

STATE OF GEORGIA
COUNTY OF CHEROKEE

ORDINANCE NO. 2018-O-001

AN ORDINANCE OF THE CHEROKEE COUNTY BOARD OF COMMISSIONERS ADDING ARTICLE II SECTION 7 THROUGH SECTION 15 OF CHAPTER 58 OF THE CODE OF ORDINANCES OF CHEROKEE COUNTY, GEORGIA TO ENACT AND IDENTIFY RULES AND REGULATIONS FOR THE USE OF MOTORIZED CARTS; TO IDENTIFY THE PROCEDURE FOR ESTABLISHING A MOTORIZED CART DISTRICT; TO IDENTIFY 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, O.C.G.A. § 40-6-331 authorizes local governing bodies, by ordinance, to designate certain public streets or portions thereof that are under its regulation and control for the combined use of motorized carts and regular vehicle traffic or the use of motorized carts and no others types of motor vehicles and establish the conditions under which motorized carts may be operated upon such streets or portions thereof, including without limitation the conditions under which a person may operate motorized carts on such designated streets or portions thereof without a driver's license; and

WHEREAS, the Cherokee County Board of Commissioners finds that residents of the unincorporated area of Cherokee County desire that motorized carts be allowed to be driven with regular vehicle traffic; and

WHEREAS, in order to effectuate this desire, the Cherokee County Board of Commissioners hereby enacts an ordinance to reflect the rules and regulations for the operation of motorized carts, as well as the procedure for citizens to register said motorized carts; 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:

Section 1

The Code of Ordinances of Cherokee County, Georgia shall be amended to add Article II Section 58-7 through Section 58-18 of Chapter 58 to provide rules and regulations for the use of motorized carts in the unincorporated areas of Cherokee County, Georgia. In addition, the aforementioned Sections shall also provide the procedure for establishing a motorized cart district where the operation of motorized carts is allowed. Said Ordinances shall read as follows:

Chapter 58 – TRAFFIC AND VEHICLES

Article II – Motorized Carts

Sec. 58-7. Short Title.

This Ordinance will be known as and may be referred and cited as the “Motorized Carts Ordinance of Cherokee County.”

Sec. 58-8. Findings.

The Cherokee County Board of Commissioners finds that residents of certain neighborhoods and certain public streets located within the unincorporated area of Cherokee County desire that motorized carts be allowed to be driven with regular vehicle traffic. The Cherokee County Board of Commissioners, by adoption of this ordinance, shall allow the use of motorized carts within the parameters of state law, but the Cherokee County Board of Commissioners expresses no opinion as to whether the mixture of regular vehicle traffic and motorized carts upon the public streets and rights-of-way are safe. Given the safety concerns of Cherokee County Board of Commissioners, the Cherokee County Board of Commissioners will approve a motorized cart district only upon receiving a request for such motorized cart use via the procedure set forth hereto and subject to the Cherokee County Board of Commissioners’ discretion to approve such motorized cart district by a finding that it meets the criteria of this

ordinance. The Cherokee County Board of Commissioners, on behalf of itself, agents, employees and representatives of the County, do not waive any right of sovereign immunity or individual qualified immunity. The Cherokee County Board of Commissioners places all citizens and guests on public notice that all drivers or occupants of motorized vehicles, given the disproportionate size of motorized carts in comparison to regular vehicular traffic, do knowingly and voluntarily assume all risks of property damage, injury or death in regard to the operation of any motorized cart. All liability for injury shall be the responsibility of the party causing such injury but in no way shall Cherokee County or any of its employees be liable for any action or inaction with regards to motorized carts authorized pursuant to the Ordinance.

Sec. 58-9. Definitions.

- (a) All words, terms, and phrases when used in this Article shall have the meaning prescribed to that word, term, or phrase as defined by O.C.G.A. §40-1-1.
- (b) The following words, terms and phrases, when used in this Article, shall have the meanings prescribed to them in this section, except where the context clearly indicates a different meaning.
- (i) “Authorized Streets” means all such streets, roads and public rights-of-way which have been authorized for motorized cart travel within a designated motorized cart district approved by the Cherokee County Board of Commissioners and are on file with the Cherokee County Engineering Department. The list of authorized streets is subject to amendment from time to time by the Cherokee County Board of Commissioners.
- (ii) “County” means Cherokee County, Georgia.
- (iii) “Motorized Cart” means all electric and gasoline-powered pleasure carts, which are commonly called and referred to as golf carts, and which are not capable of exceeding twenty (20) miles per hour. Within this article, the terms "motorized cart," "golf cart", and "cart" shall have the same meanings; these are the only carts authorized for use under this Article.

(iv) “Motorized Cart District” means the streets or roads approved for the use of motorized carts in a specific neighborhood, community, development, or other defined area by the Cherokee County Board of Commissioners.

(c) Any other motorized cart or vehicle not included in the definition contained in Section 58-9 (b)(iii) shall be banned and considered illegal to operate from public streets of unincorporated Cherokee County, unless otherwise authorized by law.

58-10. Criteria and Procedure for Consideration of Motorized Cart District.

