

CITY OF CANEY CITY, HENDERSON COUNTY TEXAS

ORDINANCE NO: 2023-0002

Engine Brake

AN ORDINANCE OF THE CITY OF CANEY CITY, HENDERSON COUNTY, TEXAS: PROHIBITING ENGINE BRAKING AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT PROVISIONS, REPEALER, SEVERABILITY, PUBLICATION, EFFECTIVE DATE, PUBLIC NOTICE & MEETING, ENACTMENT, DEFINITIONS, PROHIBITION, AND ENFORCEMENT, INCLUDING CRIMINAL FINES NOT TO EXCEED \$500 PER OFFENSE

WHEREAS, the City Council of the City of Caney City ("City Council") seeks to protect the public safety, preserve the quality of life, and prevent nuisances in the City; and

WHEREAS, the City Council finds that the practice of engine braking by diesel trucks (sometimes referred to in common nomenclature as "jake braking" but which must not to be confused with the registered trademark "Jake Brake" belonging to the Jacobs Vehicle Systems, Inc.) creates disturbing, excessive and offensive noise when it occurs within the city limits; and

WHEREAS, pursuant to Texas Local Government Code, the City Council has the general authority to adopt and publish an ordinance or police regulation that is for the good government, peace or order of the municipality and is necessary or proper for the carrying out a power granted by law to the municipality; and

WHEREAS, the City Council of the City of Caney City believes it is in the best interest of the citizens and visitors to the City, to prohibit the use of engine brakes within the City of Caney City.

NOW THEREFORE: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANEY CITY, TEXAS:

SECTION 1. Enactment

1.1 The City Council of the City of Caney City finds that the above foregoing recitals are true and correct and are hereby incorporated for all purposes as official findings of the City Council of the City of Caney City.

1.2 Popular Name - This Ordinance shall be commonly cited as the "Engine Braking Ordinance."

1.3 Scope

This Ordinance applies to all property within the incorporated municipal boundaries (i.e. "city limits").

SECTION 2. DEFINITIONS

2.1. General

Words and phrases used in this Ordinance shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the City of Caney City Ordinances ("Ordinances"), shall be given the meanings set forth in the Ordinances. Words and phrases not defined in the Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

2.2 City:

The City of Caney City, an incorporated municipality located in Henderson County, Texas.

2.3 Engine Braking:

Any method of slowing diesel trucks in a manner that produces a loud noise, particularly by venting the cylinder of the diesel engine midway through its cycle causing the engine, instead of producing power, to absorb power, thereby slowing the truck down dramatically. It shall also include the production of excessive noise produced by engine retarders due to a truck operating with improperly maintained, defective, or modified muffler systems or the use of straight exhaust pipes with no mufflers.

2.4 Person:

Any human individual, corporation, company, sole proprietorship, partnership, association, organization, or agency.

2.5 Emergency:

Any situation or condition in which it can be reasonably concluded that death or serious bodily injury to a person or substantial injury to property is imminent.

2.6 Emergency Vehicles:

Any first responder or emergency vehicles owned or operated by a governmental entity or at the direction of a governmental entity.

SECTION 3. Offense

3.1 It shall be unlawful for any person to engine brake within the city limits.

SECTION 4. Exemptions and Defense to Prosecution.

4.1 Emergency Vehicles operating in the course and scope of their duties are exempted from the provisions of this Ordinance.

4.2 It is a defense to prosecution that an Operator of a motor vehicle activated the engine compression brake in an Emergency.

SECTION 5. Enforcement

5.1. Civil & Criminal Penalties

5.1.1 The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

5.2. Criminal Prosecution

5.2.1 Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

5.3. Civil Remedies

5.3.1 Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

5.3.1.1 Injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and

5.3.1.2 A civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and other available relief

SECTION 6. Severability

6.1 It is hereby declared by the City Council of the City of Caney City that if any of the sections, paragraphs, sentences, clauses or phrases of this ordinance shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such event shall not affect any remaining the sections, paragraphs, sentences, clauses or phrases of this ordinance.


SECTION 7. Public Notice and Meeting

7.1 It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public and was properly posted as required by law.

SECTION 8. Effective Date

8.1 This ordinance shall be in full force and effect from and after its passage and it is so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CANEY CITY, TEXAS ON THIS 12th DAY OF October, 2023



Steve Pine, Mayor



Kayley McCullough, City Secretary

