



ORDINANCE NO. 24-002

AN ORDINANCE AMENDING BRIAN HEAD TOWN CODE, TITLE 4, CHAPTER 3, NUISANCES AND TITLE 6, CHAPTER 2, TRAFFIC PROVISIONS RESTRICTING DYNAMIC BRAKING DEVICE OR SYSTEM COMMONLY KNOWN AS JAKE BRAKES WITHIN THE TOWN OF BRIAN HEAD AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, whenever compression brakes commonly known as Jake Brakes are engaged, they emit a loud noise due to the rapid release of compressed air that occurs during engine braking;

WHEREAS, the loud noise from engine brakes interrupts sleep, disrupt conversations, interferes with the quiet enjoyment of property, and creates exposure to high level of noise;

WHEREAS, Title 4 of the Brian Head Town Code establishes regulations concerning the health and sanitation of the town;

WHEREAS, Title 4, Chapter 3 of the Brian Head Town Code establishes regulations governing specific nuisances;

WHEREAS, Brian Head Town Council has determined that it would be in the public's interest to mitigate noise pollution within the Town by restricting the use of dynamic braking devices and systems (Jake or engine brakes), except in emergency situations; and

WHEREAS, the Brian Head Town Council has determined that the health, safety and welfare of Brian Head Town and its residents and guests will be served by amending the Title 4, Chapter 3 Nuisances;

WHEREAS, the Town Council has the authority to adopt this ordinance pursuant to Utah Code Annotated 10-3-702, and hereby exercises its legislative powers in doing so.

NOW THEREFORE, BE IT ORDAINED BY THE BRIAN HEAD TOWN COUNCIL, OF BRIAN HEAD, UTAH:

SECTION 1. Ordinance No. 24-002, (attachment A) is hereby adopted by reference as Title 4, Chapter 3 Nuisances, and Title 6, Chapter 2 Traffic Provisions Generally into the Brian Head Town Code; and

SECTION 2. Effective Date. Upon this Ordinance being adopted by the Brian Head Town Council of Iron County, Utah, all provisions of this ordinance shall be incorporated into the Brian Head Town Code, Title 4, Chapter 3 Nuisances.

SECTION 3. Repealer: All provisions of the Brian Head Town Code that are inconsistent with the express terms of this ordinance shall be repealed. All other provisions of the Brian Head Town Code shall remain in full force and effect as codified.

SECTION 4. Conflict. To the extent of any conflict between other Town, County, State, or Federal ordinances or regulations, and this ordinance, the more restrictive is deemed to be controlling.

SECTION 5. Severability Clause. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason, held invalid or unconstitutional by any court or competent jurisdiction, such portions shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

PASSED AND ADOPTED BY THE BRIAN HEAD TOWN COUNCIL OF BRIAN HEAD TOWN, UTAH this 12th day of March 2024 with the following vote:

Town Council Vote:

Mayor Clayton Calloway	Aye
Council Member Martin Tidwell	Aye
Council Member Mitch Ricks	Aye
Council Member Larry Freeberg	Absent
Council Member Kelly Marshall	Absent

BRIAN HEAD TOWN

By: 
Clayton Calloway, Mayor

ATTEST:


Nancy Leigh, Town Clerk



CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of the Ordinance passed by the Town Council on the 13th day of March 2024, and have 2023 and have posted a summary of the ordinance within a conspicuous location to-wit: Town Hall, and have posted it on the Utah Meeting Notice Website and on the Brian Head Town website, brianheadtown.utah.gov as per UCA§63-30-102.

Nancy Leigh, Town Clerk

ATTACHMENT 'A'
Brian Head Town Code
Title 4, Chapter 3 – Nuisances &
Title 6, Chapter 2 – Traffic Provisions Generally

Title 4 – Health, Sanitation & Environmental Concerns

Chapter 3

NUISANCES

4-3-1: NUISANCE DEFINED:

4-3-2: AUTHOR OF NUISANCE:

4-3-3: DECLARATION OF NUISANCES:

4-3-4: ATTRACTIVE NUISANCES:

4-5-5: EXEMPTIONS

4-3-5: ENFORCEMENT AUTHORITY:

4-3-6: ABATEMENT:

4-3-7: PENALTY:

