

AN ORDINANCE ENACTING CERTAIN NEW PROVISIONS
TO THE MUNICIPAL CODE OF THE CITY OF LAS ANIMAS.

WHEREAS, the Code of the City of Las Animas has a noise ordinance generally located at Section 14-11.1 of the Municipal Code of the City of Las Animas; and

WHEREAS, "dynamic braking devices" is a device used primarily on trucks to convert the motor from an internal combustion engine to an air compressor for the purpose of vehicle braking; and

WHEREAS, the "dynamic braking" or "compression braking" of semi-tractors causes substantial noise within the City of Las Animas; and

WHEREAS, it is the belief of the City Council that "dynamic braking" or "compression braking" or the use of the internal combustion engine for braking, commonly known as "jake braking", is a distraction to the citizens of the City of Las Animas and constitutes a harm to the welfare of the citizens of the City of Las Animas, as a result of its loud and disturbing and disconcerting noises emitted therefrom;

BE IT THEREFORE ORDAINED AS FOLLOWS:

SECTION 1. That a new Section 14-11.2 is enacted as follows:

Except as set forth in Section 14-11.3, it shall be unlawful for any semi-tractor vehicle weighing more than 10,000 pounds, and considered or licensed by the State of Colorado as a commercial tractor unit, to use its engines for purposes of breaking by use of "dynamic breaking" of the engine so as to slow the speed of the vehicle. It shall be unlawful for said trucks, above described, to "jake brake", "compression brake" or make use of any "dynamic braking". It shall be sufficient for prosecution and conviction of a violation of this offense, if the "jake braking", "compression braking" or "dynamic braking" is overheard, and if the semi-tractor is observed to be operating in the general proximity of the occurrence of the noise.

SECTION 2. That a new Section 14-11.3 is enacted as follows:

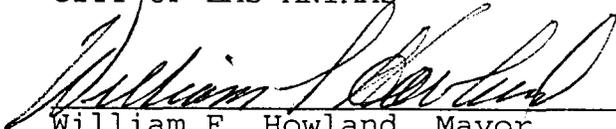
It shall be an affirmative defense to an alleged violation of Section 14-11.2 if the semi-tractor/trailer vehicle is in an emergency situation and in an effort to avoid collision with any other vehicle, stationary object, or moving object, jake brake compression, compression brakes, or any dynamic brake, is required for purposes of avoiding said collision. Should the Municipal Court determine that dynamic braking, compression braking, or jake braking, was used in conjunction with the avoidance of a collision as anticipated in this

section, then the defendant shall be exonerated from any liability under Section 14-11.2 as to the criminal offense anticipated therein. Nothing contained herein shall expand or limit any civil liability, if any should exist.

Adopted this 11th day of March, 1997.

Passed this 8th day of April, 1997

CITY OF LAS ANIMAS



William F. Howland, Mayor

ATTEST:

Leslie J. Uncel by Charmaime D. Tripp

Leslie J. Uncel, City Clerk

Deputy City Clerk

