

**STATE OF GEORGIA  
COUNTY OF CHEROKEE**

**ORDINANCE NO. 2017-O-004**

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**AN ORDINANCE OF THE CHEROKEE COUNTY BOARD OF COMMISSIONERS AMENDING SECTION 3 AND SECTION 5 OF ARTICLE 9 OF THE CHEROKEE COUNTY ZONING ORDINANCE OF CHEROKEE COUNTY, GEORGIA TO AMEND THE AUTHORIZED USE OF ACCESSORY BUILDINGS AND DETACHED GARAGES FOR HOME OCCUPATIONS AND TO CLARIFY USES FOR SAID HOME OCCUPATIONS; AMENDING SECTION 3 OF ARTICLE 4 OF THE CHEROKEE COUNTY ZONING ORDINANCE OF CHEROKEE COUNTY, GEORGIA TO AMEND THE DEFINITION OF “HOME OCCUPATION”; 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**, under Section 9.3-2 and Section 9.3-3 of Article 9 of the current Cherokee County Zoning Ordinance, an accessory building and/or a detached garage may not be used for any home occupation, nor for the storage of any goods, materials, or products connected with a home occupation; and

**WHEREAS**, the proposed amendments to Section 9.3-2 and Section 9.3-3 would allow the use of an accessory building and/or a detached garage for purposes related to a home occupation; and

**WHEREAS**, in addition, the proposed amendment to Section 4-3 would update the definition of “home occupation” to allow for the aforementioned use; and

**WHEREAS**, this Ordinance change 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; and

**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 3 and Section 5 of Article 9 and Section 3 of Article 4 of the Cherokee County Zoning Ordinance of Cherokee County, Georgia shall be amended to allow the use of an accessory building and/or a detached garage for purposes related to a home occupation, to update the definition of a home occupation, and to further clarify uses for which home occupations are appropriate. Said Ordinances shall read as follows:

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

#### **4.3 Definitions**

*Home Occupation.* An occupation customarily carried on within a dwelling unit or within an enclosed accessory building or detached garage for gain or support, involving the sale of only those articles, products or services produced on the premises, with equipment customarily used for household purposes and involving no display of article or products.

### **Article 9 – Home Occupations**

#### **9.3 Development Standards**

For all home occupations, except as otherwise provided for child day care, the following requirements shall be applied:

9.3-1 Retail sales shall be prohibited on the premises except for products or goods produced or fabricated on the premises as a result of the home occupation. Said items may only be those produced on the premises or incidental supplies necessary for and consumed in the conduct of the home occupation. Samples, however, may be kept on the premises but neither sold nor distributed from the residence. Said retail sales shall not be defined to include the exhibition of a sample and the subsequent order and delivery of goods.

9.3-2 Except for permitted outdoor instructional services, the home occupation shall be conducted within the enclosed living area of the home which may include the basement, or within an enclosed accessory building or detached garage

9.3-3 A home occupation and any storage of goods, materials, or products connected with a home occupation shall be allowed in an accessory building or detached garage.

9.3-4 No alteration of the residential appearance of the premises shall occur.

9.3-5 There shall be no display or storage of products, materials, equipment, or machinery where they may be visible from the exterior of the residence.

9.3-6 The conduct of the home occupation shall not increase the normal flow of traffic or on-street or off-street parking.

9.3-7 There shall be no increased noise, vibration, glare, fumes, odors or electrical interference created by the home occupation distracting from general appearance.

9.3-8 No process shall be used which is hazardous to public health, safety, morals or welfare.

9.3-9 In no case shall a customary home occupation be opened to the public at times earlier than 8:00 a.m. nor later than 10:00 p.m.

9.3-10 No more than two (2) vehicles shall be utilized in the business. In any event, no vehicle shall be allowed in violation of the Cherokee County Property Maintenance Ordinance. (Ord. No. 2009-Z-006, 10-20-09)

9.3-11 Adequate off-street parking in a manner consistent with the residential nature of the property shall be provided for the allowed use. (Ord. No. 2008-Z-002, 09-16-08)

9.3-12 The home occupation shall be conducted from the property upon which the owner's / operator's principal domicile or permanent home is located. In no circumstance shall the residence and/or accessory building / detached garage be leased to others for use as a home occupation / business

9.3-13 The number of part time or full time non-resident employees working on the premises of the home occupation shall not exceed two (2) employees.

9.3-14 The home occupation shall utilize not more than 1,000 square feet of floor area for operation or storage purposes, including space within the primary residence and any accessory structure or detached garage. Of the 1,000 square feet of floor area, no more than 600 square feet may be used in any accessory structure or detached garage.

