

**STATE OF GEORGIA
COUNTY OF CHEROKEE**

ORDINANCE NO. 2015-O-003

An ordinance to amend the Cherokee County Code of Ordinances; as shown at Part II, Chapter 42 - Parks and Recreation, Article II - Use of Parks and Recreational Facilities; to enact and enforce rules and regulations of the park and recreation areas of Cherokee County, Georgia; to provide penalties for violations; to provide for severability; to repeal conflicting ordinances 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 governing authority of Cherokee County, to wit, the Board of Commissioners, desires to exercise its authority in adopting this Ordinance; and

WHEREAS, the Cherokee County Board of Commissioners adopted an ordinance in 1987 that established certain rules and regulations for parks; and

WHEREAS, the Cherokee County Board of Commissioners deems it appropriate to update such rules and regulations;

BE IT ORDAINED, by the Cherokee County Board of Commissioners and it is hereby enacted pursuant to the authority of the same that the Cherokee County Code of Ordinances at Chapter 42 - Parks and Recreation, Article II - Use of Parks and Recreational Facilities is hereby amended to read as follows:

Section 42-36 Title

This ordinance shall be known and may be referred to as the "Cherokee County Ordinance for the Use of Parks and Recreational Facilities."

Section 42-37 Definitions

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed in this section, unless the context clearly indicates a different meaning.

Director means the Director of the Cherokee Recreation and Parks Agency.

Director's Authorized Agent means employees and agents of the Cherokee Recreation and Parks Agency authorized to act on behalf of the Director of the Cherokee Recreation and Parks Agency.

Domestic animal means an animal that, through long association with humans, has been adapted to human living conditions.

E-cigarette(s) means any electronic oral device, such as one consisting of a heating element, battery, and/or electronic circuit, that produces an aerosol mist or vapor, the use or inhalation of which simulates smoking. The term "vaping" shall mean the use of an e-cigarette or inhalation of the vaporized contents of an e-cigarette.

Park and recreation facility means all Cherokee County public parks and recreation areas in such parks including the land, buildings, lakes, ponds, streams, swimming pools, and all other property and buildings owned, leased, or managed by Cherokee County and the Cherokee Recreation and Parks Agency within said parks and recreation facilities.

All references to masculine pronouns shall be construed to be gender neutral.

Section 42-38 Enforcement of the Article

This article may be enforced by any authorized law enforcement officer of Cherokee County. Where there has been a violation of any provision of this chapter, the law enforcement officer in his discretion may issue a citation, warning and/or order the person to leave the park or recreation facility.

Section 42-39 Penalties for Violations

- a) Any person who is convicted of a violation of any of the provisions of this article shall be punished as provided in Section 1-12 of the Cherokee County Code of Ordinances, except that the maximum fine for littering shall be \$1,000.00 for each such conviction.
- b) Any person convicted of a violation of this article shall be denied any park permit or other permission to utilize the facilities of any park or recreation facility for a period of no less than 60 days following said conviction including but not limited to the rental of athletic fields, pavilions, rental of other recreation facilities, etc.

Section 42-40 Application and Issuance of Permits

- a) Permits for restricted uses or activities in a park or recreation facility shall be obtained by application to the director or the director's authorized agent. Upon examination of the application and all other relevant factors, the director or the director's authorized agent shall approve and issue or deny the permit.

- b) The director or the director's authorized agent shall have the authority to revoke any permit if the permittee is found to be in violation of any park rules or regulations or upon good cause shown.

Section 42-41 Alcohol Possession and Consumption and Drug Use

No person shall possess or consume any alcoholic beverage, as defined in the laws of this state, in any park or recreation facility, nor shall any person use or possess any drug or any other controlled substance, as defined in the laws of this state, except as lawfully permitted by the laws of this state, in any park or recreation facility.

Section 42-42 Animal Control in Parks

Domestic animals, as defined in this article, are permitted within a park or recreation facility with the following restrictions.

- 1) It shall be the duty of every domestic animal owner or custodian of such animal to have physical control of the animal by leash no longer than six feet at all times and under the immediate physical control of a person capable of preventing the domestic animal from engaging any other human or animal when necessary or securely enclosed in a locked cage, crate or pet carrier suitable for the domestic animal's size within a park or recreation facility where animals are permitted, except in fenced areas designated by the county where domestic animals are expressly permitted to be off of a leash.
- 2) Other than service animals as necessary, or unless authorized by permit, it shall be unlawful for any person with a domestic animal to access areas of a park or recreation facility which are restricted to such animals.
- 3) It shall be the duty of every domestic animal owner or custodian of such animal to immediately and properly dispose of waste deposited by the animal while in a park or recreation facility.
- 4) It shall be the duty of every domestic animal owner or custodian of such animal in a park or recreation facility to have in his or her possession proof of a current rabies vaccination for the animal.
- 5) It shall be the duty of every domestic animal owner or custodian of such animal in a park or recreation facility to immediately remove such animal from the park or recreation facility upon such animal exhibiting aggressive behavior toward any person or toward any other domesticated animal. For the purposes of this subsection, aggressive behavior includes, but is not limited to growling, baring of teeth or fangs, biting or attempts to bite, or any other behavior that could reasonably be expected to scare or intimidate any person or domestic animal.

