

**AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS**

**ORDINANCE NO. 12-16**

**AN ORDINANCE OF THE CITY OF SEAGOVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING ARTICLE 13.03, "NOISE", SECTION 13.03.002, "PROHIBITIONS", SUBSECTION (b) TO PROVIDE FOR THE PROHIBITING OF ENGINE BRAKING, COMMONLY REFERRED TO AS *JAKE BRAKING*, IN THE CITY LIMITS; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO ERECT THE APPROPRIATE SIGNAGE NOTIFYING MOTORISTS OF THIS VIOLATION; PROVIDING FOR OFFENSES AND PENALTIES OF A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Seagoville 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, commonly referred to as "*jake braking*" (which must not be confused with the registered trademark "Jake Brake" belonging to the Jacob Vehicle Systems, Inc.) creates disturbing, unreasonable and offensive noise when it occurs within the city limits ; and

**WHEREAS**, pursuant to Chapter 51 of the 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 of a power granted by law to the municipality; and

**WHEREAS**, the City Council finds it is reasonable and necessary, as well as being in the best interest of its citizens and visitors to the City, to prohibit the use of engine brakes within the city limits of the City of Seagoville.

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

**SECTION 1.** That the Code of Ordinances of the City of Seagoville, Texas be, and the same is, hereby amended by amending Chapter 13, OFFENSES AND NUISANCES, of the Code of Ordinances by amending Article 13.03, "Noise", Section 13.03.002, "Prohibitions", subsection (b) to provide for the prohibiting of engine braking, commonly referred to as *jake braking*, in the city limits, which shall read as follows:

**"CHAPTER 13. OFFENSE AND NUISANCES**

....

**ARTICLE 13.03 NOISE**

**Sec. 13.03.002. Prohibitions.**

(a) . . . .

(b) The following acts are deemed . . . sounds or noises prohibited by this article:

. . . .

(7) Engine braking prohibited. With the exception of emergency vehicles, no person may use an engine-exhaust braking system while operating a motor vehicle within the corporate limits of the City of Seagoville. For the purpose of this section, the term engine-exhaust braking system means an engine-exhaust braking system device which converts diesel-engine power into an air compressor and when engaged operates to slow the vehicle, creating an unreasonable noise. 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.

**Sec. 13.10.003. Exceptions.**

. . . .”

**SECTION 2.** That the City Manager or designee is hereby directed to erect appropriate signs giving notice of the violation established herein and such provision shall not be effective unless such signs or markings are in place at the time of an alleged offense.

**SECTION 3.** If any section, article paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

**SECTION 4.** That all provisions of the Ordinances of the City of Seagoville, Texas, in conflict with the provisions of this ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 6.** That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Seagoville, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense.

**SECTION 7.** This Ordinance shall become effective from and after its date of passage in accordance with law.

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**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SEAGOVILLE, TEXAS THIS 7<sup>th</sup> day of MARCH, 2016.**

APPROVED:



\_\_\_\_\_  
MAYOR

ATTEST:



\_\_\_\_\_  
CITY SECRETARY



APPROVED AS TO FORM:



\_\_\_\_\_  
CITY ATTORNEY

(;cdb 02/11/2016)