9.3-15 Owners / Operators of all home occupations shall maintain a current occupational tax certificate. Failure to hold a current occupational tax certificate will invalidate the home occupation.

9.3-16 Owners / Operators of a home occupation shall permit a limited inspection of the premises by the director or other duly authorized agent of the Board of Commissioners or other agency having jurisdiction or responsibility for enforcing applicable laws, requirements and regulations at the time of application, or after the home occupation has commenced operation in order to determine compliance with the requirements of this code. Failure to cooperate in providing such access may result in the immediate discontinuation of the home occupation.

[this portion intentionally left black – Article 9 to follow]

## Article 9 – Home Occupations

### 9.5 Prohibited Home Occupations.

The following uses shall be prohibited:

9.5-1 Major appliance repair.

9.5-2 Automobile, truck or motorcycle repair; parts sales, upholstery or detailing; washing service.

9.5-3 Boarding House, time share condominium.

9.5-4 – 9.5-8 Reserved.

9.5-9 Private Clubs.

9.5-10 Restaurants and taverns.

9.5-11 Tow Truck services.

9.5-12 Veterinary uses.

9.5-13 Automobile and related vehicular sales lot;

9.5-14 Automobile, Motorcycle, Boat / watercraft, and/or Farm/ Construction Equipment Repair or service/maintenance, on premise;

9.5-15 Ambulance Service;

9.5-16 Amusement or Recreational activities;

9.5-17 Animal Hospital;

9.5-18 Pawn shop;

9.5-19 Chemical storage and manufacturing;

9.5-20 Manufacturing;

9.5-21 Repair Service (lawn mower, small engine, and appliance);

9.5-22 Tire Sales and Storage;

9.5-23 Tanning Salon;

9.5-24 Funeral Services;

9.5-25 Tattooing, Body or Ear piercing

9.5-26 Massage Therapy, on-premises

9.5-27 Special Event Facility

## **Section 2**

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

## **Section 3**

(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 this Ordinance 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 this Ordinance. 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 this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance 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 the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs, and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

#### **Section 4.**

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

#### **Section 5.**

This Ordinance shall become effective immediately upon its adoption.

**SO ORDAINED, APPROVED, AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2017.

By: \_\_\_\_\_  
L.B. AHRENS, JR., Chairman

Attest: \_\_\_\_\_  
CHRISTY BLACK, County Clerk

(SEAL)

# EXHIBIT A

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Section 3 of Article 4 of the Cherokee County Zoning Ordinance of Cherokee County, Georgia shall be amended to allow the use of an accessory building and/or a detached garage for purposes related to a home occupation. The proposed changes have been underlined and prefaced in bold to identify such amendments, and deletions have been struck through to identify such removal from the Section. 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*

*Home Occupation. An occupation customarily carried on within a dwelling unit or within an enclosed accessory building or detached garage for gain or support, involving the sale of only those articles, products or services produced on the premises, ~~conducted entirely within the dwelling~~ with equipment customarily used for household purposes and involving no display of article or products. ~~A customary home occupation includes the accommodation of not more than two boarders or roomers.~~*

# EXHIBIT B

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Article 9 of the Cherokee County Zoning Ordinance of Cherokee County, Georgia shall be amended to allow the use of an accessory building and/or a detached garage for purposes related to a home occupation and further clarify uses for such home occupations. The proposed changes have been underlined and prefaced in bold to identify such amendments, and deletions have been struck through to identify such removal from the Section. This Exhibit is included for information purposes only to identify the changes that have occurred in the ordinance from the previous version.

## Article 9 – Home Occupations

### 9.1 INTENT.

*Home Occupations shall be defined under Article 4. The purpose of this Article is to:*

*9.1-1 Maintain the residential character, look and feel of residential areas from the adverse impacts of activities associated with home occupations. (Ord. No. 2008-Z-002, 09-16-08)*

*9.1-2 Permit residents of the community a broad choice in the use of their homes as a place of livelihood and the production of supplementing of personal and family income.*

*9.1-3 Establish criteria and development standards for home occupations conducted in dwelling units and accessory structures in residential zones.*

### 9.2 PERFORMANCE CRITERIA.

*Permitted uses of home occupation shall be allowed if such uses are:*

*9.2-1 Incidental to the use of the premises as a residence.*

*9.2-2 Compatible with residential use.*

*9.2-3 Limited in extent.*

*9.2-4 Not detracting from the residential character of the neighborhood.*

### 9.3 DEVELOPMENT STANDARDS.

*For all home occupations, except as otherwise provided for child day care, the following requirements shall be applied:*

9.3-1 Retail sales shall be prohibited on the premises except for products or goods produced or fabricated on the premises as a result of the home occupation. Said items may only be those produced on the premises or incidental supplies necessary for and consumed in the conduct of the home occupation. Samples, however, may be kept on the premises but neither sold nor distributed from the residence. Said retail sales shall not be defined to include the exhibition of a sample and the subsequent order and delivery of goods.

