

ORDINANCE NO. 2024-42

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS ADDING SECTION 44-67, ARTICLE 3, OPERATION OF VEHICLES, ENGINE BRAKE PROHIBITED, PROHIBITING THE USE OF MOTOR ENGINE BRAKES (ALSO KNOWN AS “JAKE BRAKES”) WITHIN THE CITY LIMITS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR EACH VIOLATION OF THIS ORDINANCE WITH EVERY DAY CONSTITUTING A NEW VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the City of Tomball, Texas (the “City”) is a home-rule municipality pursuant to section 5 article 11 of the Texas Constitution and, as such, is vested with the power of local self-government; and

WHEREAS, the City Council finds that unreasonable noise emitting from the use of engine braking systems of trucks travelling within the City limits of the City to be a nuisance which detract from the health, safety, and general welfare of residents and is disruptive to the businesses located within the City; and

WHEREAS, the City Council seeks to continue to promote health, safety, and general welfare within the City limits by prohibiting the particular vehicle operations which create the specific noise nuisance:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The findings contained in the preamble of this Ordinance are hereby found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Section 44-67, Article 3, Operation of Vehicles, Engine Brake Prohibited, is hereby added, such Section 44-67 to read as follows:

“Engine Brake Prohibited. The City Council hereby finds the operation of engine or motor brakes contributes to the destruction of pavement and produces unreasonably loud, disturbing, and unnecessary noise, and hereby declares such to be a nuisance and hereby declares it to be unlawful for an operator of a motor vehicle to use such an engine braking system within the City limits.

(a) Definitions.

- (1) “Engine Braking” and “Engine Compression Brake” shall mean the use or operation of any mechanical exhaust or retarding device designed to aid in the braking, decompression, or deceleration of a motor vehicle, rather than by using the vehicle’s foundation brakes which use results in the excessive, loud, unusual or explosive noise from such vehicle in excess of state or federal noise standards for said vehicles.
- (2) “Motor Vehicle”. Shall have the same meaning as the term is defined by the Texas Transportation Code § 541.201, as amended.

(b) Offense.

Engine braking, as defined in this Ordinance, shall be unlawful within the City limits of Tomball, Texas. Therefore, it shall be an offense for the driver of any motor vehicle to use or operate or cause to be used or operated within the City limits any engine brake, jake brake, compression brake, dynamic braking system, mechanical exhaust device, or other similar device designed to aid in the braking or deceleration of any motor vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle.

(c) Exceptions.

- (1) Sounds created by emergency equipment for emergency purposes shall be exempt.
- (2) Sounds created by City-owned equipment for emergency purposes shall be exempt.

(d) Defenses.

It is an affirmative defense to conviction of an offense under this Ordinance that the engine braking system was used to slow the motor vehicle in order to avoid imminent danger.

(e) Signage.

The City Manager is hereby directed to ensure signs are installed at appropriate locations within the City rights-of-ways prohibiting the use of engine braking exhaust systems except during emergency operations as set forth in this Ordinance and to coordinate any necessary actions by and through the Texas Department of Transportation (“TxDOT”) and/or Harris County for any rights-of-way that may require such coordination. Signage shall be in conformance with Texas Manual on Uniform Traffic Control

Devices (TMUTCD).

Section 3. Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 4. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 5. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City's Home Rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE ___DAY OF _____2024.

COUNCILMAN FORD

COUNCILMAN GARCIA

COUNCILMAN DUNAGIN

COUNCILMAN COVINGTON

COUNCILMAN PARR

SECOND READING:

READ, PASSED AND ORDAINED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE ___ DAY OF _____ 2024.

COUNCILMAN FORD

COUNCILMAN GARCIA

COUNCILMAN DUNAGIN

COUNCILMAN COVINGTON

COUNCILMAN PARR

LORI KLEIN QUINN, Mayor
City of Tomball

ATTEST:

TRACYLYNN GARCIA, City Secretary
City of Tomball