

ORDINANCE

Amending City of Gilbert City Code, TITLE VII: TRAFFIC by creating Section 71.045 entitled Dynamic Braking Restriction

The City Council of the City of Gilbert does hereby amend TITLE VII : TRAFFIC of the City Code as follows:

- A. Except as provided in this section, the use or operation of a dynamic braking device on unmuffled vehicles is hereby prohibited within the City of Gilbert.
- B. A dynamic braking device is a device used on vehicles that converts the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes. These devices are commonly referred to as "air brakes," "engine brakes," "compression brakes," "Jacob's Brakes," or "Jake Brakes."
- C. This section shall not apply to City emergency vehicles, whether or not responding to an emergency.
- D. As an affirmative defense to a charge of a violating of this section, the driver of the vehicle must prove by a preponderance of the evidence that:
 - 1. The driver of the vehicle was operating the vehicle in compliance with all applicable laws at the time the unmuffled dynamic braking device was used; and
 - 2. The speed of vehicle was reasonable given all of the relevant circumstances; and
 - 3. The driver believed that the use of the unmuffled dynamic braking device was necessary to either:
 - a. Avoid an imminent threat to the safety of the driver or any other person; or
 - b. Avoid an imminent threat to property.
 - 4. The driver's belief as to the necessity for using the unmuffled dynamic braking device was objectively reasonable.

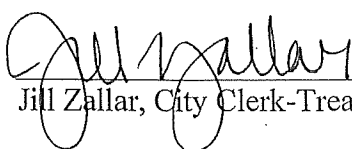
This ordinance becomes effective as of October 20, 2023 and shall be published according to law.

Moved by Councilor Pulles, supported by Councilor Heitzman, that the ordinance be adopted.

The Mayor declared the Ordinance adopted, 09/12/2023. Effective Date: 10/20/2023.



Tom Smith, Mayor

Attest: 
Jill Zallar, City Clerk-Treasurer