

**STATE OF GEORGIA
COUNTY OF CHEROKEE**

ORDINANCE NO. 2023-O-013

AN ORDINANCE AMENDING CHAPTER 26 – ENVIRONMENT, ARTICLE II - NOISE OF THE CODE OF ORDINANCES, CHEROKEE COUNTY, GEORGIA, TO PROVIDE FOR REVISED DEFINITIONS AND REGULATIONS TO PERMITTED AND RESTRICTED NOISE; 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, Chapter 26 – Environment, Article II - Noise of the Code of Ordinances, Cherokee County, Georgia, provides for all regulations and standards governing permitted and restricted noise in order to protect and promote the health, safety, welfare, and general well-being of the citizens of Cherokee County; and

WHEREAS, the notice of public hearing was published more than 15 days prior to the public hearing; and

WHEREAS, the Cherokee County Board of Commissioners, after notice as required by law, held a public hearing on October 17, 2023, upon this request for a text amendment in the Cherokee County Administration Building in Canton, Georgia; and

WHEREAS, the Board of Commissioners does hereby find the following definitions and revisions to Chapter 26 – Environment, Article II – Noise of the Code of Ordinances, Cherokee County, Georgia, attached hereto as **Exhibit A**, to be a reasonable exercise of Cherokee County’s police power, and in the best interests of the public health, safety, and welfare; and

NOW, THEREFORE, BE IT RESOLVED by the Cherokee County Board of Commissioners, and it is hereby so resolved by the authority of the same, that Chapter 26 – Environment, Article II - Noise of the Code of Ordinances, Cherokee County, Georgia is hereby

amended to provide further definitions and regulations on permitted and prohibited noise of Cherokee County, Georgia; and

NOW, THEREFORE, BE IT RESOLVED THAT this ordinance, upon adoption, is effective on October 17, 2023; and

SO RESOLVED, APPROVED, AND ADOPTED this 17th day of October, 2023.

By: _____
HARRY B. JOHNSTON, Chairman

Attest: _____
CHRISTY BLACK, County Clerk

(SEAL)

ARTICLE II. NOISE¹

Sec. 26-36. Purpose, Findings.

This article is adopted to protect, preserve, and promote the health, safety, and welfare of the citizens of Cherokee County, Georgia. It is the intent of this article to establish standards that will reduce excessive community noises, which are harmful and otherwise detrimental to individuals and to the community in the enjoyment of life and property and in the conduct of business. At the same time, it is also the intent of this article to balance the rights of property owners producing sound in the pursuit of business, recreation, or maintenance with the rights of property owners who may be receiving these sounds.

The Board of Commissioners find that:

1. Excessive noise may negatively impact economic development, tourism, and residential areas, making it difficult for employees, visitors, and residents to enjoy activities and places.
2. The production of sound may be necessary and unavoidable when conducting business, property maintenance, or recreational activities.
3. Working together, the rights of the property owner producing sound and the rights of the property owner receiving the sound produced can be effectively balanced, which is an objective of this article.
4. Uncontrolled, excessive noise could be a hazard to the public health, safety, and quality of life for those who visit, reside, or work in Cherokee County, and must be adequately and equitably regulated.

Sec. 26-37. Definitions.

A-weighted sound level—The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level is designated dBA.

Background sound— All-encompassing sound associated with a given environment without contributions from the source or sources of interest. Background sound is described as a combination of (1) continuous background sound, and (2) transient background sounds, with the durations for continuous and transient defined according to application and situation. Continuous relates to the constant nature of the background sound, not to any measurement duration.

C-weighted sound level—The sound pressure level in decibels as measured on a sound level meter using the C-weighting network. C-weighting is used to assess the low-frequency content of a complex sound environment. The level is designated dBC.

¹Cross reference(s)—Animals, ch. 10.

State law reference(s)—Sale of muffler which causes excessive noise prohibited, O.C.G.A. § 40-8-71(c); nuisances, O.C.G.A. § 41-1-1 et seq.

Construction—Any site preparation, assembly, excavation, erection, substantial repair, alteration, or similar action, excluding demolition and construction on public rights-of-way, and public property by any public utilities, or county, municipal, state, or federal governments and their contractors.

Emergency—Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency signaling device—Includes fire, burglar, civil defense alarm, siren, whistle, or similar device intended primarily for emergency purposes.

Engine brake or compression brake – A device used primarily on trucks which alters the normal compression of the engine thereby converting the engine into an air compressor for the purposes of braking without the use of wheel brakes.

Noise—Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

Outdoor riding area – A defined open space designed and constructed for horse training exercises and activities such as jumping, horseback riding, etc.