Section 42-43 Dogs in Off Leash Areas or Dog Parks

Notwithstanding Section 42-42, an owner or custodian of a dog is not required to have the dog on a leash in a park or portion of a park which has been designated as an "off-leash area" with the following restrictions.

- 1) No owner or custodian of a dangerous, vicious or guard/protection dog, as defined in Section 10-26 of the Animal Control Ordinance, shall permit the dog to be in an off-leash area at any time.
- 2) No person shall allow an animal other than a dog to enter into or remain in an area that has been designated as an "off-leash area".
- 3) The owner or custodian of a dog in an "off-leash area" shall ensure that such dog is under control at all times.
- 4) An Animal Control Officer or other officer empowered to act by law may order that a dog be put on a leash and/or order that a dog be removed from an off-leash area at any time.

Section 42-44 Camping

It shall be unlawful to camp overnight in any park or recreation facility unless such person has first obtained a permit to camp in the park or recreation facility from the director or the director's authorized agent at sites or areas specifically designated by the county for camping within the park or recreation facility and then only in accordance with such rules, regulations and restrictions established by the director or the director's authorized agent.

Section 42-45 Commercial Activity

It shall be unlawful for any person to sell or offer for sale any merchandise or service to members of the public or operate or attempt to operate a concession or engage in any commercial activity marketed towards members of the public in a park or recreation facility unless authorized by written permit from the director or the director's authorized agent. For the purposes of this Section, private lessons given in any park or recreational facility for personal profit shall be considered to be marketed towards members of the public.

Section 42-46 Firearms in Parks

It shall be unlawful for any person to discharge a firearm in any park or recreation facility.

Section 42-47 Open Fires in Parks

No open fires except in picnic grills as provided by the county shall be permitted at any time or at any place in any park or recreation facility. Fires in picnic grills as provided by the county shall not be left unattended and shall be completely extinguished before leaving the immediate vicinity.

Section 42-48 Golfing Regulated

It shall be unlawful for any person to practice, play or otherwise participate in the game of golf, except at a recreation facility designated by the county for such use and only in accordance with the rules, regulations and restrictions established by the director or the director's authorized agent. For the purposes of this section, the game of golf does not include disc golf.

Section 42-49 Hours of Operation

- a) The hours of operation for all park or recreation facilities except those outlined in subsection (b) shall be from sunrise to 11:00 PM. Exterior athletic field and court lights shall be extinguished by 11:00 PM except to conclude scheduled recreation or sporting events in progress prior to 11:00 PM.
- b) The director will have the authority to establish the hours & days of operation for the Cherokee County Aquatic Center, Recreation Center, Union Hill Community Center, and Waleska Splash Pad.
- c) The hours of operation shall be posted at each park or recreation facility. It shall be unlawful for any person to enter or be within a park or recreation facility outside of the posted hours of operation unless approved by written permit or unless such person is participating in an authorized and scheduled program, class, special event or meeting.

Section 42-50 Littering and Dumping

It shall be unlawful for any person to litter, dump or otherwise dispose of household garbage or any other trash, waste, refuse or debris not connected with his use and enjoyment of the parks and recreation facility. Littering, dumping and other forms of prohibited disposition are defined in the general laws of this state.

All garbage, trash, waste and other debris generated from the use by patrons of the parks and recreation facility shall be properly disposed of in containers provided for that purpose or at other such places where disposition or disposal may lawfully be made. Where public receptacles are not provided, all such litter shall be carried away from the park or recreation facility by the person responsible for its presence and shall be properly disposed of elsewhere.

Section 42-51 Operation of Motor Vehicles Regulated

- a) It shall be unlawful for any person to operate any motor vehicle in a park or recreation facility at an excessive speed, in a reckless and unsafe manner, or in violation of posted traffic signs.
- b) It shall be unlawful for any person to operate any motor vehicle upon or across any part of any park or recreation facility except upon areas designated for vehicular travel.

