

## **ORDINANCE NO. 2025-002**

**AN ORDINANCE OF THE CITY OF EAST BERNARD, TEXAS PROHIBITING ENGINE BREAKING AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT, REPEALER, SEVERABILITY, PUBLICATION, EFFECTIVE DATE, PUBLIC NOTICE AND MEETING, AND ENFORCEMENT, PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$250; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.**

**WHEREAS,** The Board of Alderman of the city of East Bernard (“City Council”) seeks to protect the public safety, preserve the quality of life, and prevent nuisances in the City; and

**WHEREAS,** The Board of Alderman finds the practice of engine breaking by diesel trucks, commonly referred to as “Jacobs Brakes” or “Jake Brakes” produce disturbing, excessive and offensive noise when it occurs within the city limits; and

**WHEREAS,** The Board of Aldermen has determined that it is in the best interest of the health, safety and welfare of the public and pursuant to Texas Local Government Code Chapter 51 has the authority to adopt and publish an ordinance or police regulation that is good for the government, peace or order of the municipality;

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EAST BERNARD, TEXAS;**

### **1. FINDING OF FACT**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as expressly set forth herein.

### **2. ENACTMENT**

No person shall operate (or allow someone else to operate) an internal combustion engine powered vehicle on any posted public roads within the City while said vehicle is using engine brake (or Jake brake) without an exhaust muffler sufficient to prevent excessively loud noises by said vehicle, except during emergency operation.

### **3. REPEALER**

All Ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

#### 4. PENALTIES FOR VIOLATIONS

Any person violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars (\$200.00).

#### 5. SEVERABILITY

It is hereby declared to be the intention of the Board of Alderman that the phrases, clauses, sentences, paragraphs and section of this ordinance are severable, and in any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment of decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and section of this ordinance, since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### 6. PUBLICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in and among the records of the City.

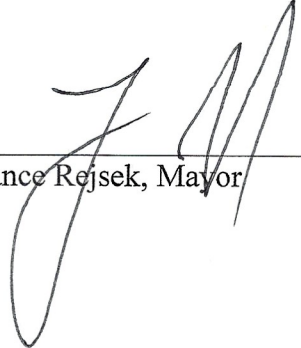
#### 7. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

#### 8. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED, APPROVED, AND ADOPTED** on this 24<sup>th</sup> day of February, 2025.

  
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Lance Rejsek, Mayor

**ATTEST:**

  
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Renee Norton, City Secretary

Renee Norton, City Secretary