ORDINANCE NO. 2156

AN ORDINANCE OF THE CITY OF DUNCANVILLE, TEXAS AMENDING THE CODE OF ORDINANCES, BY AMENDING CHAPTER 19, ARTICLE I, SECTION 19-1, AND ADOPTING CHAPTER 19, ARTICLE XIII, TO RESTRICT IDLING OF VEHICLES FOR THE PURPOSE OF CONTROLLING AIR POLLUTION FROM MOTOR VEHICLES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS ($500.00) FOR EACH OFFENSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

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 ("Act"), which addresses that purpose; and

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

WHEREAS, by means of the regulations set forth in Section 114.510 through 114.512 and 114.517 of Title 30 of the Texas Administrative Code, entitled "Locally Enforced Motor Vehicle Idling Limitations," the TCEQ has set forth regulations intended to assist in the prevention of air pollution caused by unnecessary idling of certain motor vehicles; and

WHEREAS, the City of Duncanville has entered into a Memorandum of Agreement with TCEQ to implement the rules aimed at the control of air pollution from such motor vehicles; and

WHEREAS, the City Council of the City of Duncanville finds that the adoption of this ordinance serves a public purpose, protecting the health, safety and welfare of the citizens of the City of Duncanville, by limiting the pollution created by large motor vehicles unnecessarily idling within the City’s jurisdiction

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

SECTION 1. That the Code of Ordinances of the City of Duncanville, Texas, be and is hereby amended by amending Chapter 19, Article I, Section 19-1, “Definitions,” and adopting Chapter 19, Article XIII, “Idling of Vehicles,” which shall read as follows:

“CHAPTER 19
TRAFFIC
Article 1. In General

Sec. 19-1. Definitions.

.......

*Commercial Passenger Transportation*: A mode of transportation provided by a bus or motor coach designed to accommodate more than ten (10) passengers, including the operator, for compensation, and that is powered by a primary propulsion engine, not including railroad, light rail or taxicabs.

.......

*Idle*: 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.

.......

*Mechanical Operations*: The use of electrical tools or equipment in construction, maintenance or repair of facilities.

.......

*Passenger Transit Operations*: A regional mode of public transportation that is funded through a portion of sales tax for such region being served.

.......

*Primary Propulsion Engine*: 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.

.......

Article XIII. Idling of Vehicles

Sec. 19-192 Idling Prohibited.

No person shall cause, suffer, allow or permit the primary propulsion of a motor vehicle to idle for more than five (5) minutes when the motor vehicle is not in motion.

Sec. 19-193 Exceptions.

The provisions of this article do not apply to:

(a) A motor vehicle that has a gross vehicle rating of 14,000 pounds or less or of 14,400 pounds for motor vehicles equipped with a system that provides heating, cooling or electrical service to a commercial vehicle’s sleeper berth for the purpose of reducing the idling of a motor vehicle;
(b) A motor vehicle forced to remain motionless because of traffic conditions over which the operator has no control;

(c) A motor vehicle that is being used:

   (1) As an emergency or law enforcement motor vehicle; or

   (2) By the United States military, national guard or reserve services;

(d) The primary propulsion engine of a motor vehicle that is providing a power source necessary for mechanical operation of the vehicle other than:

   (1) Propulsion; or

   (2) Passenger compartment heating or air conditioning;

(e) The primary propulsion engine of the motor vehicle that is being operated for maintenance or diagnostic purposes;

(f) The primary propulsion engine of a motor vehicle that is being operated solely to defrost a windshield;

(g) The primary propulsion engine of a motor vehicle that is being used to supply heat or air conditioning necessary for passenger comfort/safety in those vehicles intended for a commercial passenger transportation or school buses in which case idling up to a maximum of thirty (30) minutes is allowed;

(h) The primary propulsion engine of a motor vehicle that is being used for transit operations in which case idling up to a maximum of thirty (30) minutes is allowed;

(i) The primary propulsion engine of a motor vehicle that is 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;

(j) The primary propulsion engine of a motor vehicle that is being used as airport ground support equipment;

(k) The primary propulsion engine of a motor vehicle that is being used to provide heat or air conditioning while the 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;
(l) The primary propulsion engine of a motor vehicle that is 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 or while the vehicle is being loaded or unloaded;

(m) The owner of a motor vehicle rented or leased to a person who operated the vehicle and is not employed by the owner; and

(n) Any motor vehicle with a gross vehicle weight rating greater than 8,500 pounds 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.

**Sec. 19-194 Penalties.**

Violation of this ordinance shall be a Class C misdemeanor and shall be punishable by a fine not to exceed $500.

**Sec. 19-195 Burden of Proof.**

For any violation of this article, the person seeking to establish an affirmative defense or an exception shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of this article is subject to one of the exceptions, set forth in Section 12-193.

**Secs. 19-196 – 19-199. Reserved.”**

**SECTION 2.** That all ordinances of the City of Duncanville in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Duncanville not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.** That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 4.** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other
than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 5. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Duncanville, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars ($500.00) for each offense.

SECTION 6. This ordinance shall take effect from and after its passage and the publication of the caption as the law and Charter in such cases provide.

DULY PASSED by the City Council of the City of Duncanville, Texas on the 20th day of September, 2011.

APPROVED:

[Signature]
MAYOR

ATTEST:

[Signature]
INTERIM CITY SECRETARY

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY
(REH/aga TM 50994.17.82811)