

ORDINANCE NO. 70

AN ORDINANCE GOVERNING THE GENERAL PROHIBITION AGAINST THE USE OF ENGINE BRAKES, COMMONLY KNOWN AS "JAKE BRAKES," EXCEPT IN VERY LIMITED CIRCUMSTANCES; TO DEEM THE USE OF ENGINE BRAKES A PUBLIC NUISANCE; TO FIX THE PENALTY FOR VIOLATION OF THIS ORDINANCE; AND TO DECLARE AN EMERGENCY AND FOR OTHER PURPOSES

WHEREAS, the engine exhaust noise created through the use of engine brakes is loud and raucous and creates a public nuisance within the City of Goshen; and

WHEREAS, the City of Goshen is presently without a means of controlling the use of engine brakes; and

WHEREAS, there have been recent complaints regarding the loud noise created by the use of engine brakes, making it vitally necessary to address this issue as soon as possible;

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

SECTION 1. Definition. Engine brakes, commonly known as "jake brakes," shall include any other similar engine compression release or retarding devices or hydraulically operated devices that convert a power-producing diesel or gas engine into a power-absorbing retarding mechanism.

SECTION 2. Public Nuisance. The creation or emission of engine exhaust noise through the use of engine brakes so as to generate a loud and raucous noise is considered to be a public nuisance.

SECTION 3. Prohibition. It shall be unlawful to use engine brakes within the city limits.

SECTION 4. Exceptions.

- a. The use of engine brakes is permitted if used or employed in an emergency situation, such as when service brakes fail.
- b. These sections shall not apply to emergency vehicles.

SECTION 5. Enforcement. Law enforcement need not employ the use of meters or any other measuring device to determine whether the sound created from the use of engine brakes is a nuisance.

SECTION 6. Penalty. Any person, firm or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than (\$30.00) and not more than (\$250.00) for each offense.


SECTION 6. EMERGENCY CLAUSE: Since there is no current regulations regarding the use and prohibition of engine brakes, and there have been recent complaints of the noise created therefrom, it is hereby declared that based on the conditions set forth herein, an emergency exists and this Ordinance, being necessary for the immediate protection of the health, safety, and welfare of the citizens of Goshen, Arkansas, shall be in effect immediately upon its passage, approval, and publication.

PASSED AND APPROVED this 7 day of December, 2006.



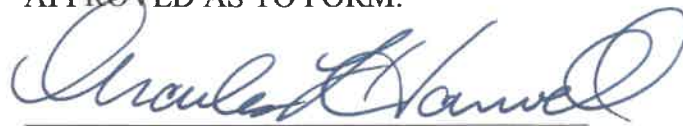
Andy Bethel Mayor

ATTEST:



Fara Ferguson, City Recorder

APPROVED AS TO FORM:



Charles L. Harwell, City Attorney

ROLL CALL VOTE ADOPTING THE ORDINANCE

Names Of Those Voting YEA

Names Of Those Voting NAY

Joe Benson
Max Poye
Richard Seddon
John Meek

Absent

ROLL CALL VOTE ADOPTING THE EMERGENCY CLAUSE

Names Of Those Voting YEA

Joe Benson
Max Poye
Richard Seddon
John Meek

Names Of Those Voting NAY

Absent

