

City of Houston, Texas, Ordinance No. 2015-1086

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO EMISSIONS REDUCTION FROM IDLING MOTOR VEHICLES AND RELATED CONDITIONS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EMERGENCY.

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WHEREAS, the City of Houston (the "City") is authorized by Chapter 54 and Subchapter A of Chapter 214, Texas Local Government Code, and by the City's home rule powers to enact ordinances relating to dangerous and other substandard buildings and related conditions as necessary for the protection of public health and safety;

WHEREAS, the City Council has determined that public health and safety will be enhanced by the reorganization and amendment of certain provisions of the Code of Ordinances as provided herein; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are adopted as a part of this Ordinance.

Section 2. That Chapter 21 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Article X that reads as follows:

**"ARTICLE X. REDUCTION OF EMISSIONS FROM
IDLING MOTOR VEHICLES**

Sec. 21-301. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings assigned to them in this section, except where the content clearly indicates a different meaning:

Commercial or public passenger transportation means a mode of transportation provided by a bus or motor coach designed to accommodate 10 or more passengers (including the operator) for compensation and that is powered by an engine, but specifically excluding railroad and light rail.

Engine means a mechanical device that converts heat energy produced from the internal combustion of gasoline or diesel fuel and an oxidizer into mechanical power or motion.

Idle means 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 vehicle manufacturer for when the accelerator is fully released, and there is no load on the engine.

Motor vehicle means any self-propelled device powered by an engine, designed to operate with four or more wheels in contact with the ground, and with gross vehicle weight rating of more than 14,000 pounds, in or by which a person or property may be transported, and is required to be registered under the Texas Transportation Code, but specifically excluding motor vehicles being used by the United States military, national guard, or reserve forces, as an emergency or law enforcement motor vehicle, motor vehicles being used by the Metropolitan Transit Authority of Harris County for public health and safety purposes, or vehicles being actively loaded or unloaded.

Passenger transit operations means a regional mode of public transportation that is funded through a portion of the taxes of the region being served.

Primary propulsion engine means an engine attached to a motor vehicle that provides the power to propel the motor vehicle into motion and maintain motion.

Sec. 21-302. Idling prohibited.

It shall be unlawful for an owner or operator of a motor vehicle operated within the city limits to cause or allow the primary propulsion engine of a motor vehicle to idle for more than five consecutive minutes when the motor vehicle is not in motion.

Sec. 21-303. Affirmative defenses.

The restrictions in section 21-302 of this Code do not apply to:

- (1) A motor vehicle that is equipped with a 2008 or subsequent model year heavy-duty diesel engine or liquefied or compressed natural gas engine 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;

- (2) A motor vehicle forced to remain motionless because of traffic conditions over which the operator has no control;
- (3) The primary propulsion engine of a motor vehicle that is being used to supply heat or air conditioning necessary for passenger comfort and safety 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;
- (4) The primary propulsion engine of a motor vehicle being used to provide air conditioning or heating necessary for employee health or safety in an armored vehicle while the employee remains inside the vehicle to guard the contents while the vehicle is being loaded or unloaded;
- (5) 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 or utility construction or maintenance;
- (6) The primary propulsion engine of a motor vehicle providing a power source necessary for mechanical operation, other than propulsion, and/or passenger compartment heating, or air conditioning;
- (7) The primary propulsion engine of a motor vehicle being operated for maintenance or diagnostic purposes;
- (8) The primary propulsion engine of a motor vehicle being operated solely to defrost a windshield;
- (9) The primary propulsion engine of a motor vehicle being used as airport ground support equipment;
- (10) The owner of a motor vehicle rented or leased to a person that operates the vehicle and is not employed by the owner;
or
- (11) The 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. 21-304. Penalties; actions authorized to enforce article.

(a) Any person who violates any provision of this article shall be guilty of an offense and upon conviction thereof, shall be punished by a fine of not less than \$500 nor more than \$1000 for each violation. Each day in which any violation shall occur shall constitute a separate offense.

(b) The city, acting through the city attorney or the city attorney's designee, is hereby authorized to enter into agreements in lieu of litigation to achieve compliance this article."

Section 3. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 4. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 5. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at

12:01 a.m. on the ninetieth day next following the date of its passage and approval by the Mayor.

PASSED AND APPROVED this 4th day of November, 2015.

Annis D. Parker _____
Mayor of the City of Houston

Prepared by Legal Department _____
PMG/ng/10/13/2015 Assistant City Attorney
Requested by Stephen L. Williams, Director of Public Health
L.D. File No. 038-13000018-001