration of this

5.5-1 Authority, Applicability and General Provisions

A. Authority and Delegation. These regulations are adopted pursuant to powers vested in counties by the State of Georgia Constitution and pursuant to state administrative rules for the adoption and implementation of Comprehensive Plans and the protection of vital areas of the State.

1. ***Delegation of Powers to Director***. The Director of Planning and Zoning is vested with the authority to review, approve, conditionally approve or disapprove final plats of subdivisions not requiring the installation of public infrastructure, lot combination plats, or lot line adjustments.

The Director of Planning and Zoning shall also be authorized to review and approve all subdivisions and re-subdivisions for conformity to the requirements of this Code, and to make reports and recommendations to the Board of Commissioners on subdivisions and re-subdivisions, and to administer, interpret, and enforce the provisions of this chapter.

2. ***Delegation of Powers to County Engineer***. The County Engineer is vested with the authority to require and approve land development improvements and to require improvement guarantees for public improvements as specified in this Ordinance, and as further required by the Cherokee County Development Regulations, adopted by the Cherokee County Board of Commissioners January 15, 2002 and as amended from time to time.

B. Applicability. The subdivision regulations of Cherokee County shall apply to all real property within unincorporated Cherokee County, but specifically excluding the subdivision of property as outlined in, "Exemptions From Plat Approval."

C. Effect of Prior Subdivision Regulations. At the subdivider's request, a plat that received preliminary approval under prior subdivision requirements may be processed through the final plat process under such requirements.

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F. **Subdivision Required.** Notwithstanding any other provisions contained herein to the contrary, except as approved by the Board of Commissioners in accordance with the authority provided in this Ordinance, no more than one Dwelling is permitted on one lot and subdivision is required in accordance with respective zoning district standards to comply with this requirement. Multi-Family Dwellings are exempt from this requirement except for Townhome Dwelling projects constructed in the RM Zoning Districts or condominiums intended for sale in fee simple.

Article 14 – Administration

14.1 Administration. Except as otherwise provided in these regulations the Zoning Administrator shall administer, interpret and enforce this Ordinance.

14.2 Permit Procedure

14.2-1 Permit Requirement

- a. Development Permit. A development permit (also known as a Land Disturbance Permit (LDP)) shall be required for any proposed use of land or planned development in the PUD or PID district; planned shopping, office or industrial center in any commercial or other industrial district providing shared parking, access and service to three or more business establishments, single-family residential detached, attached, cluster, or multi—family residential development; manufactured home park or subdivision before any improvements or grading of the land commences. Such development permits shall not be in lieu of building permits required for any structure within such developments. See also the requirements of the Development Ordinance of Cherokee County, Georgia.
- b. Building Permit. A building permit shall be required for any proposed use of lands or building to indicate and insure compliance with all provisions of this Ordinance before any construction or building commences.
- c. Manufactured Home Location Permit. A Manufactured Home Location Permit is required for any person to commence the excavation for or construction of a manufactured home stand or the placement of manufactured home on an individual lot within a manufactured home park.
- d. Temporary Certificates. The Building Official is authorized to issue a permit for temporary occupancy in addition to a permit for erection, alteration, moving or repair of a structure provided the permit shall not exceed six months and shall include such conditions and safeguards as will protect the safety of the occupants and the public.
- e. Land Disturbance Permit Transfer Review. Land Disturbance Permits issued under the provisions of this Article and the Development Ordinance of Cherokee County, Georgia, shall not be transferred from one permittee to another permittee without first submitting a LDP transfer application, which will be approved upon submittal of the required information.