The following Section outlines the procedures and criteria to be followed by the applicant(s) and the County in order to obtain motorized cart access on public roads.

(a) For purposes of this Section, a “Motorized Cart District” shall be designated as a clearly defined area that has access to public roads and which has received approval from the Cherokee County Board of Commissioners. In order to be considered for motorized cart use, Motorized Cart Districts shall meet and follow the criteria and procedures listed below.

(i) Where motorized cart access is desired, a petition shall be submitted by the established and legally incorporated homeowner’s association for the area where motorized cart access is being requested. For areas where motorized cart access is desired but no homeowner’s association exists, a petition may be submitted by the residents of the area, however said petition shall require the signature of at least five (5) separate parcel owners of the proposed Motorized Cart District. The petition must be returned to the County Engineer who will verify property ownership (if applicable) using current County tax assessment records and/or proper status of the homeowner’s association. The petition submitted shall include statements to confirm the following:

(1) The Motorized Cart District for which motorized cart access is petitioned must have public roads that have a speed limit of twenty-five (25) miles per hour or less and must have access to public local roads as shown on the County Road Registry.

- (2) Motorized Carts may only be operated inside the confines of the roads located in the Motorized Cart District and may not be used on other public roads that have not been approved for use.
- (3) Motorized carts are not allowed to travel on sidewalks, swales, trails, multiuse paths, or bicycle paths.
- (4) Operators of motorized carts are required to observe all traffic laws as if they were operating any other motor vehicle.
- (ii) Upon receiving such a petition, the County Engineer, or his/her designee, shall verify the area for which motorized cart access has been petitioned and determine whether the area meets the requirements for motorized cart usage. In addition, the County Engineer, or his/her designee, shall identify proper locations for signage to be placed to identify the street/area as an authorized location for motorized cart use.
- (iii) Upon a finding by the County Engineer, or his/her designee, that the proposed Motorized Cart District is suitable for use and meets the requirements stated hereto, signs soliciting public comments shall be erected at each entrance to the proposed Motorized Cart District and such signs shall remain in place for at least thirty (30) days. The County Engineer, or his/her designee, shall receive and document any and all public comments during this time for consideration by the Cherokee County Board of Commissioners.
- (iv) After completion of the thirty (30) day period for public comments, the petition and all public comments shall be submitted for consideration to the Cherokee County Board of Commissioners. The Cherokee County Board of Commissioners shall call for a public hearing to be held regarding the petition and such public hearing shall be advertised in the legal organ of Cherokee County at least fifteen (15) days but not more than forty-five (45) days before the public hearing is to take place.
- (v) The Cherokee County Board of Commissioners shall consider the petition, staff recommendations, public comments received, and the results of the public hearing, and approve, deny or modify the petition and the Motorized Cart District boundaries in its sound discretion.

58-11. Authorized User.

Any person who possesses a valid motor vehicle driver's license and is at least sixteen (16) years of age may operate a motorized cart on the authorized streets and contained in the Motorized Cart District under the same restrictions placed upon such drivers in the operation of motor vehicles on the road of Georgia in compliance with Title 40 of the Official Code of Georgia Annotated and all other applicable state laws regarding the operation of motor vehicles. In addition, any person who possesses a valid motor vehicle instructional permit and is at least fifteen (15) years of age may operate a motorized cart in a Motorized Cart District and on authorized streets, so long as such person is accompanied in the front seat by a person who possesses a valid motor vehicle driver's license and is at least eighteen (18) years of age. A valid driver's license or instructional permit for the operation of a motor vehicle shall carry the same restrictions for use in a motorized cart authorized pursuant to this Ordinance.

58-12. Minimal Equipment Required for Motorized Carts / Insurance.

- (a) All motorized carts operating on an authorized street, road, public right-of-way, or designated motorized cart district shall have, at a minimum, the following equipment:
- (i) A braking system sufficient for the weight and passenger capacity of the vehicle, including a parking brake;
 - (ii) A reverse warning device functional at all times when the directional control is in the reverse position;
 - (iii) A main power switch. When the switch is in the "off" position, or the key or other device that activates the switch is removed, the motive power circuit shall be inoperative. If the switch uses a key, it shall be removable only in the "off" position;
 - (iv) Head lamps;
 - (v) Reflex reflectors;
 - (vi) Tail lamps;
 - (vii) A rearview mirror;
 - (viii) Safety warning labels;
 - (ix) Hip restraints and hand holds or a combination thereof.

(b) Each person operating a motorized cart shall be liable for their own actions as stated in Section 58-16 of this Article. Liability insurance coverage varies, and each person operating a motorized cart in a Motorized Cart District or an authorized street should verify their insurance coverage is sufficient for such uses.

58-13. Registration of motorized carts.

(a) It shall be the duty of every owner of a motorized cart that is operated over authorized streets to register the motorized cart with the County prior to operating the motorized cart on said authorized streets. The application for registration shall be filed with the Cherokee County on forms provided by the County. The application may, among other things, require the following information: owner's name; street address, mailing address, and telephone number; make, model, and identification, and/or serial number of the motorized cart; and such other information as may be reasonably required, as well as a general release statement and/or disclaimer of any liability by the County for accidents involving the registered motorized cart. Two (2) decals shall be issued upon registration; and a record of each motorized cart number, along with the name and address of the owner, shall be maintained by Cherokee County.

