

ORDINANCE NO 2016-04

**AN ORDINANCE OF THE BOROUGH OF GREENCASTLE, FRANKLIN COUNTY,
PENNSYLVANIA AMENDING CHAPTER 190, ENTITLED VEHICLES AND
TRAFFIC, OF THE CODE OF THE BOROUGH OF GREENCASTLE TO ADD A NEW
ARTICLE TO REGULATE THE USE OF ENGINE BRAKE RETARDERS IN CERTAIN
AREAS OF THE BOROUGH**

WHEREAS, the Borough of Greencastle desires to amend Chapter 190 of the Code of the Borough of Greencastle entitled “Vehicles and Traffic” to add a new article to regulate engine brake retarders; and

WHEREAS, the Council of the Borough of Greencastle deems it in the best interest, and for the general welfare of the citizens and residents of the Borough to amend certain provisions of Chapter 190 of the Borough of Greencastle; and

WHEREAS, as a condition precedent to regulating engine retarding devices the Borough is required to obtain approval from the Pennsylvania Department of Transportation in accordance with 67 Pa. Code § 179.10(20); and

WHEREAS, the Borough of Greencastle received correspondence dated May 10, 2016 from the Pennsylvania Department of Transportation granting approval to restrict the use of engine brake retarders on a portion of Baltimore Street (SR 0016).

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and Borough Council of the Borough of Greencastle, Franklin County, Pennsylvania, and it is enacted and ordained as follows:

SECTION I: Chapter 190 of the Code of the Borough of Greencastle, entitled “Vehicles and Traffic”, is hereby amended by adding a new Article VI, to be entitled “Engine Brake Retarders”, which shall read as follows:

190-58. Purpose. The Borough Council of the Borough of Greencastle, Franklin County, Pennsylvania finds that the operation of motor or engine retarding devices on gasoline, diesel, or other fuel-powered vehicles, whether or not such vehicles are equipped with proper exhaust mufflers or defective or modified exhaust mufflers or systems, creates noise through the use of such devices in the Borough that adversely affects the public health, safety and welfare of the residents of the Borough of Greencastle.

190-59. Authority. Borough Council finds that the operation of engine retarding devices creates such noise and disturbance as to create a nuisance in fact, which nuisance Council is authorized to prohibit pursuant to Section 1202(4) of the Borough Code, as reenacted and amended May 17, 2012, P.L. 262 No. 43. Necessary approval to regulate engine retarding devices as contemplated by this Ordinance has been obtained from the Pennsylvania Department of Transportation in accordance with 67 Pa. Code §179.10(20) as a condition precedent to the exercise by Borough Council of its authority under this Article.

190-60. Definitions. As used in this Article, the following term shall have the meaning prescribed below:

“Engine 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 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.

190-61. Prohibited Acts. No person, firm, corporation, association or entity shall use an engine retarding device on or along the following road(s) or highway(s) within the Borough of Greencastle:

East Baltimore Street (SR 0016) from the Borough boundary line to Antrim Way (SR 0011)

190-62. Erection of Signs. Signs shall be erected on highways, or roadways entering the Borough as identified in Section 190-61, above, notifying persons of the prohibition against the use of engine retarding devices in the Borough, which signs and their specific locations shall be in compliance with any applicable regulations of the Pennsylvania Department of Transportation.

190-63. Exemptions. This Article shall not apply to emergency driving situations requiring the utilization of an engine brake retarder to protect the safety and property of the residents of the Borough of Greencastle, other motor vehicle operators, pedestrians, and the operator and passengers of the motor vehicle involved in said emergency situation.

190-64. Violations and Penalties. Any person, persons, firms, corporation, or organization violating any of the provisions of this Article shall, upon summary conviction before a District Magistrate/District Justice having jurisdiction, be sentenced to pay a fine of not more than \$1,000.00, reasonable attorney’s fees incurred by the Borough, plus costs of prosecution and, in default of the payment

thereof, shall be sentenced to undergo imprisonment as allowed by law for the punishment of a summary offense.

190-65. Enforcement. Any police officer of the Borough of Greencastle shall implement the enforcement of this Article.

SECTION II: REPEALER. All provisions of previous Ordinances of the Borough of Greencastle which are contrary to this Ordinance are expressly repealed.

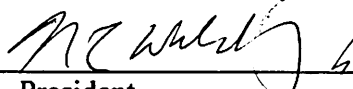
SECTION III: SAVINGS CLAUSE. In all other respects, Chapter 190 of the Code Borough of Greencastle shall remain as previously enacted and ordained.

SECTION IV: SEVERABILITY. The provisions of this Ordinance are severable and if any of its sections, clauses, or sentences shall be held illegal, invalid, or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses or sentences.

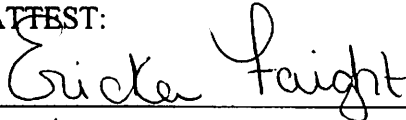
SECTION V: EFFECTIVE DATE. This Ordinance shall take effect immediately.

ENACTED, ORDAINED, AND APPROVED this 5th day of July, 2016.

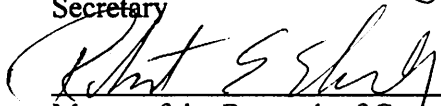
Borough Council of the Borough of
Greencastle, Franklin County, Pennsylvania

By: 
President

ATTEST:



Secretary


Mayor of the Borough of Greencastle