9.3-2 Except for permitted outdoor instructional services, the home occupation shall be conducted ~~only~~ within the enclosed living area of the home which may include the basement or within an enclosed accessory building or detached garage

9.3-3 ~~A~~ ~~No~~ home occupation and ~~nor~~ any storage of goods, materials, or products connected with a home occupation shall be allowed in an accessory buildings or detached garages.

9.3-4 No alteration of the residential appearance of the premises shall occur.

9.3-5 There shall be no display or storage of products, materials, equipment, or machinery where they may be visible from the exterior of the residence.

9.3-6 The conduct of the home occupation shall not increase the normal flow of traffic or on-street or off-street parking.

~~9.3-7 There shall be no interior or exterior business signs advertising the home occupation. (this conflicts with Article 11, Signs and Outdoor Advertising)~~

9.3-8 7 There shall be no increased noise, vibration, glare, fumes, odors or electrical interference created by the home occupation distracting from general appearance.

9.3-9 8 No process shall be used which is hazardous to public health, safety, morals or welfare.

9.3-10 9 In no case shall a customary home occupation be opened to the public at times earlier than 8:00 a.m. nor later than 10:00 p.m.

9.3-11 10 No more than two (2) vehicles shall be utilized in the business. In any event, no vehicle shall be allowed in violation of the Cherokee County Property Maintenance Ordinance. (Ord. No. 2009-Z-006, 10-20-09)

9.3-12 11 Adequate off-street parking in a manner consistent with the residential nature of the property shall be provided for the allowed use. (Ord. No. 2008-Z-002, 09-16-08)

**9.3-12 The home occupation shall be conducted from the property upon which the owner's / operator's principal domicile or permanent home is located. In no circumstance shall the residence and/or accessory building / detached garage be leased to others for use as a home occupation / business**

9.3-13 The number of part time or full time non-resident employees working on the premises of the home occupation shall not exceed two (2) employees.

9.3-14 The home occupation shall utilize not more than 1,000 square feet of floor area for operation or storage purposes, including space within the primary residence and any accessory structure or detached garage. Of the 1,000 square feet of floor area, no more than 600 square feet may be used in any accessory structure or detached garage.

9.3-15 Owners / Operators of all home occupations shall maintain a current occupational tax certificate. Failure to hold a current occupational tax certificate will invalidate the home occupation.

9.3-16 Owners / Operators of a home occupation shall permit a limited inspection of the premises by the director or other duly authorized agent of the Board of Commissioners or other agency having jurisdiction or responsibility for enforcing applicable laws, requirements and regulations at the time of application, or after the home occupation has commenced operation in order to determine compliance with the requirements of this code. Failure to cooperate in providing such access may result in the immediate discontinuation of the home occupation.

#### 9.4 PERMITTED HOME OCCUPATIONS.

The following uses shall be permitted provided that they shall meet the development standards as provided in Section 9.3 and are operated so as not to create a nuisance.

9.4-1 Upon proof presented to the Zoning Administrator of Cherokee County that the owner of any parcel of land located in Cherokee County, desiring to maintain a Family Day Care Home has complied with and met all State Regulations as required by the appropriate department of the State of Georgia having authority over the same, further showing that said compliance and approval is current, then maintenance of Family Day Care Home shall be an allowed Home Occupation in the following declared zoning districts of Cherokee County, subject to the conditions and limitations hereinafter stated, to-wit:

- (a) A Family Day Care Home up to and including a total of six (6) children, for which the possessor of the home receives compensation, shall be allowed as a permitted use in zoning classifications AG, R-80, R-40, R-30, R-20 and R-15, provided that the parcel has a total acreage for said zoning classification.

(Ord. No. 2011-Z-001, 030111)

Under no event shall the permitted uses under this Ordinance be deemed to circumvent any of the regulations of the State of Georgia, nor be deemed to allow a use by any individual who has not first been approved by the appropriate department having authority over the same for the State of Georgia.

