

ORDINANCE NO. 2008-02

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF COALDALE, SCHUYLKILL COUNTY DECLARING THE OPERATION OF AN ENGINE BRAKE INSTALLED UPON OR IN A GASOLINE POWERED OR DIESEL POWERED MOTOR VEHICLE NOT EQUIPPED WITH EXHAUST MUFFLERS, OR EQUIPPED WITH INOPERABLE OR MODIFIED EXHAUST MUFFLERS, SO AS TO PERMIT THE CREATION OF EXCESSIVE NOISE THROUGH THE EMPLOYMENT OF SAID ENGINE BRAKE TO BE AN NUISANCE IN FACT; ESTABLISHING PENALTIES FOR THE VIOLATION OF SAID ORDINANCE; AND ESTABLISHING EXCEPTIONS TO THE ENFORCEMENT OF SAID ORDINANCE IN EMERGENCY SITUATIONS.

WHEREAS, on State Route 209 between Miner Street and Anthracite Street within the Borough of Coaldale individuals are operating trucks and/or other vehicles with engine brakes not equipped with exhaust mufflers or which are equipped with either inoperable or modified exhaust mufflers so as to permit the creation of excessive noise through the use or employment of said engine brake;

WHEREAS, the portions of State Route 209 between Miner Street and Anthracite Street as identified in Section 3 of this Ordinance meet the following criteria:

- (1) No downhill grades greater than 4%;
- (2) No posted reduced speed limit for trucks due to hazardous grade determination;
- (3) No posted reduced gear zone;
- (4) No posted speed limit in excess of 55 m.p.h.;
- (5) No ramps exiting from a highway with a posted speed limit in excess of 55 m.p.h.;
- (6) No history of runaway truck crashes in the past 3 years;
- (7) No discernible pattern of rear-end crashes in the past 3 years where the truck was the striking vehicle.

WHEREAS, the use of such vehicles, equipped with engine brakes without exhaust mufflers or with inoperable exhaust mufflers or with modified exhaust mufflers which permit the creation of excessive noise, disturb the peace and harmony of the citizenry of the Borough of Coaldale;

WHEREAS, such engine brakes disrupt or injure the health, general welfare and comfort of Coaldale Borough residents;

WHEREAS, the Borough of Coaldale has the power to regulate nuisances within the municipal limits of the Borough of Coaldale and has the authority to make such regulations as may be necessary for the health, safety, morals, general welfare, convenience and comfort of the Coaldale Borough;

NOW, THEREFORE, be it ordained by the Council of the Borough of Coaldale, and it is hereby ordained by the authority of the same as follows:

Section 1. This Ordinance shall be known as the “Coaldale Borough Engine Brake Ordinance”.

Section 2. The Coaldale Borough Council finds as fact that the operation of engine brakes on a gasoline powered or diesel powered motor not equipped with exhaust mufflers, or equipped with defective or modified exhaust mufflers, so as to create excessive noise through the use of said engine brakes, adversely affects the public health, safety and welfare of the residents of the Borough of Coaldale; and is therefore a nuisance in fact.

Section 3. No gasoline powered or diesel powered motor vehicle shall be operated on State Route 209 between Miner Street and Anthracite Street in the Borough of Coaldale, Schuylkill County, Pennsylvania, utilizing an engine brake without exhaust mufflers, or with defective or modified exhaust mufflers permitting excessive noise to be created by said motor vehicle.

Section 4. This Ordinance shall not apply to emergency driving situations which require

utilizing in said operation of a motor vehicle an engine brake without exhaust mufflers or equipped with inoperable exhaust mufflers or equipped with exhaust mufflers which have been modified or which are defective to protect the safety and property of the residents of the Borough of Coaldale, other motor vehicle operators, pedestrians, and the operator and passengers of the motor vehicle or vehicles involved in said emergency situations.

Section 5. Any person, firm, corporation or organization violating the provisions of this Ordinance shall, upon summary conviction before a District Magistrate having jurisdiction, be sentenced to pay a fine of not more than Three Hundred (\$300.00) Dollars and undergo the costs of prosecution, and in default of the payment thereof, shall be sentenced to undergo imprisonment, in the Schuylkill County Prison for a period not to exceed thirty (30) days.

Section 6. This Ordinance shall become effective five (5) days after its enactment or adoption.

Section 7. The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal or invalid, or otherwise unenforceable by a court of competent jurisdiction, the remaining portions thereof shall not be effected thereby.

Section 8. Any ordinance or part of any ordinance conflicting with the terms of this Ordinance is hereby specifically repealed to the extent of such conflict.

ENACTED AND ORDAINED this 12th day of August, 2008, in regular session duly assembled.

BOROUGH OF COALDALE

BY: Susan Solt
Susan Solt, President

ATTEST:

Louise Lill
Louise Lill, Secretary

Claire Remington
Claire Remington, Mayor