

**STATE OF GEORGIA  
COUNTY OF CHEROKEE**

**ORDINANCE NO. 2023-O-004**

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**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 REVISE REGULATIONS AND ESTABLISH STANDARDS FOR TOBACCO STORES AND VAPE SHOPS; TO PROVIDE DEFINITIONS, REVISED DISTRICT USES; 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**, the Board of Commissioners finds in the United States today, nearly 40 million U.S. adults still smoke cigarettes and 3.08 million middle and high school students use at least one tobacco product, including e-cigarettes<sup>1</sup>; and

**WHEREAS**, the Board of Commissioners finds in the United States today, nearly 40 million U.S. adults still smoke cigarettes and 3.08 million middle and high school students use at least one tobacco product, including e-cigarettes; and

**WHEREAS**, the U.S. Centers for Disease Control and Prevention (CDC) reports that middle school and high school students are being exposed to more advertising for electronic cigarettes than ever before with e-cigarettes being the most commonly used tobacco product among this age group<sup>2</sup>; and

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<sup>1</sup> Source: Centers for Disease Control and Prevention (CDC).

[https://www.cdc.gov/tobacco/data\\_statistics/index.htm#:~:text=Tobacco%20use%20is%20the%20leading,product%2C%20including%20e%2Dcigarettes](https://www.cdc.gov/tobacco/data_statistics/index.htm#:~:text=Tobacco%20use%20is%20the%20leading,product%2C%20including%20e%2Dcigarettes)

<sup>2</sup> Source: American Cancer Society. <https://www.cancer.org/latest-news/report-more-and-more-teens-seeing-e-cigarette-ads.html>

**WHEREAS**, a 2020 study found that in the Atlanta Metropolitan Statistical Area (MSA), Vape Shops were more likely to reside in census tracts with higher percentages of youth, while also finding that the location choices of tobacco retailers nationally could be a part of a marketing strategy to target specific consumer markets<sup>3</sup>; and

**WHEREAS**, E-cigarettes contain heated nicotine extracted from tobacco, as well as a variety of flavorings and other additives. Most users, including youth, prefer to use flavored e-cigarettes with many flavors appear to be aimed at children, with names such as Cherry Crush and Cotton Candy<sup>4</sup>, with 14.1% of high school students say they vape<sup>5</sup>; and

**WHEREAS**, the Board of Commissioners finds that additional requirements and standards must be established for Tobacco Stores and Vape Shops to protect the youth of Cherokee 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, Table 7.2 of the 1992 Zoning Ordinance of Cherokee County sets forth 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**, Article 7, Sections 7.7 of the 1992 Zoning Ordinance of Cherokee County sets forth additional requirements for 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 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

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<sup>3</sup> Ibid.

<sup>4</sup> Source: Ibid.

<sup>5</sup> Source: Georgia Public Broadcasting. The chase is on: Regulators are slowly cracking down on vapes aimed at teens. <https://www.gpb.org/news/shots-health-news/2022/11/29/the-chase-on-regulators-are-slowly-cracking-down-on-vapes-aimed>

the 1992 Zoning Ordinance of Cherokee County Zoning Ordinance are hereby amended to provide standards for Tobacco Stores and Vape Shops.

**SO RESOLVED, APPROVED, AND ADOPTED** this 16<sup>th</sup> day of May, 2023.



(SEAL)

By:   
HARRY B. JOHNSTON, Chairman

Attest:   
CHRISTY BLACK, County Clerk



## EXHIBIT A

The following definitions are added to Section 4.3 Definitions of the 1992 Zoning Ordinance of Cherokee County:

**Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers.** Any business premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or instruments, and Vapor Products including Cigar Stores, Cigarette Stands, Permanent & Temporary, Smokers' Supply Stores, and Tobacco Stores, E-cigarette stores, Electronic Cigarette Stores, Marijuana Stores, Medical or Recreational, Vape Shops, or any combination thereof. Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers shall not include any grocery store, supermarket, convenience store, package store, or similar retail use that only sells conventional cigars, cigarettes, Vapor Products, or tobacco as an ancillary sale, no more than two (2) percent of its gross floor area, or 200 square feet, whichever is less.

**Vapor Product.** Any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size that can be used to produce vapor or aerosol from nicotine or other substances in a solution or other form. Such term vapor product shall include, but shall not be limited to, any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor or aerosol cartridge or other container of nicotine or other substance in a solution or other form, including, but not limited to, a device component, part, or accessory of the device, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

**Vape Shop.** Any premises primarily dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of electronic smoking devices, liquid nicotine, liquid nicotine containers or Vapor Product.

