

## **ORDINANCE NO. 2412**

**AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS AMENDING CHAPTER 8, OFFENSES AND NUISANCES, SECTION 17, NOISE BY ADDING SUB-SECTION 13 PROHIBITING THE USE OF ENGINE BRAKES (ALSO KNOWN AS “JAKE BRAKES”) TO THE TERRELL CITY CODE REVISED; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS THAT:**

### **ARTICLE I.**

Chapter 8, Offenses and Nuisances, Section 17, of the Terrell City Code Revised is hereby amended as follows:

#### **A. Engine Brakes**

1. Engine Brakes. This ordinance applies to the use or operation of an auxiliary or compression engine brake (also known as “Jake” brake) which produces any noise in addition to the normal operating engine noise is prohibited within the city limits. This provision is not intended to prohibit the passage of vehicles equipped with engine brakes or “Jake brakes” in posted areas but rather prohibit the use of such equipment in posted areas.

2. It shall be unlawful for any driver of a truck or truck-tractor to activate or use the unit’s engine brake within the city limits except in an emergency situation.

3. The term “emergency situation”, for the purposes of this ordinance, shall mean one in which there is imminent danger of collision with property, persons or animals.

#### **B. Penalty**

Any person, or persons, violating or failing to comply with any provision of this Ordinance shall be fined, upon conviction, not less than one dollar (1.00), nor more than five hundred (\$500.00) dollars, for each offense.

### **ARTICLE II.**

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

### **ARTICLE III.**

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, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality 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 in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**ARTICLE IV**

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

PASSED AND APPROVED THIS 5<sup>TH</sup> DAY OF MAY, 2009.

PASSED AND ADOPTED ON THIS THE 19<sup>TH</sup> DAY OF MAY, 2009.

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Hal Richards, Mayor

Attest:

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John Rounsavall, City Secretary

Approved as to form:

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Mary Gayle Ramsey, City Attorney