Quiet Hours—A time frame in which noise that disturbs the peace or causes discomfort is not permissible. These hours are between 11:00 p.m. and 7:00 a.m. daily. Also, between the hours of 11:00 p.m. Saturday and 1 p.m. Sunday, and 6:30 p.m. Sunday until 7:00 a.m. Monday.

Receiving property type—The property designations identified in this ordinance for the purpose of determining the maximum permissible sound levels for a regulated receiver.

Residential use—Any real property developed and used for human habitation that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation.

Sound-amplifying device - Any machine, device, or loudspeaker that produces, reproduces, or amplifies sound of the human voice, music, or any other sound. The term "sound-amplifying equipment" shall not include standard automobile audio systems when used and heard only by the occupants of the vehicle in which the automobile radio is installed. Sound-amplifying equipment, as used in this Article, shall not include warning devices or authorized emergency vehicles or horns, or other warning devices on any vehicle used only for traffic safety purposes.

Sound level—The sound pressure level obtained by the use of a sound level meter. If a frequency-weighting network is used, such as A or C, then the level shall be indicated as dBA or dBC, respectively. If a frequency weighting is not used, then the un-weighted or flat level shall be indicated as dB(Flat) or dBZ. Frequency-weighted networks shall comply with the American National Standards Institute specifications for sound level meters (ANSI S1.4-2014/IEC 61672 (R2019)) or the latest approved revision thereof.

Sound level meter—An instrument used to measure sound pressure levels. The instrument should meet requirements for a Class 1 sound level meter as specified in the American National Standards Institute

specifications for sound level meters (ANSI S1.4-2014/IEC 61672 (R2019)), or the latest approved revision thereof.

Sound pressure—The instantaneous difference between the actual pressure and the average or barometric pressure of a given point in space, as produced by sound energy.

Sound pressure level—20 times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micropascals (20 micronewtons per square meter). The sound pressure level is denoted L_p or SPL and is expressed in decibels (dB). Time constants for measurement may be applied to dB levels, and include Slow, Fast, Impulse, and Peak, as defined by relevant instrument standards.

Special events facility – An individual, entity, or organization that hosts special occasions, including but not limited to, receptions, meetings, banquets, conventions, parties, catered events, or similar gatherings for monetary consideration on a rental, fee, percentage, or similar basis. This definition also means the fixed location, including the structures on a property or multiple properties, used in the pursuit of hosting special events. Also known as a “Special events business.”

Utility—A business entity subject to government regulation that provides an essential commodity or service such as, but not limited to, water, electric, electric distribution, gas, gas distribution, gas transmission, and telephone.

Sec. 26-38. Applicability.

- (a) This article applies to sound originating from or received at or within the property line of parcels within unincorporated Cherokee County, Georgia.
- (b) All noise sources in existence prior to and after the adoption date of this article on October 17, 2023, shall be subject to the regulations contained herein.

Sec. 26-39. Exemptions from article.

The following uses and activities shall be exempt from the requirements of this article:

- (1) Any activities, construction, or events conducted, sponsored, or contracted by any public utility or local, federal, or state government, or any political subdivision of the State of Georgia.
- (2) Emergency signaling devices in the case of an emergency or for testing purposes.
- (3) Noises of safety signals and warning devices.
- (4) Nonemergency signaling devices operated by houses of religious worship, ice cream trucks, seasonal contribution solicitors, or by governmental entities for traffic control purposes.
- (5) Operation and testing of emergency equipment and safety protection systems (for example, relief valves).
- (6) Any public performance, gathering, event or parade for which a permit has been obtained from local, state, or federal government so long as the activity conforms to the limitations of its permit.
- (7) Outdoor school and playground activities. Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.
- (8) Any use granted a permit under the provisions of this article.

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- (9) The lawful discharge of firearms or weapons when done in accordance with Georgia Code including, but not limited to, instances specifically authorized under Article 2 of Chapter 3 of title 16 (regarding self-defense), § 16-11-103 (c), § 16-11-104 (a), § 41-1-9, and § 41-1-10.

Sec. 26-40. Enumerated acts.