Table 7.2 – Permitted Uses

Delete “2143” “Tobacco or tobacconist establishment,” NAICS 453991 use

Cherokee County Zoning Ordinance

Table 7.2 - Permitted Uses

January 10, 2021

LBCS	LBCS Description	NAICS Description	NAICS Code	Supp. Req.	AG	Res	OI	CP	NC	GC	LI	HI
2133	Clothing, jewelry, luggage, shoes, etc.	Shoe Stores	448210									
2133	Clothing, jewelry, luggage, shoes, etc.	Jewelry & Watch Stores	448310									
2133	Clothing, jewelry, luggage, shoes, etc.	Luggage and Leather Goods Stores	448320									
2133	Clothing, jewelry, luggage, shoes, etc.	Sewing, Needlework, and Piece Goods Stores	451130									
2134	Sporting goods, toy and hobby, and musical instruments	Sporting Goods Stores	451110									
2134	Sporting goods, toy and hobby, and musical instruments	Hobby, Toy, and Game Stores	451120									
2135	Books, magazines, music, stationery	Musical Instrument and Supplies Stores	451140									
2135	Books, magazines, music, stationery	Book Stores	452111									
2135	Books, magazines, music, stationery	News Dealers and Newsstands	452112									
2135	Books, magazines, music, stationery	Office Supplies and Stationery Stores	452210									
2135	Books, magazines, music, stationery	Gift, Novelty, and Souvenir Stores	452220									
2140	Consumer goods, other	All Other Miscellaneous Store Retailers (except Tobacco Stores)	453998									
2141	Florist	Florists	453110									
2142	Art dealers, supplies, sales and service	Art Dealers	453920									
2143	Tobacco or tobacconist establishment	Tobacco Stores	453991									
2144	Mail order or direct selling establishment	Electronic Shopping	454111									
2144	Mail order or direct selling establishment	Electronic Auctions	454112									
2144	Mail order or direct selling establishment	Mail Order Houses	454113									
2144	Mail order or direct selling establishment	Heating Oil Dealers	454211									
2144	Mail order or direct selling establishment	Liquefied Petroleum Gas (Bottled Gas) Dealers	454312									
2144	Mail order or direct selling establishment	Other Fuel Dealers	454319									
2144	Mail order or direct selling establishment	Other Direct Selling Establishments	454390									

<b>LBCS</b>	<b>LBCS Description</b>	<b>NAICS Description</b>	<b>NAICS Code</b>	<b>Supp Req.</b>	<b>GC</b>
2143	Tobacco or tobacconist establishment	Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers	459991	7.7-28	R

Insert Section 7.7-28, as follows:

**7.7-28 Tobacco or tobacconist establishment (LBCS 2143)**

- a. Compliance with Chapter 38 – Offenses and Miscellaneous Provisions of the Code of Ordinances, Cherokee County, Georgia is required.
- b. The Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers Use includes the following uses:
  - i. Cigar Stores
  - ii. Cigarette Stands, Permanent & Temporary
  - iii. Smokers' Supply Stores
  - iv. Tobacco Stores
  - v. E-cigarette stores
  - vi. Electronic Cigarette Stores
  - vii. Marijuana Stores, Medical or Recreational
  - viii. Vape Shops
- c. The Marijuana Stores, Medical or Recreational Use is expressly prohibited, unless permitted by state law, then a Special Use Permit (SUP) is required.
- d. Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers are expressly prohibited in the Planned Unit Development (PUD) District.
- e. Distances. All Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers shall, regardless of jurisdiction, comply with the distance requirements listed below:
  - i. One (1) mile from a public or private school, or daycare center;
  - ii. Two thousand (2,000) feet from public or private property used for recreation, park, or playground;
  - iii. Six hundred (600) feet from a residence;
  - iv. One thousand (1,000) feet from another Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailer.
- f. Measurements. Distances are measured by straight-line method from the premises of one use to the premises of the other use.
- g. Special Use Permit (SUP). Any All Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailer that cannot comply with the provisions of this article may pursue a

Special Use Permit (SUP). Applicants pursuing a SUP shall respond to the following criteria questions:

- i. Detail the reason(s) the Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailer cannot comply with the provisions of this article; and
- ii. Detail the inventory and primary products proposed for sale to the general public; and
- iii. Detail other sites and options considered to achieve compliance with the provisions of this article; and
- iv. Detail your plan to mitigate the impact of the establishment on nearby schools, parks, and recreation areas and efforts to ensure the prohibition of sales to underage parties; and
- v. Detail any extenuating circumstances that may warrant the approval of the SUP.