STATE OF GEORGIA
COUNTY OF CHEROKEE

ORDINANCE NO. _____

AN ORDINANCE OF THE CHEROKEE COUNTY BOARD OF COMMISSIONERS AMENDING SECTION 5.5-6 OF ARTICLE 5 OF CHAPTER 70 OF THE CHEROKEE COUNTY ZONING ORDINANCE OF CHEROKEE COUNTY, GEORGIA TO PROVIDE PROVISIONS REGARDING THE EFFECT OF A RECORDED PLAT; AMENDING SECTION 7.2 OF ARTICLE 7 OF CHAPTER 70 OF THE CHEROKEE COUNTY ZONING ORDINANCE OF CHEROKEE COUNTY, GEORGIA TO REFLECT SUCH EFFECTS OF A RECORDED PLAT IN THE DEVELOPMENT STANDARDS; AMENDING SECTION 15.18 (A) OF ARTICLE 15 OF CHAPTER 70 OF THE CHEROKEE COUNTY ZONING ORDINANCE OF CHEROKEE COUNTY, GEORGIA TO CLARIFY THE NUMBER OF DAYS IN WHICH A ZONING BOARD OF APPEALS DECISION MAY BE APPEALED; AMENDING SECTION 15.19 OF ARTICLE 15 OF CHAPTER 70 OF THE CHEROKEE COUNTY ZONING ORDINANCE OF CHEROKEE COUNTY, GEORGIA TO REFLECT ADDITIONAL SECTIONS WHERE AN APPLICANT MAY REQUEST AN ADMINISTRATIVE VARIANCE; 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, the Board of Commissioners desires to amend Section 5.5-6 of Article 5 of the Cherokee County Zoning Ordinance to provide provisions regarding the effect of a recorded plat; and

WHEREAS, the Board of Commissioners further desires to amend Section 7.2 of Article 7 of the Cherokee County Zoning Ordinance to amend the provisions regarding the effect of a recorded plat on development standards; and

WHEREAS, the Board of Commissioners further desires to amend Section 15.18(A) of Article 15 of the Cherokee County Zoning Ordinance to clarify the number of days in which a Zoning Board of Appeals Decision may be appealed, specifically that such time frame shall be calendar days; and

WHEREAS, the Board of Commissioners further desires to amend Section 15.19 of Article 15 of the Cherokee County Zoning Ordinance to reflect additional sections where an applicant may request an administrative variance; and

WHEREAS, these Ordinance changes 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;

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 5.5-6 of Article 5 of the Cherokee County Zoning Ordinance shall be amended to provide provisions regarding the effect of a recorded plat. Such amendment to be added to the aforementioned Section shall be included in the newly created subsection (i) of said Section and shall read as follows:

Chapter 70 – Cherokee County Zoning Ordinance.

Article 5 – General Provisions.

5.5-5 Final Plat

i. Effect of Recorded plat. All building setbacks, buffers, or other development standards required by this Ordinance and/or other County, State or Federal regulations, which have been delineated and documented on a recorded plat, shall be upheld as the minimum requirements for any permits issued for development upon the area of land encompassed within such plat. Where the building setbacks, buffers, or other development standards on a recorded plat are different than current standards, the recorded plat shall be enforced unless otherwise approved by the Director of Planning and Zoning, County Engineer, or by the Zoning Board of Appeals pursuant to authority granted elsewhere in this Ordinance or the Code of Ordinances, Cherokee County, Georgia.

Section 2.

Section 7.2 of Article 7 of the Cherokee County Zoning Ordinance shall be amended to provide the provisions regarding the effect of a recorded plat on development standards. Such Section shall read as follows:

Chapter 70 – Cherokee County Zoning Ordinance.

Article 7 – District Uses and Regulations.

7.2 Development Standards.

The requirements regarding lot size, building site and building placement on the lot for each zone district shall be met as indicated in Section 5.5-5 (i), Effect of Recorded Plat; Section 7.3 Application of Standards, Table 7.1; Minimum District Development Standards and additional requirements listed in Section 7.4.

Section 3.

Section 15.18(A) of Article 15 of the Cherokee County Zoning Ordinance shall be amended to clarify the number of days in which a Zoning Board of Appeals Decision may be appealed. Such Section shall read as follows:

Chapter 70 – Cherokee County Zoning Ordinance.

Article 15 – Zoning Board of Appeals.

15.18 – Appeals.

(A) Appeal to Board of Commissioners. An appeal of a decision by the Zoning Board of Appeals shall be to the Cherokee County Board of Commissioners, effected by submission of a letter of appeal to the Board of Commissioners, no later than ten (10) calendar days after the Zoning Board of Appeals' decision has been rendered and provided to the applicant.

Section 4.

Section 15.18(A) of Article 15 of the Cherokee County Zoning Ordinance shall be amended to reflect additional sections where an applicant may request an administrative variance. Such Section shall read as follows:

Chapter 70 – Cherokee County Zoning Ordinance.
Article 15 – Zoning Board of Appeals.
15.19 – Administrative Variances.

The Zoning Administrator may grant an Administrative Variance where, in his/her opinion, the intent of the ordinance can be achieved and equal performance obtained by granting an Administrative Variance and upon presentation of evidence indicating that such variance is necessary and/or a practical solution without significant impact to adjoining properties, provided that the same applicant has not requested an Administrative Variance or an Administrative Variance has not been requested for the same property within the preceding six (6) months. The authority to grant such variances shall be limited to variances from the following requirements:

1. Minimum Building Setbacks: Up to ten percent (10%) of the minimum required building setbacks outlined in Table 7.1 of Article 7, Table 16.1.5-B of Article 16, and Table 23-2 of Article 23 of the Cherokee County Zoning Ordinance.

Any and all Administrative Variances granted pursuant to this Section shall be reported to the Board of Commissioners on a monthly basis and to the Cherokee County Zoning Board of Appeals.

Section 5.

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

Section 6.

(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 these Ordinances 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 these Ordinances. 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 these Ordinances are mutually dependent upon any other section, paragraph, sentence, clause or phrase of these Ordinances.

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

Section 7.

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

Section 8.

This Ordinance shall become effective immediately upon its adoption.

SO ORDAINED, APPROVED, AND ADOPTED this ____ day of _____, 2019.

By: _____
HARRY B. JOHNSTON, Chairman

Attest: _____
CHRISTY BLACK, County Clerk

(SEAL)