4-3-1: NUISANCE DEFINED:

A "nuisance" is a crime against the order and economy of the town and consists of unlawfully doing any act or omitting to perform any duty, which act or omission either: a) annoys, injures or endangers the comfort, repose, health or safety of three (3) or more persons; or b) offends public decency; or c) unlawfully interferes with, obstructs or tends to obstruct, or renders property dangerous for passage or public use. An act which affects three (3) or more persons in any of the ways above specified is not less a nuisance because the extent of the annoyance or damage inflicted on individuals is unequal. (1984 Code § 3-3-1)

4-3-2: AUTHOR OF NUISANCE:

When a nuisance exists upon property, and is the outgrowth of the usual, natural or necessary use of the property, the landlord thereof, or his agent, the tenant, or his agent, and all other persons having control of the property on which such nuisance exists, here such nuisance shall arise from the unusual or unnecessary use to which such property may be put, or from business thereon conducted, then the occupants, and all other persons contributing to the contrivance of such nuisance, shall be deemed the authors thereof. All "authors" of nuisances, as defined in this section, are subject to the penalty provided for in this chapter. (1984 Code § 3-3-2)

4-3-3: DECLARATION OF NUISANCES:

It shall be unlawful to cause, create, maintain or otherwise be the author of a nuisance within the town. Nuisances shall include, but not be limited to:

4-3-4: ATTRACTIVE NUISANCES:

It shall be unlawful to use, create, maintain or otherwise be the author of an attractive nuisance within the town. An "attractive nuisance" is any vacant lot or open area within which any of the following conditions occur and to which the public and particularly children have access:

- A. Ponding of water;
- B. Open pits, shafts, caves or dilapidated non-occupied buildings;
- C. Trash, debris or machinery;
- D. Large piles of loose sand, soil or rocks suitable for tunneling or digging by children. (1984 Code § 3-3-4)

4-3-5: EXEMPTIONS:

The following uses and activities shall be exempt from nuisance/noise regulations:

- A. Noise of safety signals, warning devices, and emergency pressure relief valves;
- B. Noise resulting from any authorized emergency vehicle when responding to an emergency call or in time of an emergency;
- C. Noise resulting from lawful emergency work;
- D. Noise resulting from lawful fireworks and noisemakers used for celebration of an official holiday;
- E. Any noise resulting from activities of temporary nature during periods permitted by law for which a license or permit has been approved by the town (not including engine brake noise restricted in this chapter or in Title 6 of the Brian Head Town Code);
- F. Any noise resulting from snowmaking and grooming activities at ski areas; and
- G. Any noise resulting from snow plowing or removal services. (amd. 2015 Ord. 15-001, 1-13-2015)

4-3-6: ENFORCEMENT AUTHORITY:

It shall be the duty of the public safety department to ascertain and cause all nuisances declared to be such in this chapter and coming within its t shall have authority in the daytime to enter any house, stable, store, or any building, in order to make an inspection; to enter upon all lots and grounds to cause the same to be cleaned or purified; and all noisome substances to be abated or removed. (1984 Code § 3-3-5)

misdemeanor and, upon conviction in district court, subject to penalty as provided in section 1-4-1 of this code. (1984 Code § 3-3-8; amd. Ord. 87-008, 8-11-1987; 2010 Code)

6-2-4: TRACKED VEHICLES PROHIBITED; EXCEPTIONS:

No vehicle shall be operated upon any public street within the town unless the same is properly equipped with rubber or rubber and fabric tires. Except as otherwise set forth herein, no tracked vehicles or vehicles which, when operated, create a contact between the road surface and any metal portion of the vehicle, shall be operated for any purpose upon any public street. The provisions of this section shall not apply to or prohibit the operation of lawfully registered and operated snowmobiles, equipment actually engaged in the grooming of snowmobile trails or ski areas and traveling upon public streets only incident to such grooming activities, or any vehicle or equipment operated upon and in connection with the construction, repair, replacement or maintenance of the portion of the public street upon which they are being operated. (Ord. 04-008, 10-24-2004)

6-2-5: ENGINE BRAKE RESTRICTIONS:

Engine brakes are restricted on State Road 143 in Brian Head Town limits where posted and where such prohibition is allowed by UDOT safety review.