(b) The decals provided upon proper registration must be affixed to the sides or windshield of the motorized cart, or in such a manner as to be fully visible at all times. The failure to have a current registration decal on a motorized cart shall be a violation of this section and subject the owner/operator of such cart to penalties. The decal issued by Cherokee County shall be non-transferrable from the motorized cart for which it is obtained.

(c) Only those persons sixteen (16) years of age and older may register a motorized cart. Motorized cart registration may be in one person's name only, and the registration form must be signed by that person.

(d) The fee to register a motorized cart shall be set at fifteen dollars (\$15.00) for a one (1) year registration, forty-five dollars (\$45.00) for a three (3) year registration, or seventy-five dollars (\$75.00) for a five (5) year registration. Each registration, regardless of when purchased, shall only be valid for the calendar year(s) and shall expire on December 31.

(e) Upon occurrence of a sale or transfer of a registered motorized cart to another person, the initial registration shall immediately expire and the new owner of the motorized cart shall be required to register the motorized cart if they wish to operate said cart on authorized streets or within a Motorized Cart District.

58-14. Operation of gasoline-powered motorized carts.

(a) Every gasoline-powered motorized cart shall at all times be equipped with an exhaust system in good working order and in constant operation, meeting the following specifications:

- (i) The exhaust system shall include the piping leading from the flange of the exhaust manifold to, and including, the muffler(s) and exhaust pipe(s);
- (ii) The exhaust system and its elements shall be securely fastened; and
- (iii) The engine of every cart shall be so equipped, adjusted and tuned, as to prevent the escape of excessive smoke or fumes.

(b) It shall be unlawful for the owner of any gasoline-powered motorized cart to operate, or permit the operation of, such gasoline-powered motorized cart on which any device controlling or abating atmospheric emissions, which is placed on a cart by the manufacturer, has been altered, rendered unserviceable or removed.

(c) Motorized carts which are powered by electric means are exempted from this Section.

58-15. Operating regulations and special rules.

(a) All operators of motorized carts shall abide by all traffic regulations applicable to vehicular traffic when using the authorized streets contained in the Motorized Cart District.

(b) Motorized carts shall not be operated on sidewalks at any time.

(c) No person shall engage in the activity of racing motorized carts on authorized streets or in a Motorized Cart District.

(d) No person shall use a motorized cart to block public access, except for special events approved by the County.

- (e) No user of a motorized cart shall loiter, or park on recreation path bridges or in underpasses or any other location where the parking of vehicles is prohibited.
- (f) Pedestrians and bicyclists should be given due consideration and reasonable right-of-way by users of motorized carts.
- (g) All laws and ordinances relative to alcohol and the use thereof, including, but not limited to open container laws, while operating, riding in, or driving a motorized cart shall be required to be followed by all drivers, passengers, and operators of a motorized cart operating on an authorized street, road, public right-of-way, or designated motorized cart district.
- (h) A motorized cart shall have no more than four (4) passengers per cart, however, such allotment may be increased if each passenger has an individual seat for his/her use.
- (i) No cart shall be driven on an authorized street, road, public right-of-way, or designated motorized cart district in excess of twenty (20) miles per hour.
- (j) No motorized cart shall be driven or operated on any street, road, or public right-of-way in unincorporated Cherokee County that has not been designated a Motorized Cart District or otherwise authorized as an approved street under this Article.
- (k) It shall be unlawful for the owner of any motorized cart to operate, or permit the operation of, such motorized cart in any such method that violates this Article.

58-16. Liability.

The owner and/or operator of a motorized cart is liable for his/her own actions and assumes all responsibility for any such use. Any person who operates or owns a motorized cart is responsible for procuring liability insurance and verifying coverage in terms enough to cover the risk involved in using such motorized cart on an authorized street, road, public right-of-way, or designated motorized cart district.

58-17. Exemptions.

- (a) The operation of motorized carts under the following circumstances shall not be subject to the provisions of this Article:
 - (1) The operation of motorized carts at golf courses, private clubs, or on private property, with the consent of the land owner;

- (2) The operation of golf carts on private streets within gated or limited access communities;
- (3) The operation of golf carts in connection with a parade, festival, or other special event authorized by the County, provided that the consent of the event sponsor is obtained and provided that such use only occurs during the special event;
- (4) The use of golf carts by the Sheriff's Department or Marshal's Office on official law enforcement business or by other Cherokee County personnel for official business on County controlled property, including cemeteries, parks, green space, and other property as needed.

58-18. Penalties.

Any person violating this Article shall be subject to a citation by the County Marshal's Office or the Sheriff's Office returnable to the magistrate court of Cherokee County and subject to a fine and/or imprisonment not to exceed \$1,000.00 and/or 60 days' imprisonment.

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 9th day of January, 2018.

By: 
L.B. AHRENS, JR., Chairman

Attest: 
CHRISTY BLACK, County Clerk