- (a) Nonexclusive enumeration. The following uses or acts, among others, are declared to be loud, disturbing and unreasonable noises and noises in violation of this ordinance, but this enumeration shall not be deemed to be exclusive:
- (1) *Quiet Hours.* It shall be unlawful for any person to willfully make, continue, or cause to be made or continued any excessive, unnecessary, or unusually loud noise which disturbs the peace or quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing within the limits of the county, between the hours of 11:00 p.m. and 7:00 a.m. daily, and between the hours of 11:00 p.m. Saturday and 1:00 p.m. Sunday. Also, all noises described in this section shall be unlawful after 6:30 p.m. Sunday until 7:00 a.m. Monday.
 - (2) *Motor vehicle horns.* The sounding of any horn on any automobile, motorcycle, or other motor vehicle on any street or public place of the county, except as a warning signal, is prohibited.
 - (3) *Automobile racing, sporting events, and other public meetings.* Public meetings and automobile racing and other sporting events shall be unlawful during Quiet hours if held in an open place, by which the peace and quiet of any neighborhood shall be disturbed. Outside sporting events, including but not limited to automobile racing, shall not be conducted during the hours specified in this section without a permit from the Board of Commissioners. See Section 26-42.
 - (4) *Loudspeakers and amplifiers mounted on vehicles.* The using or operating of any loudspeaker or sound-amplifying device mounted on any vehicle for the purpose of broadcasting or advertising any information about any business or activity or any other purpose shall be unlawful during Quiet Hours, unless a permit for such sound amplification has been obtained from the Board of Commissioners.
 - (5) *Outdoor riding arenas.* The use of outdoor loudspeakers, bullhorns, and any other artificial noise-making devices with Outdoor riding arenas is expressly prohibited. However, except during Quiet Hours but not past 7 p.m. daily, amplified sound may be used in conjunction with Outdoor riding arenas as long as the source is placed no closer than 500 linear feet from a residentially-used property, measured by the most direct route in a straight line, and shall be directed to face internal to the premises and away from adjacent properties.
 - (6) *Consumer fireworks.* The use or exploding of consumer fireworks between the hours of 9:00 p.m. and 10:00 a.m., except on the dates, times, and requirements explicitly specified in Chapter 10 of Title 25 of O.C.G.A. § 25-10-1 et seq., now and as amended.
 - (7) *Construction activity.* The operating of any equipment or any outside construction or repair work on buildings, structures, roads or other projects within the county between the hours of 7:00 p.m. to 7:00 a.m. shall be unlawful unless an after-hours permit is granted under Section 26-41.

(8) *Special event facilities.* See Section 26-43.

Sec. 26-41. Construction activity, after-hours permit.

For construction activity, exceptions to the time restrictions set forth in section 26-40(a)(7) can be approved administratively by the Chief Building Official (CBO) with an after-hours permit. A written request for an after-hours permit must be submitted to the CBO, indicating the dates and times requested, subject to the following requirements:

- (1) The applicant must detail the work to be completed after-hours and provide any supporting documentation, as determined by the CBO.
- (2) The applicant must demonstrate that being restricted to the hours set forth in section 26-40(a)(7) would cause a hardship.
- (3) The applicant must demonstrate that the dates and hours needed to complete the construction activity after-hours are minimized to the greatest extent possible and would not have an adverse effect on community health, safety, or welfare.
- (4) Upon approval of an after-hours permit, the CBO is directed to notify the County Manager, Chief Marshal, Community Development Agency Director, Planning and Zoning Director, Communications Director, and the County Commissioner representing the district where the construction work is occurring.
- (5) If there is deviation from the dates and times permitted, the applicant must re-submit the request.
- (6) A decision of the CBO is appealable to the Board of Commissioners in accordance with Section 26-42.

Sec. 26-42. Exception Permit.

- (a) The Board of Commissioners may grant an exception permit to any provisions of this article, subject to the following requirements:
 - (1) Applications for exception permits should be filed with the Community Development Agency, including the name of the organization, reason for the request, times and dates requested for the exception, contact information, and additional information as required by the Community Development Agency.
 - (2) The Community Development Agency Director, or designee, will review the application for completeness, and once complete, the application will be docketed on a regular session agenda of the Board of Commissioners.
 - (3) In making a decision on the application, the Board of Commissioners may consider the reasons for the request, dates, and length of time requested, properties impacted by the proposal, and alternatives to the request, and any other factors that may be relevant to the request at the time. The decision to grant or deny a request in whole or in part, is at the sole discretion of the Board of Commissioners.

Sec. 26-43. Special events facilities, additional requirements.

