

ORDINANCE 2006-_____12_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS, AMENDING CHAPTER 34, ENVIRONMENT, OF THE CITY OF SAN MARCOS CODE OF ORDINANCES TO ADD NEW SECTIONS TO ARTICLE 5, AIR POLLUTION, PROHIBITING CERTAIN MOTOR VEHICLE IDLING, PROVIDING FOR PENALTIES, AND DECLARING AN EMERGENCY.

RECITALS:

1. The City entered into an Early Action Compact (EAC) with the U.S. Environmental Protection Agency (EPA) and the Texas Commission on Environmental Quality (TCEQ) and other local governments in the Austin/Round Rock Metropolitan Statistical Area (the Region) in order to proactively and effectively address the Region's air quality issues.
2. In keeping with the EAC the City committed to implement measures in the Clean Air Action Plan.
3. The Texas Commission on Environmental Quality has provided in the Texas Administration Code, Title 30, §§ 114.50 through 144.512 and 114.517, for the prevention of air pollution caused by the unnecessary idling of certain motor vehicles.
4. By Resolution 2005-99-R, the City agreed to adopt the Memorandum of Agreement between TCEQ and the Regions local governmental authorities.
5. The San Marcos City Council finds that the adoption of this ordinance serves to protect the health, safety and welfare of the citizens of San Marcos and its extraterritorial jurisdiction, by limiting the pollution created by large motor vehicles unnecessarily idling within the City limits and extraterritorial jurisdiction.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Chapter 34, Environment, is amended by adding a new division to Article 5, Air Pollution:

Secs. 34.264-34.400. Reserved

DIVISION 3. Idling of Engines

Sec. 34.401. Definitions.

In this division:

FILED

2006 MAR 14 PM 2:18

CITY CLERK
CITY OF SAN MARCOS
BY: *D. Gesswein*

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 he 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.

Primary propulsion engine means 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. 34.402. Jurisdiction.

The provisions of this division are applicable within the city limits and extraterritorial jurisdiction of the City of San Marcos.

Sec. 34.403. Idling Prohibited.

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

Sec. 34.404. Affirmative Defenses.

(a) The following constitute affirmative defenses to prosecution under this division:

(1) a motor vehicle that has a gross vehicle weight rating of 14,000 pounds or less;

(2) a motor vehicle forced to remain motionless because of traffic conditions over which the operator has no control;

(3) a motor vehicle being used by the United States military, national guard, or reserve forces, or as an emergency of law enforcement motor vehicle;

(4) the primary propulsion engine of a motor vehicle providing a power source necessary for mechanical operation, not including propulsion, and passenger compartment heating or air conditioning;

(5) the primary propulsion engine of a motor vehicle being operated for maintenance or diagnostic purpose;

(6) the primary propulsion engine of a motor vehicle being operated solely to defrost a windshield;

(7) the primary propulsion engine of a motor vehicle that is being used to supply heat or air conditioning necessary for passenger comfort or safety in those vehicles intended for commercial passenger transportation or

school busses in which case idling up to a maximum of 30 minutes is allowed;

(8) the primary propulsion engine of a motor vehicle used for transit operations in which case idling up to a maximum of 30 minutes is allowed;

(9) the primary propulsion engine of a motor vehicle being used as airport ground support equipment; or

(10) the owner of a motor vehicle rented or leased to a person who operates the vehicle and is not employed by the owner.

(b) For any violation of this division, the person seeking to establish an affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of this idling ordinance was caused by one of the affirmative defenses listed in this section.

Secs. 34.406-34.700. Reserved.

SECTION 2. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 3. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.


SECTION 4. Any person violating any provision of this ordinance commits a misdemeanor and is subject to the penalty provided in Section 1.015 of the San Marcos City Code upon conviction.

SECTION 5. The importance of this Ordinance creates an emergency and an imperative public necessity, so that the provisions of the City Charter that ordinances be presented at three separate Council meetings, and that no ordinance becomes effective until the expiration of ten days after the date of its final passage, are suspended, and this Ordinance shall take effect and be in full force and effect from and after its adoption and after notice of its adoption is published in a newspaper of general circulation in the City.

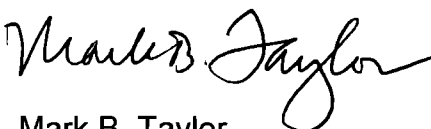
PASSED, APPROVED AND ADOPTED on this 21st day of March 2006.


Susan Narvaiz
Mayor

Attest:


Janis K. Womack
City Clerk

Approved:


Mark B. Taylor
City Attorney

PUBLISHED IN THE SAN MARCOS DAILY RECORD ON TUESDAY, April 4, 2006.