

ORDINANCE NO. 11-05-31

AN ORDINANCE OF THE CITY OF REDWATER, TEXAS PROHIBITING ENGINE BRAKING AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT, REPEALER, SEVERABILITY, PUBLICATION, EFFECTIVE DATE, PUBLIC NOTICE AND MEETING, AND ENFORCEMENT, INCLUDING CRIMINAL FINES CONSISTENT WITH PENALTIES UNDER THE LAWS OF THE STATE OF TEXAS

WHEREAS, the City Council of the City of Redwater ("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 the practice of engine braking by diesel trucks, commonly referred to as "Jacobs Brakes" or "Jake Brakes" produce disturbing, excessive and offensive noise when it occurs within the city limits; and

WHEREAS, the City Council has determined that it is in the best interest of the health, safety, and welfare of the public and pursuant to Texas Local Government Code Chapter 51 has the authority to adopt and publish an ordinance or police regulation that is for the good government, peace or order of the municipality;

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF REDWATER, TEXAS:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as expressly set forth herein.

2. ENACTMENT

No person shall operate (or allow someone else to operate) an internal combustion engine powered vehicle on any posted public roads within the City while said vehicle is using an engine brake (or Jake brake) without an exhaust muffler sufficient to prevent excessively loud noises by said vehicle, except during emergency operation.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. PENALTIES FOR VIOLATIONS

Any person violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof be subject to a fine consistent with penalties under the laws of the State of Texas.

5. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and section of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment of decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and section of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

6. PUBLICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in and among the records of the City.

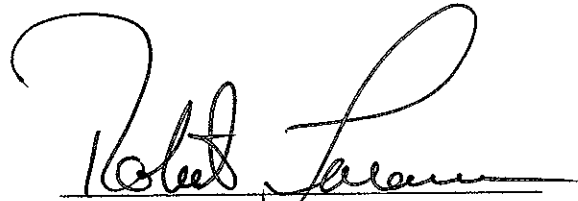
7. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

8. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code Chapter 551. Notice was also provided as required by the Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED, this, the 14 day of November, 2011.



Mayor Robert Lerance

Attest:



Dessie Enns, City Secretary