

**STATE OF GEORGIA
COUNTY OF CHEROKEE**

ORDINANCE NO. 2024-O-010

AN ORDINANCE OF THE CHEROKEE COUNTY BOARD OF COMMISSIONERS TO AMEND ARTICLE II SECTION 26 SUBSECTION 44 OF CHAPTER 26 OF THE CODE OF ORDINANCES OF CHEROKEE COUNTY, GEORGIA TO ENACT PROVISIONS PERTAINING TO THE USE OF ENGINE BRAKES; TO PROVIDE GUIDELINES FOR ENFORCEMENT AND PENALTIES FOR SUCH 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, the Board of Commissioners desires to update Section 26-44 of the Cherokee County of Ordinances to prohibit the use of engine brakes on certain roadways located within Cherokee County, Georgia; and

WHEREAS, this Ordinance change 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

Article II Section 26 Subsection 44 of Chapter 26 of the Code of Ordinances of Cherokee County, Georgia shall be amended to enact provisions pertaining to the use of engine brakes on certain roadways within Cherokee County, Georgia. Said Ordinance shall read as follows:

CHAPTER 26 – ENVIRONMENT.

ARTICLE II – NOISE.

SEC. 44 – ENGINE BRAKE OR COMPRESSION BRAKE.

- (a) *Definitions.* For purposes of this section, an engine brake or compression shall mean the use or operation of any mechanical exhaust device designed to aid in the braking, decompression, or deceleration of any motor vehicle which results in the excessive, loud, unusual, or explosive noise from such vehicle.
- (b) *Prohibited on Certain Roadways.* The use of engine brakes or compression brakes shall be prohibited for use on the following roadways:
- Knox Bridge Highway (Bartow County line to Fields Chapel Drive)
 - Knox Bridge Highway (Fields Landing Road to Marietta Highway at Herndon Lane)
- (c) *Posting of Signage.* Each roadway identified in subsection (b) shall be marked with appropriate signage indicating that the use of engine brakes and compression brakes are prohibited.
- (d) *Exemptions.* The provisions of this section shall not apply where the use of such brakes is necessary for the protection of persons and/or property which cannot be avoided by application of an alternative braking system. Sounds created by emergency equipment for emergency purposes are also exempt.

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

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 6th day of August, 2024.

By:



HARRY B. JOHNSTON, Chairman

Attest:



CHRISTY BLACK, County Clerk