In no event shall the uses as permitted under this Ordinance require Cherokee County, its departments or employees to be responsible for enforcement of any requirements placed on an individual by the State of Georgia, or to have any responsibility to anyone, where someone is

*maintaining a facility as would otherwise be allowed under this Ordinance without first meeting all State of Georgia requirements and regulations.*

*9.4-2 Home crafts, such as model making, rug weaving and lapidary work.*

*9.4-3 Instructional or tutoring services within and enclosed building.*

*9.4-4 Outdoor instructional services for swimming. Outdoor instructional services for tennis. Other outdoor instructional services shall be permitted with the approval by the Planning Commission.*

*9.4-5 Office facility of a salesman, sales representative or manufacturer's representative provided there is no manufacturing, production or storage on the premises provided.*

*9.4-6 Office facility of an architect, broker, engineer, insurance agent, land surveyor, lawyer, real estate agent, computer programmer, dentist, physician and other similar professions for consultation.*

*9.4-7 Painting, sculpturing, composing and writing.*

*9.4-8 Telephone answering service and office service to include typing, bookkeeping, transcribing and data entry.*

*9.4-9 Operation of any wholesale or retail business, which is conducted entirely by mail, and does not involve the sale, shipment or delivery of merchandise on the premises.*

*9.4-10 Barber shop and beauty salon.*

#### **9.5 PROHIBITED HOME OCCUPATIONS.**

*The following uses shall be prohibited:*

*9.5-1 Major appliance repair;*

*9.5-2 Automobile, truck or motorcycle repair; parts sales, upholstery or detailing; washing service;*

*9.5-3 Boarding House, time share condominium;*

*9.5-4 – 9.5-8 Reserved;*

*9.5-9 Private Clubs;*

*9.5-10 Restaurants and taverns;*

*9.5-11 Tow Truck services;*

*9.5-12 Veterinary uses;*

**9.5-13 Automobile and related vehicular sales lot;**

**9.5-14 Automobile, Motorcycle, Boat / watercraft, and/or Farm/ Construction Equipment Repair or service/maintenance, on premise;**

**9.5-15 Ambulance Service;**

**9.5-16 Amusement or Recreational activities;**

**9.5-17 Animal Hospital;**

**9.5-18 Pawn shop;**

**9.5-19 Chemical storage and manufacturing;**

**9.5-20 Manufacturing;**

**9.5-21 Repair Service (lawn mower, small engine, and appliance);**

**9.5-22 Tire Sales and Storage;**

**9.5-23 Tanning Salon;**

**9.5-24 Funeral Services;**

**9.5-25 Tattooing, Body or Ear piercing**

**9.5-26 Massage Therapy, on-premises**

**9.5-27 Special Event Facility**

**9.6 UNSPECIFIED HOME OCCUPATIONS.**

*Any proposed home occupation that is not specifically listed as permitted or prohibited shall be evaluated by the Zoning Administrator, subject to approval based on criteria as provided in Section 9.3.*

**9.7 PERMIT APPLICATION PROCEDURE.**

*9.7-1 Application. Application for a Home Occupation Permit shall be made to the Cherokee County Planning Department on a form provided by the department. The Zoning Administrator will make a decision and notify the applicant in writing within fifteen (15) calendar days of the date the application is received.*

*9.7-2 Scope. In cases where the Planning Department considers the application not within the scope of the home occupation criteria, the application will be denied.*

*9.7-3 Time Limit. All home occupation permits shall be valid for a period of one year from initial date of approval.*

*9.7-4 Voiding of permit. The Planning Department may void any home occupation permit for noncompliance with the criteria set forth in this article. Revocation may take place at any time prior to expiration date of the permit. If the permit is revoked or is not renewed, it becomes null and void and said use shall be terminated.*

*9.7-5 Appeal. The decision of the Planning Department concerning approval or revocation shall be final unless a written appeal is filed with the Zoning Board of Appeals within ten (10) calendar days of the decision. An appeal may only be filed by the applicant or persons residing within three hundred (300) feet of the subject property.*

*9.7-6 Renewal. Home occupation permits shall be renewed annually provided there has not been any violation of the provisions of this Article. Requests for renewal shall be submitted to the Planning Department in writing, accompanied by the prevailing renewal fee, one month prior to expiration of the permit.*

## **9.8 OTHER PROVISIONS.**

*9.8-1 Should a permittee die or move to a new location, the existing permit shall be automatically terminated, except that, in the case of death, should a surviving spouse or child residing at the same address desire to continue the home occupation, written notice to that effect shall be given to the Zoning Administrator, and the Commissioner shall authorize continuation of that permit without further hearing.*

*9.8-2 Persons with demonstrated physical handicaps may be permitted special consideration by the Planning Commission. The applicant may request waiver of a portion or all of one or more of the requirements as provided in Section 9.3. This special request shall be considered by the Zoning Board of Appeals at a public hearing, after notice to property owners within three hundred (300) feet of the subject property. The Zoning Board of Appeals may only grant waivers on the basis of applicant's physical inability to function within said requirements.*