

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2022-12**

AN ORDINANCE AMENDING CHAPTER 102 "TRAFFIC AND VEHICLES", ARTICLE IV "OPERATION OF VEHICLES", DIVISION 1 "GENERALLY", BY ADDING A NEW SECTION TO THIS DIVISION TO PROHIBIT THE USE OF AN ENGINE BRAKE OR SIMILAR DEVICES; PROVIDING A PENALTY FOR EACH OFFENSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT

WHEREAS, noise resulting from the use of an engine brake or retarder causes apprehension to individuals and the public at large; and obstructs, impairs, and destroys the reasonable, peaceful, and comfortable use and enjoyment of residences and property; and

WHEREAS, in addition, use of an engine brake or retarder therefore constitutes a nuisance and should be prohibited within the City and within 5,000 feet outside the limits of the City; and

WHEREAS, pursuant to Texas Local Government Code Section 217.042, the prohibition on the use of an engine brake or retarder is extended to within 5,000 feet beyond the limits of the City; and

WHEREAS, City Council believes that adopting these reasonable restrictions on operators while driving is in furtherance of addressing the public's health, safety, and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. City Council finds that the findings and recitations set out in the preamble to this Ordinance are true and correct and are adopted and made a part hereof for all purposes.

SECTION TWO. Chapter 102, Article IV, Division 1 of the Code of Ordinances of the City of Kerrville, Texas, is amended by adding a new Section 102-120 to read as follows:

"Sec. 102-120. – Use of Engine Brake or Retarder Prohibited.

(a) This section applies to a roadway or street within the corporate limits, and extends to within 5,000 feet outside the limits, including a state maintained roadway.

(b) It is unlawful for a person to use an engine brake, compression brake, mechanical exhaust device, or engine retarder to assist in slowing or braking a motor vehicle, except for a fire truck engaged in emergency duties.

(c) Any person who violates this section shall be guilty of a misdemeanor offense punishable by a fine not to exceed \$500.00 for each offense.”

SECTION THREE. The City Secretary is authorized and directed to send this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect this new section of Chapter 102, Article IV, Division 1, to correct any typographical errors, and to index, format, number, and letter the paragraphs to the existing Code, as appropriate.

SECTION FOUR. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding will not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. A person convicted of an offense under this Ordinance shall be fined in an amount not to exceed \$500.00 for each offense.

SECTION SEVEN. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by law as an alternative method of publication.

SECTION EIGHT. This Ordinance will become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07b. of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 22 day of
FEBRUARY, A.D., 2022.

PASSED AND APPROVED ON SECOND AND FINAL READING, this
the 08 day of MARCH A.D., 2022.



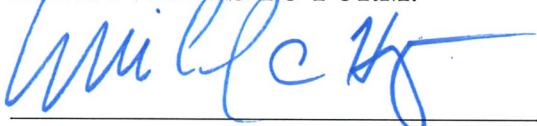
Bill Blackburn, Mayor

ATTEST:



Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney