

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE TOWNSHIP OF MAIDENCREEK, BERKS COUNTY, PENNSYLVANIA, AMENDING THE ORDINANCES OF THE TOWNSHIP OF MAIDENCREEK AND SPECIFICALLY AMENDING CHAPTER 186, ENTITLED “STREETS AND SIDEWALKS”, OF THE CODE OF ORDINANCES OF THE TOWNSHIP OF MAIDENCREEK BY ESTABLISHING A NEW ARTICLE/PART 8, ENTITLED “ENGINE BRAKE RETARDERS”; ESTABLISHING THE PROHIBITION OF THE USE OF ENGINE BRAKE RETARDERS ON CERTAIN ROADS AND HIGHWAYS IN THE TOWNSHIP; ESTABLISHING DEFINITIONS; PROVIDING FOR FINES AND PENALTIES AND ENFORCEMENT IN THE EVENT OF A VIOLATION THEREOF**

**WHEREAS** the Board of Supervisors of Maiden creek 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 Maiden creek Township; and

**WHEREAS** the Pennsylvania Motor Vehicle Code confers upon Maiden creek 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 October 11, 2023, recommending approval of restriction, which recommendation was approved by the Department by letter, dated November 21, 2023; 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, Be IT ENECATED AND ORDAINED**, by the Board of Supervisors of the Township of Maiden creek, Berks County, Pennsylvania, pursuant to the authority granted under and pursuant to the Stormwater Management Act and the Second Class Township Code, hereby amends its Code of Ordinances as follows:

**Section 1.** Chapter 186, Streets and Sidewalks, Article VIII, shall be amended and supplemented by adding new Article VIII, entitled “Engine Brake Retarders,” including new Sections 186-54 through 186-61, which shall read as follows:

## **Chapter 186, Streets and Sidewalks**

### **Article VIII, Engine Brake Retarders**

References: Streets and Sidewalks—see Ch. 186 Articles/Parts 1 through 7.  
Penn DOT Publication 46  
Pennsylvania Motor Vehicle Code Title 75

#### **§ 186-54. Title.**

This chapter shall be known and may be cited as the “Maidencreek Township Engine Brake Retarder Ordinance.”

#### **§ 186-55. Definitions.**

The following words and phrases when used in this chapter shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

- 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.

#### **§ 186-56. Prohibition.**

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

- A. Route 222 (Northbound and Southbound) from the intersections of Snyder Road north to Evansville Road.

#### **§ 186-57. Indemnification of Township.**

Any person, firm, corporation, or other entity found in non-compliance under this chapter agrees to indemnify and save the Township and its agents, servants, employees and/or contractors harmless from and against all liabilities of whatever nature arising, whether or not the liability arises as a result of the negligence of the person, firm, corporation or other entity.

#### **§ 186-58. 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 Maidencreek Township, other motor vehicle operators, pedestrians, and the operator and passengers of the motor vehicle involved in said emergency.

**§ 186-59. Emergency Vehicles.**

This Ordinance shall not apply to emergency vehicles operated by volunteer fire companies or other emergency services while responding to emergency calls.

**§ 186-60. 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.

**§ 186-61. 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 \$300.00 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 2. Repealer.**

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

**Section 3. Severability/Invalidity.**

The provisions of this Ordinance are severable. 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 4. Ratification.**

All existing ordinances and parts thereof which are not impacted by the provisions of this Ordinance are hereby ratified and affirmed and shall remain in full force and effect.

**Section 5. Effective Date.**

This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of Maiden Creek Township.

**ORDAINED and ENACTED** as an Ordinance by the Board of Supervisors of Maiden Creek Township, County of Berks, Pennsylvania in lawful Session duly assembled, this 8<sup>th</sup> day of February, 2024.

**MADIENCREEK TOWNSHIP  
BOARD OF SUPERVISORS**

By: \_\_\_\_\_  
David Franke, Chairman

By: \_\_\_\_\_  
Joshua Meck, Vice - Chairman

By: \_\_\_\_\_  
Eric Bauman, Supervisor

Attest:

\_\_\_\_\_  
Christina Hafer, Secretary