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- (a) *Compliance Required.* In addition to the standards set forth in this article, Special events facilities are also required to comply with the provisions of this section, unless otherwise stated. Special event facilities with an active business license at the time of adoption of this ordinance are not required to comply with this section unless violations of Section 26-43 (d) or (f) are documented by the County Marshal. See Section 26-43 (c) (5).
- (b) *Zoning Requirements.* Special events facilities are identified in Table 7.2 – Permitted Uses – of the Zoning Ordinance of Cherokee County and included in the General Agricultural District (AG), requiring a Special Use Permit (SUP), and as a permitted use in other zoning districts including Office/Institutional (OI), Corporate Park District (CP), Neighborhood Commercial (NC), and General Commercial (GC). See also Section 7.7-4 (b) of the Cherokee County Zoning Ordinance.
- (c) *Acoustical Study Required.* In the AG Zoning District, prior to applying for a SUP, the owners of Special events facilities (“Owner”) shall complete an acoustical study. In zoning districts where Special events facilities are permitted uses, the Owner shall complete the acoustical study prior to the issuance of a certificate of occupancy for any structure on the Special events facilities site (“Premises”). Acoustical study requirements are as follows:

- (1) *Acoustical Study Conducted.* Under the supervision of the Director of Planning and Zoning (“Director”), the “Owner” shall engage an acoustical consultant (“Consultant”) designated by the County to complete an acoustical study of the Premises. The acoustical study will examine the effect on properties abutting the Premises generally, along with any amplified source of sound, instrument, or sound production device of any type employed on the Premises. The acoustical study will determine what, if any, measures the Owner can implement to mitigate these effects (“Mitigation Measures”). The Owner shall submit the acoustical study to the County for review and approval of the Mitigation Measures, prior to implementation. The Director will determine as to which Mitigation Measures shall be required.

If the Premises is proposed for construction and/or will include new buildings, regardless of zoning district, the Owner will coordinate with the Director and the Consultant to address acoustics during the design and construction of the Premises. Once construction of the Premises is complete, the acoustical study must be completed in accordance with this subsection.

- (2) *Implementation.* The Owner will apply for any necessary building permits, as applicable, and implement the Mitigation Measures identified from the acoustical study and as approved by the Director. The Chief Building Official and Consultant must verify that the Mitigation Measures are complete, prior to the issuance of the certificate of occupancy and business license.
- (3) *Sound Level Monitoring.* The acoustical study will determine if sound level meters are required for installation on the Premises to monitor sound pressure levels. If required, the acoustical study will also determine the appropriate locations for the installation of sound level meters. Sound pressure levels will be measured using the A- and C-weighting networks on a sound level meter meeting, at a minimum, the characteristics of a Class 1 or Class 2 sound level meter

as specified in the American National Standards Institute specifications for sound level meters (ANSI S1.4-2014/IEC 61672 (R2019)), or the latest approved revision thereof. The necessary sound level meters will be installed and maintained by the Owner. The Owner will operate and continuously record readings from the sound level meters during all events hosted on the premises, providing a real-time display of the sound level meters' readings in a conspicuous location, visible to the Owner's staff, vendors, and guests. Systems that implement this functionality will be acceptable to the County upon review and approval by the County.

Waiver. An Owner may request a waiver for the acoustical study requirement (Section 26-43 (c)) from the Board of Commissioners, if the Owner can demonstrate that sounds produced by the proposed Special Event Facility will not be audible at a level equal to or above the background level to nearby and adjacent properties or violate the provisions of this section. The decision to grant or deny a waiver is at the sole discretion of the Board of Commissioners.

- (4) Existing Special events facilities. Special event facilities with an active business license at the time of adoption of this ordinance are not required to comply with this section unless violations of Section 26-43 (d) or (f) are documented by the County Marshal. Once a violation(s) is documented, the Director shall notify the Owner that compliance with Section 26-43 is required. The Owner shall be granted ninety (90) days to complete the requirements of Section 26-43 (c) ("Compliance Timeline"). The Director is authorized to grant additional time for compliance, but if after ninety (90) days, in the opinion of the Director, the Owner has failed to comply with Section 26-43 (c), the Director is authorized to initiate the remedies set forth in Section 26-45.

The Special events facility may continue to operate during the Compliance Timeline, unless three (3) or more violations of Section 26-43 (d) and (f) are documented during this time, in which case, the Special events facility must cease operations until compliance with Section 26-43 is achieved.

- (d) *Exterior Noise Levels.* A Special Event Facility shall not employ or operate any amplified source of sound, instrument, or sound production device of any type that exceeds the limits of Table 1 when measured according to (h) and (i), including but not limited to: any loudspeaker; bullhorn, amplifier; public address system; musical instrument; radio; television; or device that plays live or recorded music or other audio programs.

