**SAMPLE ORDINANCE – LOCALLY ENFORCED IDLING RESTRICTIONS**

ORDINANCE NO. \_\_\_\_\_\_\_

AN ORDINANCE PROVIDING FOR THE REDUCTION OF MOTOR VEHICLE EMISSIONS BY ESTABLISHING LIMITATIONS PROHIBITING IDLING ACTIVITIES AND PROVIDING FOR ENFORCEMENT ACTIVITIES RELATED TO THE FOLLOWING SUBJECT.

 **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 [*Jurisdiction*] desires to actively participate in improving the air quality of the region; and

 **WHEREAS**, the [*Legislative Body*] finds that the adoption of this ordinance serves a public purpose, and protects the health, safety, and welfare of the citizens of the [*Jurisdiction*] by limiting the pollution created from unnecessary idling of motor vehicles within the [*city’s or county’s*] jurisdiction;

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE [*Legislative Body*] of the [*Jurisdiction*], TEXAS:**

SECTION 1: That Chapter \_\_\_\_\_\_\_\_\_\_\_, Section \_\_\_\_\_\_\_\_\_\_\_, of the Code of Ordinances, of **[*Jurisdiction*]**, Texas is to read as follows:

A. CONTROL REQUIREMENTS FOR MOTOR VEHICLE IDLING

1. 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.

2. No person using the vehicle's sleeper berth may idle;

(i) in a school zone;

(ii) within 1,000 feet of a public school during its hours of operation

(iii) within 1,000 feet of a hospital, or

(iv) in a residential area, as defined in Section 244.002 of the Texas Local Government Code.

3. 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](http://publicecodes.cyberregs.com/icod/ibc/2009/icod_ibc_2009_3_sec002.htm):

 (i) 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.

 (ii) 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.

 (iii) 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.

 (iv) 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.

B. 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.

C. EXEMPTIONS

1. 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.

D. ENFORCEMENT

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

SECTION 2: 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 (for any reason unenforceable), the validity of the remaining portions of this ordinance or the application to such other persons or sets of circumstances shall not be affected thereby, it being the intent of the [*Legislative Body]* of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [*Jurisdiction*] of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

In adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any other portion or provision.

SECTION 3: This ordinance shall be published and become effective in accordance with state law.

READ, CONSIDERED, PASSED, AND APPROVED ON FIRST READING by the [*Jurisdiction*] at a regular meeting the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_, at which a quorum was present.

**PASSED, APPROVED, and ADOPTED on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.**

Attest: \_\_\_\_\_\_\_\_\_\_\_ **[*Jurisdiction*]** of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Texas