

**ORDINANCE NO. 5149**

**AN ORDINANCE TO AMEND SECTION 10.20.120 OF THE RAPID CITY MUNICIPAL CODE WHICH COMPLETELY PROHIBITS THE USE OF DYNAMIC BRAKE DEVICES WITHIN THE CITY OF RAPID CITY TO ONLY PROHIBITING SUCH ON VEHICLES THAT ARE UNMUFFLED.**

WHEREAS, the Rapid City Municipal Code currently prohibits the use of dynamic braking devices within the City of Rapid City; and

WHEREAS, the excessive noise emitted by dynamic braking devices that is detrimental to public health, welfare and quality of life is due to vehicles equipped with these devices that are unmuffled; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City’s best interests to prohibit the use dynamic braking devices on unmuffled vehicles to protect people from the harmful effects and inconvenience of such sounds and to help promote peacefulness within the City.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, South Dakota, that Section 10.20.120 is hereby amended to read as follows:

**Section 10.20.120 Use of Dynamic Brake Device Prohibited.**

- 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 Rapid City.
- B. A dynamic braking device is a device used on vehicles that primarily on trucks which 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 say 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; and

4) the driver's belief as to the necessity for using the unmuffled dynamic braking device was objectively reasonable.

CITY OF RAPID CITY

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)

First Reading:  
Second Reading:  
Published:  
Effective: