

Resolution 2017-31

WHEREAS, the Clay County Board of Supervisors deems it necessary for the purposes of promoting the health, safety, and general welfare of Clay County, Iowa and its citizens to enact this ordinance, and

WHEREAS, the Clay County Board of Supervisors have made recommendations in relation to the Amendment to the Clay County Ordinance Prohibiting the Unlawful Use of Engine and Compression Brakes, and

WHEREAS, the Board of Supervisors has considered the proposed ordinance and has held public hearings thereon the 15th day of August, 2017 and the 29th day of August 2017; and

WHEREAS, the Clay County Board of Supervisors supports the adoption of the proposed amendment to the ordinance;

NOW THEREFORE BE IT ENACTED AND ORDAINED:

Supplement No. #6 Amendment to Ordinance No. 5.2

CLAY COUNTY ORDINANCE PROHIBITING THE UNLAWFUL USE OF ENGINE AND COMPRESSION BRAKES ("Jake Brake Ordinance")

SECTION 1. The purpose of this ordinance is to prohibit the excessive, loud, unusual or explosive use of engine and compressed air-braking devices within designated areas in Clay County.

SECTION 2. For the purposes of this ordinance the following words and phrases are defined as follows:

1. "Engine retarding brake" means a "Dynamic Brake," "Jake Brake," "Jacobs Brake," "C-Brake," "Paccar Brake," transmission brake or any other engine retarding brake system that alters the normal compression of the engine and subsequently releases that compression.

SECTION 3. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within designated areas in the unincorporated areas of the County of Clay State of Iowa, any engine brake, Compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, unless such use is necessary to avoid imminent danger. Such prohibition shall be applicable only to those public highways or portions specifically below:

- a. 240th Avenue, Spencer (Highway 71 bypass)
- b. State Highway 10 and 125th Avenue, Peterson
- c. 440th Street and 430th Street, Gillet Grove.
- d. 365th Street between M38 & Hwy 71 to city limits of Spencer
- e. 200th Avenue from 365th Street North to B24

SECTION 4. Signs stating "VEHICLE NOISE LAWS ENFORCED" or "ENGINE BRAKE ORDINANCE ENFORCED" may be installed at locations deemed appropriate by the Board of Supervisors to advise motorists of the prohibitions contained in this ordinance, except that no sign stating "VEHICLE NOISE LAWS ENFORCED" or "ENGINE BRAKE ORDINANCE ENFORCED" shall be installed on a state highway without a permit from the

Iowa Department of Transportation. The provisions of this ordinance shall be in full force and effect even if no signs are installed.

SECTION 5. Emergency vehicles shall be exempt from the application of this ordinance.

SECTION 6. Any violation of this section shall be a simple misdemeanor.

SECTION 7. Should any part of this ordinance be held invalid, the remaining part shall be severable and shall continue to be in full force and effect.

SECTION 8. If any section, part or provision of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 9. This ordinance shall take effect and be in full force and effect after its passage and publication as required by law.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, 29th day of August, 2017 and the vote thereon being as follows:

Ayes: Anderson, Matthews, Skelton, Skow and Swanson. Nays: None. Abstentions: None.

/s/ Burlin H. Matthews, Chairperson

ATTEST: /s/Marjorie A. Pitts, County Auditor