Subsection (b) shall not apply to county employees, volunteers and contractors whose duties require them to drive and/or park motor vehicles or equipment over such parks as authorized by the director or the director's authorized agent. This subsection shall not apply to any law enforcement officer or emergency personnel when their duties require them to drive over and/or park their vehicle within said park or recreation facility.

- c) See Article I Section 38-5 of the Cherokee County Code of Ordinances regarding the operation of all-terrain vehicles in a park or recreation facility.

Section 42-52 Parking Regulated

- a) It shall be unlawful to park a motor vehicle in a park or recreation facility except in marked parking spaces or those areas designated by official signage as vehicle parking areas.

Subsection (a) shall not apply to county employees, volunteers and contractors whose duties require them to drive and/or park motor vehicles or equipment over such parks as authorized by the director or the director's authorized agent. This subsection shall not apply to any law enforcement officer or emergency personnel when their duties require them to drive over and/or park their vehicle within said park or recreation facility.

- b) It shall be unlawful to leave a motor vehicle standing or parked in a park or recreation facility during hours when the park or recreation facility is closed, except for overnight campers who are within officially designated overnight camping areas, or unless otherwise authorized by the director or the director's agent.
- c) It shall be unlawful to park a motor vehicle in violation of posted restrictions and regulations, or in such a manner as to obstruct or impede normal or emergency traffic movement, or where the parking of such vehicle creates a safety hazard, or endangers any person, property or environmental feature.
- d) It shall be unlawful for any person to park a motor vehicle in a parking space or location designated for handicapped parking unless such vehicle properly displays a handicapped parking permit.
- e) In addition to a citation for violation of this article, any motor vehicle that is parked in violation of this article and left unattended for more than 24 hours may be towed from the park or recreation facility at the owner's expense by Cherokee County or by a private towing company to a private impound lot. The vehicle owner shall be responsible for all towing expenses and charges incurred in towing the vehicle and all accrued daily impoundment storage fees.

Section 42-53 Pyrotechnics (Fireworks, Explosives, Projectiles, Rockets, Etc.) Regulated

It shall be unlawful for any person to display, use, set off or attempt to ignite any consumer firecracker, fireworks, smoke bombs, rockets or other explosive or aerial pyrotechnics, unless approved by written permit by the county to include authorization from the director or the director's authorized agent. Public displays of non-consumer fireworks, as defined in O.C.G.A. § 25-10-1(5), shall continue to require a permit from the judge of the Cherokee County Probate Court, as required by O.C.G.A. § 25-10-4.

Section 42-54 Smoking, Vaping, and Tobacco Use in Parks

It shall be unlawful for any person to inhale, vape, exhale, burn, or carry any turned on e-cigarette, lighted cigar, cigarette, pipe or other combustible substance in any manner or form within 25 feet of a playground, picnic pavilion, athletic field or court including the adjacent spectator areas, or outdoor pool or aquatic playground. Consistent with the County's No-Smoking Ordinance, smoking, vaping, and tobacco use are prohibited inside any building located within a park or recreation facility or within of 25 feet of the entrance or exit of said building.

Section 42-55 Use of Detection Devices

It shall be unlawful for any person to use any electronic device for the detection of metals, minerals, artifacts, lost articles, or for treasure hunting in any park or recreation facility without written authorization from the director or the director's authorized agent.

Section 42-56 Use of Engine-Powered Models, Toys and Unmanned Aerial Systems

It shall be unlawful for any person to start, fly or use any fuel-powered engine, jet-type or electric powered model aircraft, boat or rocket or like powered toy or unmanned aerial system, except at those areas designated by the county for such use and then only in accordance with such rules, regulations and restrictions established by the director or the director's authorized agent.

Section 42-57 Use of Skateboards, Scooters, Skates and Bicycles

- a) Use of bicycles, scooters, skateboards or skates is permitted only in areas within a park or recreation facility designated by the director or the director's authorized agent for such operation.
- b) No person under the age of 16 years shall operate or be a passenger on a bicycle, scooter, skateboard or skates within a park or recreation facility unless such person is wearing a helmet which meets or exceeds the impact standards for helmets under Georgia law.

Section 42-58 Severability

If any part of this Ordinance is for any reason held to be void or invalid, the validity of the remaining parts of this Ordinance or its application to other persons or set of circumstances shall not be affected thereby.

Section 42-59 Repealer

All previous Ordinances, policies or resolutions in conflict with this Ordinance are hereby repealed.

SO ORDAINED this _____ day of _____, 2015.

CHEROKEE COUNTY BOARD OF COMMISSIONERS

L.B. Ahrens, Jr., Chairman

Steve West, District 1

Raymond Gunnin, District 2

Brian Poole, District 3

K. Scott Gordon, District 4

ATTEST:

Christy Black, County Clerk