

ORDINANCE NO. 2023-__

AN ORDINANCE OF THE TOWN OF VIRGIN, UTAH, PROVIDING THAT THE VIRGIN MUNICIPAL CODE (VMC) BE AMENDED BY ADDING A NEW CHAPTER TO BE NUMBERED CHAPTER 10.06 PROVIDING FOR THE PROHIBITION OF USING A DYNAMIC BRAKING DEVICE OR SYSTEM COMMONLY KNOWN AS JAKE BRAKES WITHIN THE TOWN LIMITS OF VIRGIN AND PROVIDING FOR SAID VIOLATION

RECITALS

WHEREAS, whenever compression brakes commonly known as Jake Brakes are engaged, they emit a loud noise due to the rapid release of compressed air that occurs during engine compression braking;

WHEREAS, the loud noise from compression brakes interrupts sleep, disrupt conversations, interferes with the quiet enjoyment of property, and creates exposure to high level of noise;

WHEREAS, the loud noise from Jake Brakes contribute to environmental noise pollution that impacts both physical and mental health;

WHEREAS, the town council finds that the use and operation of engine compression brake devices within the town limits disturbs and disrupts the public peace and quiet, and disturbs residents' rest and enjoyment of their property;

WHEREAS, the Town Council wishes to improve the health, safety and welfare of the residents and visitors of the Town of Virgin;

WHEREAS, the Town Council hereby finds that it is in the public interest to mitigate noise pollution within the Town by prohibiting the use of dynamic braking devices and systems, except in emergency situations;

WHEREAS, Utah Code Section 10-8-76 provides that a Town has the power to prevent the making of noises "for the purposes of business, amusement, or otherwise"; and

WHEREAS, the Town Council of Virgin has the authority to adopt this ordinance pursuant to Utah Code Annotated 10-3-702, and hereby exercises its legislative powers in doing so.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VIRGIN, UTAH:

Section 1. That Title 10 of the Virgin Municipal Code of the Town of Virgin, Utah, be amended by adding a new Chapter 10.06 so that such chapter shall read as follows:

“10.06.010 PURPOSE

The purpose is to mitigate noise pollution within the Town of Virgin by prohibiting the use of dynamic brake devices or systems within Town limits.

10.06.020 Definitions

"Dynamic braking device or system" means a device or system used for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes. A dynamic braking device or system is often commonly referred to as a Dynamic Brake, Jacob's Brake, Jake Brake, C-Brake, engine brake, or compression brake.

10.06.030 PROHIBITION

It is unlawful for the driver of any motor vehicle to use, operate, or cause to be operated any dynamic braking device or system on any street or road within the boundaries of the Town of Virgin. The emitting of any compression noise shall be prima facie evidence of the use of a dynamic braking device or system.

10.06.040 EXCEPTIONS

The prohibitions shall not apply to emergency driving situations requiring the use of dynamic braking device or system to protect the safety and property of the residents of the Town, other motor vehicle operators, pedestrians and the operator and passengers of the motor vehicle involved in said emergency situation. Fire trucks and other emergency vehicles are exempt from the prohibitions of this chapter.

10.06.050 SIGNAGE

Signs stating “ENGINE BRAKE ORDINANCE ENFORCED” may be installed at locations deemed appropriate by the Mayor to advise motorists of the prohibition of the use of engine brakes within Town limits of Virgin. The provisions of this ordinance shall be in full force and effect and may be enforced even if no signs are installed.

10.06.060 VIOLATIONS AND PENALTIES

Any person violating the prohibition provision shall be guilty of a class C misdemeanor, punishable according to Utah code section 76-3-301. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.”

Section 2. Severability. If any section, clause or portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Section 4. Conflicts/Repealer. This Ordinance repeals and supersedes the provisions of any prior ordinance in conflict herewith.

Section 5. Effective Date. This Ordinance shall become effective immediately upon adoption by the Virgin Town Council and execution by the Virgin Town Mayor.

ADOPTED AND APPROVED BY THE VIRGIN TOWN COUNCIL ORDINANCE# 2023-__
will become effective on this ___ day of September 2023 based upon the following vote:

Council Member:

Gene Garate	AYE ___	NAE ___
LeRoy Thompson	AYE ___	NAE ___
Mistie Baird	AYE ___	NAE ___
Paul Luwe	AYE ___	NAE ___
Jean Krause, Mayor	AYE ___	NAE ___

VIRGIN TOWN
a Utah municipal corporation

Jean Krause, Mayor

ATTEST:

Krystal Percival, Town Clerk
S