

ORDINANCE NO. 2005-369

AN ORDINANCE PROHIBITING THE USE OF ENGINE BRAKES (ALSO KNOWN AS "JAKE BRAKES") IN THE CITY OF MAGNOLIA, TEXAS, EXCEPT IN EMERGENCY SITUATIONS; AND PROVIDING FOR A PENALTY FOR VIOLATION OF THIS ORDINANCE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MAGNOLIA, TEXAS:

SECTION 1. Engine Brakes. This ordinance applies to the use or operation of an auxiliary or compression engine brake (also known as a "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.

SECTION 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.

SECTION 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.

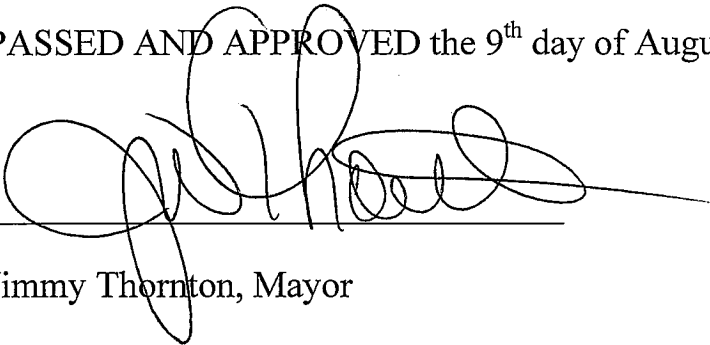
SECTION 4. Penalty Clause. Any person, or persons, violating or failing to comply with any provision of this Ordinance shall be fined, upon conviction, not less than one dollar (\$1.00), nor more than five hundred (\$500.00) dollars, for each offense.

SECTION 5. Severability Clause. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are separable, and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since then same would have been enacted by the City Council without the incorporation in this Ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs, or sections.

SECTION 6. The City Secretary shall give notice of the enactment of this Ordinance by publishing it or its descriptive caption and penalty at least one time within ten (10) days after final passage in the official newspaper of the City; the Ordinance to take effect upon publication.

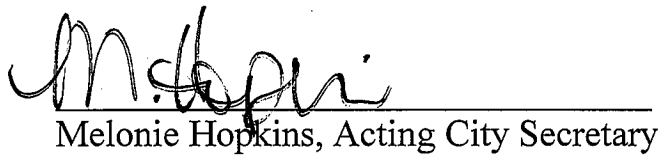
0 PASSED AND APPROVED by a vote of 5 "ayes" in favor and
"no's" against.

PASSED AND APPROVED the 9th day of August, 2005.

A handwritten signature in black ink, appearing to read "Jimmy Thornton", written over a horizontal line.

Jimmy Thornton, Mayor

ATTEST

A handwritten signature in black ink, appearing to read "Melonie Hopkins", written over a horizontal line.

Melonie Hopkins, Acting City Secretary

AFFIDAVIT OF PUBLICATION

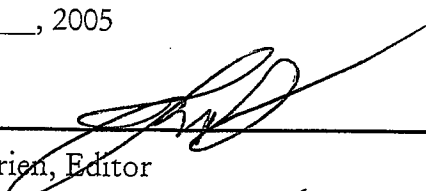
Before me, the undersigned authority, on this day personally appeared Denny O'Brien who on his oath stated:

**CITY OF MAGNOLIA
ORDINANCE NO. 369**
AN ORDINANCE PROHIBITING
THE USE OF ENGINE BRAKES
(ALSO KNOWN AS "JAKE
BRAKES") IN THE CITY OF
MAGNOLIA, TEXAS, EXCEPT
IN EMERGENCY SITUATIONS;
AND PROVIDING FOR A
PENALTY FOR VIOLATION OF
THIS ORDINANCE. BE IT
ORDAINED BY THE GOVERN-
ING BODY OF THE CITY OF
MAGNOLIA, TEXAS



I am the Editor of the Tomball Magnolia Tribune, a newspaper published in Montgomery County, Texas and now the facts stated in this affidavit. The attached matter is a true and correct copy of the publication of the citation of which it purports to be a copy, as the same appeared in such newspaper in the respective issues of:

Aug 15, 2005
_____, 2005


Denny O'Brien, Editor

Subscribed and sworn to this 18 day of August, 2005

