STATE OF GEORGIA
COUNTY OF CHEROKEE

ORDINANCE NO. 2019-O____

AN ORDINANCE OF THE CHEROKEE COUNTY BOARD OF COMMISSIONERS AMENDING SECTION 9 OF ARTICLE 1 OF CHAPTER 38 OF THE CODE OF ORDINANCES OF CHEROKEE COUNTY, GEORGIA TO ENACT AND IDENTIFY ADDITIONAL GENERAL OFFENSES FOR THE ACT OF DISCHARGING A FIREARM IN CERTAIN AREAS OF UNINCORPORATED CHEROKEE COUNTY; TO IDENTIFY AND PROVIDE PENALTIES FOR VIOLATION OF SAID ORDINANCE; 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, County law enforcement staff have received and responded to numerous complaints from citizens regarding the discharge of firearms in or near many residential/commercial areas; and

WHEREAS, O.C.G.A. § 16-11-173 (e) authorizes a county, by ordinance or resolution, to reasonably limit or prohibit the discharge of firearms within the boundaries of the county; and

WHEREAS, as such, pursuant to the aforementioned authority granted by State law, the Cherokee County Board of Commissioners wishes to regulate the discharge of firearms in high density areas where people live, work, and are otherwise present in order to address public safety concerns and the welfare of the citizens of Cherokee County, Georgia; and

WHEREAS, this Ordinance will promote and 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:

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Section 1.

Section 9 of Article I of Chapter 38 of the Code of Ordinances of Cherokee County, Georgia shall hereby be amended to list and identify certain general offenses that are prohibited and shall identify the penalty a person shall be subject to for violating said Ordinance. Said Ordinance shall read as follows:

CHAPTER 38 – OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. – IN GENERAL.

SECTION 38-9. – DISCHARGE OF FIREARMS.

38-9. (a) *Definitions*. For purposes of this Section, a "firearm" shall be defined as any handgun, rifle, shotgun, or any other barreled weapon that is designed to, or may readily be converted to, expel a projectile by the action of an explosive or electrical charge. For purposes of this Section, all distance requirements shall be measured by following a straight line, without regard to intervening structures, greenery, trees, and the like, from the nearest point of the structure/highway to the site of the discharge action.

(b) *Prohibited Discharged.* It shall be unlawful for any person in unincorporated Cherokee County to discharge or shoot any firearm in violation of any of the following:

(1) Into or at a dwelling, house, railroad train, boat, aircraft, motor vehicle, or any other building or structure;

(2) At any mark, inanimate object, or at random, on, along or across a public highway;

(3) Upon the land of another or across the property line of another without first obtaining written permission of such property owner(s);

(4) On any parcel of real property that is less than sixty thousand (60,000) square feet in size;

(5) Within one hundred (100) yards of any residence (not to include the residence of the individual discharging the firearm), place of public assembly, place of worship, or business;

(6) Within fifty (50) yards of any public highway in accordance with the provisions of O.C.G.A. § 16-11-103;

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(7) While under the influence of alcohol, controlled substances, or drugs, or any combination of the same, to the extent that it is unsafe for the person to discharge the firearm except in defense of life, health, and property.

(c) *Exemptions.* The restrictions set forth in Section (b) of this Ordinance shall not apply to or affect any of the following:

(1) All federal, state, county, municipal, and military law enforcement peace officers possessing the duty and power of arrest while carrying out their duties as law enforcement peace officers;

(2) Any person lawfully exercising the removal of dangerous animals, or for lawful nuisance wildlife abatement by persons properly permitted by the Georgia Department of Natural Resources, or in the lawful exercise of trapping by properly license trappers;

(3) Any person discharging blank cartridges for theatrical purposes or for signal purposes in athletic or sporting events, military exercises, funerals, or memorial events;

(4) Any person when lawfully defending person or property;

(5) Any person or legal entity engaged in the lawful use or legal nonconforming use under any zoning ordinance at any private or commercial sport shooting range that has been established according to applicable zoning regulations and which has been properly permitted;

(6) Hunting on one's own property or on the property of another with written permission, regulated by and conducted in accordance with State law and the regulations of the Department of Natural Resources;

(7) Nothing in this ordinance shall be construed to prohibit the ownership, possession, or carrying of any firearm in a lawful manner in accordance with State law.

(d) *Penalties.* This ordinance shall be enforced by the Cherokee Marshal's Office and the Cherokee Sheriff's Office. Any person who violates any provision of this Ordinance shall, upon conviction, be guilty of a violation of such ordinance and shall be punished in accordance with Section 1-12 and as it may be amended from time to time. Each instance of the discharge of a firearm shall constitute a separate violation of this Ordinance.

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Secs. 38-10 – 38-80. – Reserved.

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 _____, 2019.

By: _____
HARRY B. JOHNSTON, Chairman

Attest: _____
(SEAL) CHRISTY BLACK, County Clerk

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