

ORDINANCE NO. 2014-15

AN ORDINANCE OF THE CITY OF UVALDE, TEXAS AMENDING AND CLARIFYING THE REGULATIONS PROHIBITING THE USE OF ENGINE BRAKES LOCATED IN TITLE 8, HEALTH AND SAFETY, CHAPTER 8.32, NOISE, SECTION 8.32.010, NOISE NUISANCES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING PENALTY CLAUSES; AND PROVIDING OPEN MEETINGS, SEVERABILITY AND AN EFFECTIVE DATE.

Whereas, the City of Uvalde presently prohibits various noises as nuisances including braking, decompression or deceleration in its Title 8, Health and Safety provisions set out in the City's Code of Ordinances; and

Whereas, questions have been raised as to definitions and the allowance of such braking in an emergency situation; and

Whereas, the City Council still desires to prohibit such compression release type braking systems and noise while clarifying about emergencies.

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

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. Amendment of Title 18, Health and Safety, Chapter 8.32 – Noise. Chapter 8.32 – Noise, Section 8.32.010, Noise Nuisances, is hereby amended by deleting subsection (B)(10) and adding a new subsection 8.32.050, Use of Engine Brakes, as follows:

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Section 8.32.050 Use of Engine Brakes

(a) **Purpose.** The purpose of this section is to make it unlawful for vehicles equipped with compression release type braking systems, sometimes known as “jake brakes,” to use such braking systems or devices upon any public streets, roads, or highways with the limits of the city and its extraterritorial jurisdiction except in an emergency situation for the peace, health and comfort of the citizens of the city and the public.

(b) **Definitions.** For the purpose of this section:

Compression release type braking system. Any device equipped on certain commercial vehicles, including but not limited to tractors, semi-trucks, motor carriers and buses, that utilizes engine compression release or engine retarders as a means of slowing or braking the speed of the vehicle in lieu of applying the clutch or brakes.

Emergency situation. One in which there is imminent danger of collision with property, persons or animals.

(c) **Prohibited acts.** Every driver of any vehicle who shall cause their vehicle to brake or slow by any method which increases the noise emission levels of the engine, such as but not limited to engine

compression release or engine retarder, in lieu of applying the clutch or brakes, upon any public streets, roads, or highways within the limits of the city and its extraterritorial jurisdiction, upon conviction, shall be guilty of a misdemeanor; provided that such prohibition shall not apply if an emergency situation exists and the use of engine compression brakes is necessary for the protection of persons or property.

(d) Penalty. Any person, or persons violating or failing to comply with any provision of this Ordinance shall be fined, upon conviction, not more than five hundred (\$500.00) dollars for each offense.

Section 3. Conflicting Ordinances. All ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, the terms and provisions of this Ordinance shall govern.

Section 4. Savings Clause. All rights and remedies of the City of Uvalde are expressly saved as to any and all violations of the provisions of any ordinances affecting zoning within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 5. Effective Date. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code and the City Charter.

Section 6. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 7. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on the 26th day of August, 2014.

ATTEST:

CITY OF UVALDE, TEXAS



Susan Conley, City Secretary



Don McLaughlin, Jr., Mayor