



## ORDINANCE NO. 15

### **AN ORDINANCE REQUIRING THE USE OF ENGINE BRAKE MUFFLERS WITHIN THE COUNTY AND PROVIDING FOR ENFORCEMENT PROCEDURES**

WHEREAS, pursuant to C.R.S. § 30-11-101(2), Clear Creek County, Colorado, has the authority to adopt and enforce ordinances and resolutions pertaining to the health, safety, and welfare issues as prescribed by law; and

WHEREAS, pursuant to C.R.S. §§ 25-12-107 and 30-15-401(1)(m), the Board of County Commissioners of Clear Creek County, Colorado ("Board"), has authority to adopt ordinances related to the regulation of noise on public and private property; and

WHEREAS, pursuant to C.R.S. § 25-12-101, the State of Colorado has found that noise is a major source of environmental pollution that represents a threat to the serenity and quality of life in Colorado, and has further found that excess noise can have adverse physiological and psychological effects on people; and

WHEREAS, pursuant to C.R.S. § 30-15-401(1)(h), the Board may control and regulate the movement and parking of vehicles and motor vehicles on public property; and

WHEREAS, pursuant to 40 C.F.R. §§ 202.20 and 202.22, the federal government has found it appropriate to impose noise standards on commercial vehicles engaged in interstate commerce, including a requirement to have a muffler; and

WHEREAS, pursuant to C.R.S. §§ 25-12-107(1) and 42-4-225, the State of Colorado has also found it appropriate to impose noise standards on motor vehicles, including general requirements to have a muffler and specific requirements to use a muffler on engine brake devices; and

WHEREAS, noise from the use of engine brake devices can disturb the quality of life for residents and visitors, especially those who live, sleep, work, or play in close proximity to major highways such as I-70 and US 6 and US 40; and

WHEREAS, engine brake devices can assist some vehicles, especially large commercial vehicles, to safely navigate the mountainous and hilly terrain within the County; and

WHEREAS, on October 5, 2021, the Board held a public meeting as part of a properly noticed agenda to perform a first reading of this ordinance and to receive evidence and testimony from County staff as well as members of the public; and

WHEREAS at such public hearing the Board received testimony as to the importance of muffling the noise from engine brake devices and the potential value of installing new signs from CDOT while not prohibiting engine brake devices; and



WHEREAS, on November 2, 2021, the Board of County Commissioners held a public meeting as part of a properly noticed agenda to perform a second and final reading of this ordinance and to receive additional evidence and testimony from County staff as well as members of the public supporting the public health, safety, and welfare benefits of the use of mufflers on engine brake devices.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Commissioners of Clear Creek County, Colorado, as follows:

Section 1. The foregoing "Whereas" clauses are incorporated herein and made a part of this ordinance.

Section 2. Purpose. The purpose of this ordinance is to regulate the use of engine brake devices in a manner that protects the public health, safety, and welfare of the County.

Section 3. Applicability. This ordinance applies to any vehicle that is subject to registration and operated on a highway within the County, except that this section shall not apply to electric motor vehicles.

Section 4. Standards. Any vehicle to which this section applies that is equipped with an engine compression brake device must:

- A. be equipped with a muffler on the engine compression brake device; and
- B. maintain the engine compression brake device muffler in constant operation and properly maintained to prevent any excessive or unusual noise; and
- C. not equip or otherwise modify such engine compression brake device or muffler with a cut-off, bypass, or similar device.

Section 5. Enforcement. It is unlawful for any person to operate a vehicle in violation of any provision of this ordinance, and this ordinance may be enforced by a law enforcement officer or any other persons or positions designated by the Board as enforcement officers. Pursuant to C.R.S. §§ 30-11-101 and 30-15-402, as the same may be revised or replaced from time to time, any law enforcement officer enforcing this ordinance is authorized to utilize the penalty assessment procedure provided in C.R.S. § 16-2-201, as the same may be revised or replaced from time to time. Pursuant to C.R.S. §§ 30- 11-101 and 30-15-402, any person or entity that violates this section shall be guilty of a traffic infraction. For each separate violation, the fine for the first offense and for any subsequent offense shall be a minimum of fifty dollars (\$50.00) and a maximum of no more than one thousand dollars (\$1,000.00). In addition to the aforementioned fines and penalties, any person convicted of a violation of this section shall be subject to the statutory surcharges of ten dollars (\$10.00) for the Victims and Witnesses Assistance and Law Enforcement Fund. This surcharge shall be paid to the clerk of court by each person convicted of violating this ordinance. The clerk shall transmit the moneys to the fund in accordance with C.R.S. § 30-15-402(2).



Section 6. It is unlawful for any person to violate any provision of this ordinance.

Section 7. This ordinance may be enforced by a law enforcement officer or any other persons or positions designated by the Board as enforcement officers under this ordinance.

Section 8. Pursuant to C.R.S. §§ 30-11-101 and 30-15-402, any arresting law enforcement officer enforcing this ordinance is authorized to utilize the penalty assessment procedure provided in C.R.S. §16-2-201.

Section 9. Pursuant to C.R.S. §§ 30-11-101 and 30-15-402, any person or entity that violates this ordinance shall be guilty of a traffic infraction. For each separate violation, the fine for the first offense and for any subsequent offense shall be a minimum of fifty dollars (\$50.00) and a maximum of no more than one thousand dollars (\$1,000.00).

**NOW, THEREFORE, BE IT EVEN FURTHER ORDAINED** by the Board of County Commissioners that, upon adoption, this Ordinance is published by title only in a newspaper(s) of general circulation in the County.

**BE IT EVEN FURTHER ORDAINED** by the Board of County Commissioners, that this Ordinance is effective upon adoption, following the second reading.

INTRODUCED, READ AND ORDERED PUBLISHED BY THE BOARD OF COUNTY COMMISSIONERS OF CLEAR CREEK COUNTY, COLORADO, THIS 5<sup>th</sup> DAY OF OCTOBER, 2021.

BOARD OF COUNTY COMMISSIONERS  
CLEAR CREEK COUNTY, COLORADO

  
George Marlin, Chairman

  
Randall Wheelock, Commissioner



Sean C. Wood, Commissioner

CERTIFICATION: THE FOREGOING ORDINANCE WAS INTRODUCED AND READ ON OCTOBER 5, 2021, BY THE BOARD OF COUNTY COMMISSIONERS OF CLEAR CREEK COUNTY, COLORADO, AND APPROVED FOR PUBLICATION.



DATE OF PUBLICATION: 10/13/21

*Beth Luther*

Beth Luther  
Deputy Clerk & Recorder  
Clear Creek County

///REMAINDER OF PAGE INTENTIONALLY LEFT BLANK///



READ, PASSED, AND ADOPTED AFTER PUBLIC HEARING AND ORDERED  
PUBLISHED BY TITLE ONLY THIS 2<sup>nd</sup> DAY OF NOVEMBER, 2021.

BOARD OF COUNTY COMMISSIONERS  
CLEAR CREEK COUNTY, COLORADO

  
George Marlin, Chairman

  
Randall Wheelock, Commissioner

  
Sean C. Wood, Commissioner

CERTIFICATION: THE FOREGOING ORDINANCE WAS CONSIDERED AT PUBLIC  
HEARING ON NOVEMBER 2, 2021, AND ADOPTED BY THE BOARD OF COUNTY  
COMMISSIONERS EFFECTIVE THE 2<sup>nd</sup> DAY OF Nov, 2021.

DATE OF SECOND PUBLICATION: 11-10-21

  
Beth Luther  
Deputy Clerk & Recorder  
Clear Creek County