TABLE 1 – Allowable Exterior Noise Level*

Receiving Property	Daytime: 7:00 AM—11:00 PM		Nighttime: 11:00 PM—7:00 AM	
	dBA	dBC	dBA	dBC
Residential use	55	60	40	50

*Leq 1-minute

- (e) *Monitoring.* If the Special Event Facility uses sound level meters and detects volumes exceeding the maximum noise levels set forth in Table 1, the Owner shall address the excessive noise levels immediately, ensuring the noise level is lowered to compliant levels immediately.

- (f) *Interior Noise Levels.* The Owner shall not employ or operate any amplified source of sound, instrument, or sound production device of any type in such a manner that it raises the total sound level inside a sealed residence above the permissible sound level limits set forth in Table 2 in this section when measured inside a residence. Such measurements shall not be taken in areas, that receive only casual use such as hallways, closets, and bathrooms. Measurements shall only be taken by the County at the request of the receiving residence property owner (“Complainant”), and if the County, after request to do so, fails or declines to take such measurements when requested, the Complainant may have its own qualified expert do so and provide the results to the County Marshal for consideration, indicating date and time the measurements were taken and demonstrating compliance with the applicable procedures in this subparagraph and subparagraph (h) below.

TABLE 2 – Allowable Interior Noise Level*

Time Interval	Allowable Interior Noise Level
7:00 AM. to 11:00 PM.	55 dBC
11:00 PM to 7:00 AM	45 dBC

*Leq 1-minute

- (g) *Background Sound.* In cases where the measured receiving residential property background dBA or dBC sound levels exceed the levels in Table 1, in no instance shall the sound pressure level from sound sources on the Premises exceed the receiving residential property background sound level by more than 5 dBA or 5 dBC.
- (h) *Measurements Conducted.* Measurements of exterior levels performed by County enforcement staff shall be taken at the receiving residential property boundary, or 25’ from the closest façade of the occupied residential structure on the property, at whichever point is closest to the occupied residential structure. Sound pressure levels shall be measured using the A- and C-weighting networks on a sound level meter meeting, at a minimum, the characteristics of a Class 1 or Class 2 sound level meter as specified in the American National Standards Institute specifications for sound level meters (ANSI S1.4-2014/IEC 61672 (R2019)), or the latest approved revision thereof. If access to the residential property for the purpose of performing measurements is not permitted, then no violation can be assessed, and if the County, after request to do so, fails or declines to take such measurements when requested, the Complainant may have its own qualified expert do so and provide the results to the County Marshal for consideration, indicating date and time the measurements were taken and demonstrating compliance with the applicable procedures in this subparagraph and subparagraph (i) below.
- (i) *Measurements Procedures.* All measurements shall be conducted in accordance with the following procedures:
- (1) Only during periods when the sound pressure level from sound sources unrelated to the sound of interest do not dominate the measurement location.

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- (2) For a period of time sufficient to ensure that the measured sound pressure levels are typical of the sound of interest, but in no event shall the duration of measurement be less than one minute.
 - (3) Only during periods when wind speeds (including gusts) are no greater than 10 mph.
 - (4) Never under any condition that allows the sound level meter to become wet.
 - (5) Only after the sound level meter has undergone a field calibration process or method as recommended by the sound level meter manufacturer.
 - (6) If the level due to sound sources operating on the permitted use cannot be resolved from the background sound level, then there can be no finding of non-compliance.
 - (7) Compliance for noise levels shall be assessed as Leq-1 minute averages over the measurement duration.

Sec. 26-44. Engine brake or compression brake.

The use of an Engine brake or compression brake is discouraged in residential areas. Upon request, a roadway may be studied and if determined by the Community Development Agency and the Marshal's office to experience the frequent use of Engine brakes or compression brakes, advisory signage may be placed to discourage the use of an Engine brake or compression brake within a segment of a roadway.

Sec. 26-45. Violations, revocation, penalty.

- (a) Violations of this article are subject to the following remedies and penalties, which may be pursued individually or collectively to resolve noncompliance:
 - (1) *Declared Public Nuisance.* The operation or maintenance of any device, vehicle, or machinery in violation of this article, or the conduct of any of the events set forth in this article which is unlawful, is declared to be a public nuisance, and may be subject to abatement summarily by restraining order of injunction issued by a court of competent jurisdiction.
 - (2) *Revocation.* The Board of Commissioners may initiate proceedings to terminate a special use permit, conditional zoning approval, business license, and/or other entitlements granted by the County for violations of this article.
 - (3) *Citation.* Violations of this article shall be punishable, upon conviction, as provided in section 1-12. The magistrate's court of the county shall have jurisdiction over such violations.

Secs. 26-46—26-65. Reserved.