

ORDINANCE NO. 2005-09-27-002

AN ORDINANCE PROHIBITING TRUCK USE OF MOTOR COMPRESSION BRAKES WITHIN THE CITY LIMITS OF THE CITY OF KEMPNER, TEXAS; PROVIDING FOR POLICIES AND PROCEDURES APPLICABLE TO TEX. LOC. GOV'T §51,991 ET SEQ. (POLICE POWER), 217,002 (NUISANCE). AND FEDERAL NOISE CONTROL ACT, 42 U.S.C. §4917, GOVERNS MOTOR CARRIER NOISE STANDARDS AND NOISE CONTROL ACT U.S.C. §202.20. PROVIDING FOR PENALTIES FOR FAILURE TO COMPLY WITH SUCH ORDINANCE; PROVIDING A SEVERABILITY AND OPEN MEETINGS CLAUSE; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KEMPNER, TEXAS:

SECTION 1.

The City Council hereby restricts the use of any motor compression brake, except in the event the brake system fails within the City of Kempner in an attempt to reduce noise, prevent destruction of pavement at intersections and facilitate lower speeds within the City.

SECTION 2.

This Ordinance shall be strictly enforced by the City of Kempner Police Department.

SECTION 3.

Any person violating this Ordinance may be cited and, upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for each offense.

SECTION 4.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION 5.


If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not effect any other section, paragraph, subdivision, clause, phrase, word, or provision hereof given full force and effect for its purpose.

SECTION 6.

The City Secretary of the City of Kempner is hereby authorized and directed to cause a true and correct copy of the caption, penalties, and effective date of this ordinance to be published in a newspaper having general circulation in the City of Kempner, Texas prior to its effective date.

Following the publication and posting of signs, this ordinance shall be in full force and effect.

PASSED, ADOPTED, AND APPROVED on this the 27th day of September, 2005.



Gene Isenhour, Mayor

ATTEST:



Frances Spinney, City Secretary

PUBLISHER'S AFFIDAVIT

I solemnly swear that the attached notice was published in the **Lampasas Dispatch Record**, a newspaper of general circulation which has been continuously and regularly published for a period of not less than one year preceding the dates of publication of the attached notice, that the said notice was published in the issue(s) of such newspaper on the day(s) of October 4, 7, 2005.

James Lowe

**Publisher, Fred E. Lowe
or James F. Lowe**

SWORN TO AND SUBSCRIBED BEFORE ME BY James Lowe

this the 28 day of October, 2005, to certify which witness my hand and seal of office.

Annette K. Moore

Notary Public, State of Texas

