

ORDINANCE No. 6 of 2020

**AN ORDINANCE OF THE BOROUGH OF AVOCA, LUZERNE COUNTY,
PENNSYLVANIA, ENACTING REGULATIONS FOR USE OF ENGINE
SUPPRESSION/BRAKE RETARDER/ENGINE BRAKE AND IMPOSING FINES
FOR VIOLATIONS**

Pursuant to the powers vested in it by the Act of February 1, 1966 P.L. (1965), No. 581, Section 1202, as amended, 53 P.S. 46202 (4), **BE IT ENACTED AND ORDAINED** by the Borough of Avoca ("the Borough"), and it is hereby enacted and ordained by the authority of same, the following addition to the Code of the Borough of Avoca, as follows:

SECTION 1: Short Title.

This Ordinance shall be known as the Avoca Borough ENGINE SUPPRESSION/BRAKE RETARDER/ENGINE BRAKE Ordinance.

SECTION 2: Legislative Intent.

The Borough Council of the Borough of Avoca, Luzerne County, Pennsylvania, finds as a fact that the operation of an engine brake or an engine suppression devise or a compression brake on a gasoline powered or diesel powered motor vehicle not equipped with exhaust mufflers, or equipped with defective or modified exhaust mufflers, so as to create excessive noise through the use of said engine brake or engine suppression devise or compression brake, adversely affects the public health, safety and welfare of the residents of the Borough of Avoca and therefore, is a nuisance in fact.

SECTION 3: Engine Brake Prohibited.

No gasoline powered or diesel powered motor vehicles shall be operated on the streets, roads, alleys or highways listed below within the Borough of Avoca, Luzerne County, Pennsylvania, utilizing, in said operation, an engine brake, engine suppression devise or compression brake, without exhaust mufflers, or with defective or modified exhaust mufflers permitting excessive noise to be created by said motor vehicle.

SECTION 4: Streets.

The Streets subject to this prohibition shall be as follows:

- a. Williams Street (southbound) from the end of the I-81 southbound off-ramp to the PA 315 roundabout, a total of 765 feet.
- b. Airport Road (southbound) from the Williams Street roundabout to the Petro Driveway, a total of 1,325 feet.

SECTION 5: Emergency Situations.

This ordinance shall not apply to emergency driving situations requiring the utilization of an engineer brake to protect the safety and property of the residents of Avoca Borough, other

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

SECTION 6: Penalty.

Any person, firm, corporation or organization violating any of the provisions of this ordinance shall, upon summary conviction before District Magistrate having jurisdiction, be sentenced to pay a fine of not less than Five hundred (\$500.00) Dollars or more than One Thousand (\$1,000.00) Dollars and costs of prosecution, and in default of the payment thereof, shall be sentenced to undergo imprisonment in any County Jail for a period not to exceed thirty (30) days.

SECTION 7: Prior Ordinance Repealed.

Any Ordinance or Resolution or parts thereof inconsistent with the terms of this Ordinance are hereby repealed.

SECTION 8: Severance.

The provisions of this ordinance shall be severable and if any of its provisions shall be held unconstitutional, illegal or invalid, or otherwise unenforceable by a court of competent jurisdiction, the remaining portions hereof shall not be affected thereby.

SECTION 9: Effective Date.

This Ordinance shall become effective 30 days after its enactment or adoption.

ORDAINED BY THE BOORUGH COUNCIL OF AVOCA BOROUGH this 8
day of October, 2020.

BOROUGH OF AVOCA

John J. Boore
President

Frank Marzigo
Vice-President

Attest:

Kelly Bonen
Borough Secretary

Approved this 8 day of October, 2020 :


Mayor