

**STATE OF GEORGIA
COUNTY OF CHEROKEE**

ORDINANCE NO. 2008- O -003

An Ordinance to amend the Code of Ordinances of Cherokee County to add Section 38-5 to establish regulations regarding all-terrain vehicles; to promote the public health, safety and welfare; and for other purposes.

BE IT ORDAINED by the Cherokee County Board of Commissioners and it is hereby enacted pursuant to the authority of the same that the Code of Ordinances of Cherokee County is hereby amended by adding thereto the following:

SECTION 1. ALL-TERRAIN VEHICLES. The following new Section 38-5 is hereby added to the Code of Ordinances:

- (a) Definitions.** The following words and phrases, when used in this chapter, shall have the meanings as set out herein:
- (1) “All-Terrain Vehicles” (ATV) means a self-propelled vehicle designed primarily for operation over natural terrain and steered by wheels, to specifically include, but not be limited to, off-road motorcycles, three-wheelers, four-wheelers, and all other such vehicles with one (1) or more wheels. The term “ATV” is not intended to include bicycles or street legal vehicles operating on public road right-of-ways.
 - (2) “Operate” means to ride in or on and control the operation of an ATV.
 - (3) “Operator” means every person who operates an ATV.
 - (4) “Owner” means a person, other than a person with a security interest, having a right of use regarding, property interest in or title to an ATV and entitled to the use and possession of the vehicle.
 - (5) “Person” includes an individual, partnership, corporation, or other legal entity whether incorporated or not.
 - (6) “Public road right-of-way” means the entire right-of-way of a public road, street or highway, including the traveled portions, banks, ditches, shoulders and medians of a roadway that is not privately owned.
 - (7) “ATV Trails” mean the property designated and posted for lawful, authorized use by ATVs.
- (b) Intent.** It is the intent of this ordinance to limit the use of ATVs within unincorporated Cherokee County.

(c) Unlawful Operation. Unless otherwise noted, it is unlawful for any person to operate an ATV:

- (1) In a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others, or in a manner so as to endanger, or be likely to endanger, or cause injury or damage to any person or property;
- (2) So as to tow any person or thing on a public road right-of-way;
- (3) In a manner so as to create loud, unnecessary or unusual and unreasonable noise so as to disturb or interfere with the peace and quiet of other reasonable persons of ordinary sensibilities. Such sound that is plainly audible at a distance of two hundred (200) feet from the origin of sound shall be presumed to be a violation of this provision. Additionally, it shall be presumed to be a violation of this provision if an individual rides an ATV continuously past, around, or near an inhabited dwelling place so as to disturb or unduly annoy the inhabitants;
- (4) On airport property;
- (5) On private property without the express permission to do so by the owner and occupant of the property;
- (6) On public school grounds, park property, playgrounds, recreational areas, golf courses, cemeteries or any other public places, except on posted "ATV Trail" locations, unless the operator has the express permission of the proper public authority;
- (7) On United States Department of the Army Corp of Engineers property, unless the operator has the express written permission of the Allatoona Operations Project Manager, which such written permission shall be carried on the person of the permittee at all times during operation of the ATV on such property;
- (8) On any portion of any public road right-of-way;

(d) Age Restrictions. No person shall operate an ATV in violation of the age requirements established by Georgia State Law.

(e) Organized Events. Nothing in this chapter shall prohibit the use of ATVs within the county in organized events, provided the event organization and property owner do not object to such use.

(f) Exceptions. This chapter shall not apply to:

- (1) Motorboats;
- (2) Any military, fire, or law enforcement vehicle;
- (3) Any vehicles used exclusively on airports;

- (4) Any farm machinery, farm tractors, and other self-propelled equipment for harvesting and transportation of forest products, for clearing land for planting, for utility services and maintenance, for earth moving, and for like activities; and
- (5) Self-propelled lawnmowers, snow blowers, garden or lawn tractors, or golf carts, while such vehicles are being used exclusively for their designed purposes and used in a location consistent with their designed purpose. However, golf carts when used as a means of logistical transport are not included within this exception.

(g) Additional Requirements. This paragraph (g) shall apply to the operation of ATVs that are otherwise operating in compliance with this Ordinance:

- (1) No ATV shall enter any intersection without yielding the right-of-way to any vehicles or pedestrians at the intersection or so close to the intersection as to constitute an immediate hazard;
- (2) The operator of an ATV shall make every effort to be visible to oncoming traffic from any direction.

(h) Penalties. Any person violating the terms of this chapter shall be subject to issuance of a citation, and if proven guilty before a court of competent jurisdiction, shall be subject to a fine of up to \$1,000.00, upon conviction.

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective as of the date of adoption.

SECTION 3. CONSTRUCTION. The requirements and obligations of this section shall be implemented in a manner fully consistent with federal law regulating immigration and protecting the civil rights of all citizens and aliens.

SECTION 4. SEVERABILITY. If any section, subsection sentence, clause, phrase, or portion of this Ordinance is held invalid or unconstitutional of any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

ENACTED THIS 2nd DAY OF September, 2008.

CHEROKEE COUNTY BOARD OF COMMISSIONERS

ATTEST:

/s/
SHEILA R. CORBIN, COUNTY CLERK
(SEAL)

BY: _____
/s/
L.B. AHRENS, CHAIRMAN