

**TOWNSHIP OF UPPER SAUCON
LEHIGH COUNTY, PENNSYLVANIA**

ORDINANCE NO. 172

**AN ORDINANCE OF THE TOWNSHIP OF UPPER SAUCON,
LEHIGH COUNTY, PENNSYLVANIA, PROHIBITING THE USE OF ENGINE
BRAKE RETARDERS ON CERTAIN ROADS AND HIGHWAYS IN THE TOWNSHIP AND
PROVIDING FOR FINES AND PENALTIES IN THE EVENT OF A VIOLATION THEREOF**

Legislative Findings

WHEREAS, The Board of Supervisors of Upper Saucon Township (hereinafter, "Supervisors") finds that the operation of engine brake retarding devices on gasoline or diesel powered motor vehicles creates excessive noise through the use of said devices, thereby adversely affecting the public health, safety and welfare of the residents of Upper Saucon Township; and

WHEREAS, the Pennsylvania Motor Vehicle Code confers upon Upper Saucon Township (hereinafter, "Township") the authority to restrict the use of engine brake retarding devices provided an appropriate engineering study supports the restriction and the necessary approvals are obtained from the Pennsylvania Department of Transportation (hereinafter, "Department"); and

WHEREAS, the Township Engineer performed the required study and issued a report, dated January 9, 2020, recommending approval of restriction, which recommendation was approved by the Department by letter, dated February 22, 2021; and

WHEREAS, the Supervisors desire to enact restrictions on the use of engine brake retarder devices on certain roads where appropriate and approved by the Department.

NOW, THEREFORE, the Board of Supervisors of Upper Saucon Township does hereby enact and ordain the following:

Section 1: Definitions. The following words and phrases are defined as follows:

(a). Engine brake retarding device. Any motor / engine retarding device, engine brake retarder, exhaust brake retarder or hydraulic brake retarder, retarding device or system that acts as or is intended to act to supplement the service of brakes or wheel brakes, that brakes on the motor, engine or other system other than the wheels for purposes of or as a means of slowing or stopping a truck, truck tractor, motor carrier vehicle, motor vehicle or vehicle.

(b). Person. Any individual, partnership, limited liability partnership, firm, company, limited liability company, corporation, association, or any other legal entity and with respect to each, its agents, servants and employees.

Section 2: Prohibition. No person shall use an engine brake retarding device on or along the following roads or highways within the Township:

(a) Route 309 (Northbound and Southbound) from 900 feet north of Fairmount Street to Passer Road (S.R. 2028).

Section 3: Emergency Situations. This Ordinance shall not apply to emergency driving situations requiring the utilization of a brake retarder to protect the safety and property of the residents of Upper Saucon

Township, other motor vehicle operators, pedestrians, and the operator and passengers of the motor vehicle involved in said emergency situation.

Section 4: Emergency Vehicles. This Ordinance shall not apply to emergency vehicles operated by volunteer fire companies while responding to emergency calls.

Section 5: Posting of Signs. Township staff is authorized to purchase and post the required signage advising motor vehicle operators of the prohibition of brake retarders consistent with this Ordinance and Department regulations.

Section 6: Violations and Penalties. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof before a District Justice, be subject to a penalty or fine in an amount not less than \$100.00 and not more than \$1,000.00, together with the costs of prosecution and attorney fees; and in default of payment of such penalty, fine or costs, to imprisonment for a term not to exceed thirty (30) days for each such violation. Each day or portion thereof that such violation continues shall constitute a separate offense. The provisions of this Ordinance shall be enforced in the same manner as provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

Section 7: Repealer. All ordinances, resolutions, or parts thereof which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 8: Invalidity. To the extent that any word, portion or provision of the text hereof is found by any court of competent jurisdiction to be invalid or void on constitutional or other grounds, such word, phrase, portion or provision shall, if possible, be deemed to be repealed and those valid portions of the text shall remain in full force and effect if the same can be accomplished without the structure of the ordinance having been destroyed by the elimination of that word, phrase, portion or provision found to be invalid or void.

Section 9: Effective Date. This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of Upper Saucon Township.

DULY ENACTED AND ORDAINED this 12th day of APRIL, 2021, by the Board of Supervisors of the Township of Upper Saucon, Lehigh County, Pennsylvania, in lawful session duly assembled.

**TOWNSHIP OF UPPER SAUCON
BOARD OF SUPERVISORS**



CHAIRMAN



VICE CHAIRMAN



SUPERVISOR



SUPERVISOR



SUPERVISOR

ATTEST:



SECRETARY