

Councilman Ickes

Introduction: JUN 10 2024

Adoption: JUL 08 2024

ORDINANCE NO. 5816

JUL 08 2024

AN ORDINANCE OF THE CITY OF ALTOONA AMENDING CHAPTER 700, VEHICLES AND TRAFFIC, TO RESCIND ARTICLE XI MOVING VIOLATIONS AND FURTHER RESCINDING SECTION, 700-57 ENGINE BRAKE RETARDER, TO PROVIDE FOR SEVERABILITY OF PROVISIONS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Altoona, pursuant to the terms and conditions of its Home Rule Charter and the Pennsylvania Third Class City Code, 11 Pa. C.S.A. Section 101, et. seq. has the authority to adopt Ordinances necessary for the safety and general welfare of its citizens; and

WHEREAS, City Council previously enacted Ordinance 5779 which created Article XI, Moving Violations, Section 700-57, Engine Brake Retarder, to prohibit within the City of Altoona the use of engine brake retarders on 31st Street, also known as State Route 4005; and

WHEREAS, The City has continued to monitor and evaluate traffic in the 31st Street area subsequent to the enactment of Ordinance 5779 to determine if the health, safety and general welfare of the residents of the City of Altoona are best served by the provisions of Ordinance 5779 due to a concern with limiting the use of an approved vehicle safety device within an urban setting; and

WHEREAS, City Council has determined it to be in the best interests of the City and its citizens to rescind Article XI, Moving Violations, Section 700-57, Brake Retarder.

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the City Council of the City of Altoona, Blair County, Pennsylvania, as follows:

SECTION 1: Chapter 700 of the Code of City of Altoona is amended by eliminating and rescinding Article XI, Moving Violations, Section 700-57, Brake Retarder as set forth in the strike through of those provisions of the City Code as set forth below:

**~~CHAPTER 700, ARTICLE XI MOVING VIOLATIONS
700-57 ENGINE BRAKE RETARDER~~**

~~700-57.1. City Council finds that the operation of an Engine Brake Retarder on a gasoline powered or diesel powered motor vehicle 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 Brake Retarder, adversely affects the public health, safety and welfare of the said residents of the City of Altoona, and is a nuisance in fact.~~

~~700-57.2. The use of Engine Brake Retarder by gasoline powered or diesel powered motor vehicle traveling on the following locations in the City of Altoona is prohibited:~~

- ~~A) 31st Street also known as State Route 4005 from the City of Altoona's western boundary with Logan Township to the intersection of State Route 4003, Logan Blvd. and Beale Ave.~~

~~700-57.3. This Ordinance shall not apply to emergency driving situations requiring the utilization of an Engine Brake Retarder to protect the property and safety of other motor vehicle operators, pedestrians, and operator and passengers in motor vehicles involved in said emergency situation.~~

~~700-57.4. Signs shall be posted in the areas set forth in Section 700-57.2 advising motor vehicle operators, consistent with this Ordinance, of the prohibition of the use of Engine Brake Retarders.~~

~~700-57.5. Any person, firm, corporation or organization violating any of the provisions of the Ordinance shall upon summary conviction before a Magisterial District Judge having jurisdiction, be sentenced to pay a fine of not more than Three Hundred (\$300.00) Dollars and costs of prosecution, and in default of the payment thereof, shall be sentenced to imprisonment for a period not to exceed ten (10) days.~~

~~700-57.6. Any law enforcement officer of the City of Altoona shall implement the enforcement of this Ordinance.~~

SECTION 2: If a sentence, clause or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of remaining provisions, sentences, clauses, sections or part of this Ordinance. It is hereby declared that it is the intent of the Council of the City of Altoona that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 3: RESTATEMENT All other provisions of Chapter 700, Vehicles and Traffic, not otherwise amended or modified by this ordinance, are restated and remain in full force and effect.

SECTION 4: REPEALER. Any Ordinances or parts thereof inconsistent with this Ordinance are hereby repealed.

SECTION 5: EFFECTIVE DATE. This Ordinance shall become effective at the earliest possible date provided by law.

ORDAINED AND ENACTED by the Council of the City of Altoona this 8th day of

July, 2024.

ATTEST:

CITY OF ALTOONA

Linda Rickens Schellhammer
Linda Rickens Schellhammer, City Clerk

By: David Ellis
Matthew Pacifico, Mayor
David Ellis, Vice-Mayor