

CITY OF EVERMAN

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF EVERMAN, TEXAS, AMENDING CHAPTER 19, ARTICLE 2 OF THE CITY OF EVERMAN CODE OF ORDINANCES AND PROVIDING FOR THE REDUCTION OF MOTOR VEHICLE EMISSIONS BY ESTABLISHING LIMITATIONS PROHIBITING IDLING ACTIVITIES AND PROVIDING FOR ENFORCEMENT ACTIVITIES RELATING THERETO, AND PROVIDING FOR FINDINGS OF FACT, AMENDMENT, REPEALER, SEVERABILITY, AN EFFECTIVE DATE, AND PROPER NOTICE.

WHEREAS, the City of Everman (“City”), is a home rule municipality located in Tarrant County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas and its City Charter; and

WHEREAS, the Dallas-Fort Worth area is a federally designated nonattainment area for the pollutant ozone and air quality impacts the public and economic health of the entire region; and

WHEREAS, the U.S Environmental Protection Agency (EPA) and the Texas Commission on Environmental Quality (TCEQ) jointly have considered emission reductions to control air pollution from motor vehicles, and the Texas Legislature has created the Texas Clean Air Act, which addresses that purpose; and

WHEREAS, Section 382.113 of the Texas Health and Safety Code provides authority for municipalities to enact and enforce local laws and ordinances for the control and abatement of air pollution; and

WHEREAS, Locally Enforced Idling Restrictions is a weight of evidence commitment in the Dallas-Fort Worth 8-Hour Ozone Attainment Demonstration State Implementation Plan (SIP); and

WHEREAS, idling vehicles emit more emissions while idling due to incomplete combustion than at normal on-road speeds; and

WHEREAS, the City desires to actively participate in improving the air quality of the region; and

WHEREAS, the City Council of the City of Everman (“City Council”) finds that the adoption of this ordinance serves a public purpose, and protects the health, safety, and welfare

of the citizens of the City of Everman, Texas by limiting the pollution created from unnecessary idling of motor vehicles within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS THAT:

- 1. FINDINGS OF FACT.** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.
- 2. AMENDMENT.** Chapter 19, Article 2 of the City of Everman Code of Ordinances is hereby amended and replaced so as to read in accordance with Exhibit A, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Such provisions are hereby an addition to Chapter 19, Article 2 of the Code of Ordinances, titled Operation of Vehicles, as reflected in the attached Exhibit A.
- 3. REPEALER.** All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.
- 4. SEVERABILITY.** Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.
- 5. EFFECTIVE DATE.** This Ordinance shall be effective immediately upon passage and publication.
- 6. PROPER NOTICE & MEETING.** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the ____ day of _____ 2022, by a vote of ____ (ayes) to ____ (nays) to ____ (abstentions) of the City Council of Everman, Texas.

CITY OF EVERMAN:

by: _____
Ray Richardson, Mayor

ATTEST:

Mindi Parks, City Secretary

EXHIBIT A

Sec. 19-27. CONTROL REQUIREMENTS FOR MOTOR VEHICLE IDLING

- a. No person shall cause, suffer, allow, or permit the primary propulsion engine of a motor vehicle under their operation to idle for more than five consecutive minutes when the motor vehicle is not in motion.
- b. No person using the vehicle's sleeper berth may idle;
 - 1) in a school zone;
 - 2) within 1,000 feet of a public school during its hours of operation
 - 3) within 1,000 feet of a hospital, or
 - 4) in a residential area, as defined in Section 244.002 of the Texas Local Government Code.
- c. No driver may idle within 1,000 feet of an air intake valve of the following structures as adopted by §70.100(a)(1) of this Code and further defined by [Section 302.2 of the International Building Code](#):
 - 1) Assembly Group – occupancy includes, among others, the use of a building or structure, or a portion thereof, for the gathering of persons for purposes such as civic, social or religious functions; recreation, food or drink consumption or awaiting transportation.
 - 2) Educational Group— occupancy includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade. Religious educational rooms and religious auditoriums, which are accessory to *places of religious worship* and have *occupant loads* of less than 100.
 - 3) Institutional Group-- occupancy includes, among others, the use of a building or structure, or a portion thereof, in which people are cared for or live in a supervised environment, having physical limitations because of health or age are harbored for medical treatment or other care or treatment, or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted.
 - 4) Mercantile Group-- includes, among others, the use of a building or structure or a portion thereof, for the display and sale of merchandise and involves stocks of goods, wares or merchandise incidental to such purposes and accessible to the public.

Sec. 19-28. DEFINITIONS

Unless specifically defined herein, the terms used in this article have the meanings commonly ascribed to them in the field of air pollution control, unless the context provides otherwise.

Idle shall mean the operation of an engine in the operating mode where the engine is not engaged in gear, where the engine operates at a speed at the revolutions per minute specified by the engine or manufacture for when the accelerator is fully released and there is no load on the engine.

Motor vehicle shall mean any self-propelled device powered by an internal combustion engine and designed to operate with four or more wheels in contact with the ground, in or by which a person or property is or may be transported, and is required to be registered under Texas Transportation Code, §502.002.

Primary propulsion engine shall mean a gasoline or diesel-fueled internal combustion engine attached to a motor vehicle that provides the power to propel the motor vehicle into motion and maintain motion.

Sec. 19-29. EXEMPTIONS

a) The provisions of this ordinance (relating to Control Requirements for Motor Vehicle Idling) does not apply to:

- (1) a motor vehicle that has a gross vehicle weight rating of 8,500 pounds or less;
- (2) a motor vehicle that has a gross vehicle weight rating greater than 8,500 pounds and that has been certified by the United States Environmental Protection Agency or another state environmental agency to emit no more than 30 grams of nitrogen oxides emissions per hour when idling;
- (3) a motor vehicle forced to remain motionless because of traffic conditions over which the operator has no control;
- (4) the primary propulsion engine of a motor vehicle providing a power source necessary for mechanical operation or airport ground support and/or maintenance or diagnostic purposes,
- (5) the primary propulsion engine of a motor vehicle that is being used to supply heat or air conditioning necessary for passenger comfort and safety during extreme weather conditions in

vehicles intended for commercial or public passenger transportation, or passenger transit operations, in which case idling up to a maximum of 30 minutes is allowed;

(6) the primary propulsion engine of a motor vehicle being used to provide air conditioning or heating necessary for employee health or safety while the employee is using the vehicle to perform an essential job function related to roadway construction or maintenance; a motor vehicle being used by the United States military, national guard, or reserve forces, or as an emergency or law enforcement motor vehicle; or as an armored vehicle when the driver is present;

(7) a motor vehicle when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period and is not within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available.

Sec. 19-30. ENFORCEMENT

a) An offense under this title shall be punishable by a fine not to exceed [*amount determined by Council*].