

MEMORANDUM

TO: Lower Gwynedd Township Board of Supervisors

FROM: Chad Dixson, AICP, PP

DATE: March 8, 2024

SUBJECT: Proposed Engine Brake Retarder Prohibition Ordinance

PennDOT has established regulations permitting the use of engine brake retarders. The PennDOT regulations do not permit a municipality to prohibit the use of engine brake retarders unless certain criteria are satisfied through the completion of a traffic engineering study. The criteria that must be satisfied for a prohibition pertain to the posted speed limit, 85th percentile speed data, downhill grades, and crash history of the roadway. Prohibitions are not permitted on a limited access highway or a ramp exiting from a highway. If all the necessary criteria are satisfied and the entity owning the road approves the prohibition, the municipality must enact an ordinance and post/maintain the required signs to enforce the prohibition.

Lower Gwynedd Township residents have raised concerns over the past few years related to the noise created by engine brake retarders in the areas around Dekalb Pike (US 202) and Sumneytown Pike (County). PennDOT and Montgomery County would not conduct or review the required traffic engineering studies until the US 202 construction project was completed in Lower Gwynedd Township. Since the completion of the US 202 construction in Fall 2023, PennDOT, Montgomery County and the Township have coordinated on the completion of the necessary traffic engineering studies to determine if engine brake retarders may be prohibited on Dekalb Pike (US 202) and Sumneytown Pike (County). Based on the completed studies, PennDOT and Montgomery County have approved the following prohibitions of engine brake retarders:

- Dekalb Pike (US 202): School House Lane to Hancock Road
- Sumneytown Pike (County): Swedesford Road to Dekalb Pike (US 202)

It should be noted that engine brake retarders are currently prohibited on Sumneytown Pike (County) west of Swedesford Road in Upper Gwynedd Township.

The action requested for the Board is to authorize advertisement of the proposed ordinance for the engine brake retarder prohibitions approved by PennDOT and Montgomery County.

If you have any questions regarding the proposed ordinance, please do not hesitate to contact us.

**BOARD OF SUPERVISORS
LOWER GWYNEDD TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF LOWER GWYNEDD TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING PART FOUR, ENTITLED "TRAFFIC CODE," TO ADD A NEW SECTION 420.03, ENTITLED "BRAKE RETARDERS PROHIBITED" SO AS TO PROHIBIT THE USE OF BRAKE RETARDERS ON ROUTE 202 (DEKALB PIKE) AND SUMNEYTOWN PIKE (COUNTY); ESTABLISHING FINES AND PENALTIES FOR VIOLATIONS; AND INCLUDING SEVERABILITY AND REPEALER CLAUSES.

WHEREAS, § 1506 of the Second Class Township Code, Act of May 1, 1993, P. L. 103, No. 69, as amended by the Act of November 9, 1995, P. L. 350, No. 60, found at 53 P. S. § 66506, entitled "General Powers," authorizes the Lower Gwynedd Township Board of Supervisors (the "**Board**") to make and adopt ordinances necessary for the proper management, care and control of the Township, and the maintenance of the health and welfare of the Township and its citizens; and

WHEREAS, the Pennsylvania Department of Transportation ("**PennDOT**") defines a brake retarder as a mechanical device which is designed to supplement a vehicle's service brakes by producing a retarding torque about one of the rotating components in a vehicle, converting kinetic energy to heat and thereby retarding the forward motion of a vehicle (see 67 Pa. Code Sec. 179.1); and

WHEREAS, PennDOT has established regulations requiring use of brake retarders in certain situations, said regulation providing that a municipality may not prohibit use of brake retarders unless PennDOT gives its prior approval to such prohibition; and

WHEREAS, with increased traffic volumes along Sumneytown Pike (County), east of Swedesford Road, and DeKalb Pike (SR 202), between Hancock Road and School House Lane (collectively, the "**Affected Areas**"), use of brake retarders in these areas have created loud noises adversely affecting many nearby residential properties; and

WHEREAS, after receipt of complaints and its own investigation, the Township, as required by 67 Pa. Code Section 179.10, has requested PennDOT and Montgomery County to allow the Township to prohibit use of brake retarders by operators of vehicles in the Affected Areas; and

WHEREAS, PennDOT and Montgomery County have advised the Township that the proposed brake retarder restriction meets PennDOT's criteria for a brake retarder prohibition and has approved prohibition of the use of brake retarders within the Affected Areas, subject to certain requirements; and

WHEREAS, the Board finds that it to be in the best interest of the public safety and general welfare to prohibit the use of brake retarders on vehicles traveling along the Affected Areas, and that in effectuating this prohibition, the Board adopts general regulations that shall apply as applicable to future prohibitions of use of brake retarders.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Lower Gwynedd Township, Montgomery County, Pennsylvania, and it is hereby enacted and ordained as follows:

SECTION ONE. AMENDMENT OF TRAFFIC CODE.

Part Four of the Code, the "Traffic Code," is hereby amended by adding a new section 420.03, entitled "Restricted Use of Brake Retarders," to read as follows:

§ 420.03 Restricted Use of Brake Retarders.

- (a) *No person shall use or operate a brake retarder on any vehicle travelling on the below listed sections of road. This restriction shall become effective immediately upon the posting of signage in accordance with PennDOT regulations.*
 - (1) *DeKalb Pike (SR 202), between Hancock Road and School House Lane.*
 - (2) *Sumneytown Pike (County), between Swedesford Road and DeKalb Pike (SR 202).*
- (b) *Official signs giving notice of the prohibition shall be erected and maintained by the Township.*
- (c) *Emergency vehicles authorized or required to have brake retarders, are exempt from these regulations.*
- (d) *Each violation of this section shall constitute a separate offense.*
- (e) *The Lower Gwynedd Township Police Department shall enforce this section.*
- (f) *Any person or entity who or which violate any of the provisions of this section, upon a summary conviction, shall be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) and not more than Three Hundred Dollars (\$300.00), as well as costs of prosecution. To the extent permitted by state law, such fine shall be paid to the Lower Gwynedd Township Treasurer.*
- (g) *In accordance with the requirements of 67 Pa. Code § 179.10, prohibition of brake retarders shall not be effective without the prior written approval of PennDOT.*

SECTION TWO. REPEAL AND RATIFICATION.

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed. Any other terms and provisions of the Township's Code unaffected by this Ordinance are hereby reaffirmed and ratified.

SECTION THREE. SEVERABILITY.

Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and affect, and for this reason the provisions of this Ordinance shall be severable.

SECTION FOUR. EFFECTIVE DATE.

This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors as provided by law.

ORDAINED AND ENACTED by the Board of Supervisors of Lower Gwynedd Township, Montgomery County, Pennsylvania, this ____ day of _____, 2024.

ATTEST:

**LOWER GWYNEDD TOWNSHIP
BOARD OF SUPERVISORS**

MIMI GLEASON, TOWNSHIP MANAGER

By: _____
DANIELLE A. DUCKETT, CHAIRPERSON