CITY OF HOLLADAY

ORDINANCE NO. 2013-03

AN ORDINANCE OF THE CITY OF HOLLADAY PERTAINING TO PUBLIC HEALTH AND THE IDLING OF VEHICLES.

WHEREAS, air pollution is a public health and environmental concern in the City of Holladay and motor vehicles are significant sources of air pollution;

WHEREAS, the City of Holladay desires to adopt an idle free ordinance as follows.

NOW, THEREFORE, BE IT ORDAINED by the Holladay City Council:

SECTION I.

Enacting Chapter 11.46 Prohibiting Motor Vehicle Idling Within City Limits: That Chapter 11.46 No Idling of Vehicles is enacted to read as follows:

11.46.010: PURPOSE:

The purpose of this Chapter is primarily education, as well as to protect the public health and improve the environment by reducing emissions while conserving fuel.

11.46.020: DEFINITIONS:

For purposes of this Chapter, these definitions shall apply:

DRIVER: Any driver who drives, operates, or is in actual physical control of a Vehicle.

IDLE: The operation of a Vehicle engine while the Vehicle is stationary or not in the act of performing work or its normal function.

VEHICLE: Any self-propelled Vehicle that is required to be registered and requires an annual or biannual emissions inspection, and have a license plate by the Utah Department of Motor Vehicles.
11.46.030: PROPERTY SUBJECT TO THIS CHAPTER; ENFORCEMENT:

A. This Chapter shall be enforceable on all public property and on private property that is open to the general public, unless the private property owner:

1. Has a private business that has a drive-through service as a component of the private property owner’s business operations and posts a sign provided by or acceptable to the City informing its customers and the public of the City’s time limit for idling Vehicle engines; or

2. Adopts an idle reduction education policy approved by the City.

B. Law enforcement personnel shall exercise reasonable caution and utilize customary safety procedures in their enforcement of this Chapter.

11.46.040: IDLING RESTRICTION WITHIN CITY LIMITS:

No driver, while operating a Vehicle within City limits, shall cause or permit a Vehicle’s engine to idle for more than two (2) minutes, except for the following kinds of idling:

A. Idling while stopped:

1. For an official traffic control device;

2. For an official traffic control signal;

3. At the direction of a police officer;

B. Idling as needed to operate heaters or air conditioners where the temperature is below thirty-two degrees Fahrenheit (32°F) or above ninety degrees Fahrenheit (90°F), as measured at the Salt Lake City Airport and determined by the National Weather Service, for the health or safety of a driver or passenger, including service animals.

C. Idling for the minimum amount of time required for the operation of defrosters or other equipment to clear the windshield and windows to provide unobstructed views and ensure visibility while driving.

D. Idling as needed for emergency Vehicles to operate equipment.

E. Idling as needed to ascertain that a Vehicle is in safe operating condition and equipped as required by all provisions of law, and that all equipment is in good working order, either as part of the daily Vehicle inspection, or as otherwise needed.

F. Idling as needed for testing, servicing, repairing, installation, maintenance or diagnostic purposes.
G. Idling for the period recommended by the manufacturer to warm up or cool down a turbo-charged heavy duty Vehicle.

H. Idling as needed to operate auxiliary equipment for which the Vehicle was primarily designed or equipped, other than transporting goods, such as: operating a transportation refrigeration unit (TRU), life, crane, pump, drill, hoist, ready-mixed equipment, except a heater or air conditioner.

I. Idling as needed to operate a lift or other piece of equipment designed to ensure safe loading and uploading of goods or people.

J. Idling to recharge a battery or other energy storage unit of a hybrid electric Vehicle.

K. Idling as needed for Vehicles that house K-9 or other service animals.

L. Idling by on-duty police officers as necessary for the performance of their official duties.

**11.46.050: PENALTIES:**

A. Violation: Violation of Section 11.46.030 of this Chapter is a civil offense and shall be penalized as follows:

1. First three (3) offenses: A warning, but no fine.
2. Fourth (4th) offense within twelve (12) months of the first three offenses: a civil fine of $160.

B. Reduction of Penalties: The civil penalties specified in subsection A of this section shall be subject to the following:

1. Paid Within Ten Days: Any penalty that is paid within ten (10) days from the date of receipt of notice shall be reduced by the sum of one hundred ten dollars ($110.00);
2. Paid Within Twenty Days: Any penalty that is paid within twenty (20) days from the date of receipt of notice shall be reduced by the sum of seventy dollars ($70.00);
3. Paid Within Thirty Days: Any penalty that is paid within thirty (30) days from the date of receipt of notice shall be reduced by the sum of forty dollars ($40.00);
4. Receipt of Notice: As used in this section, “receipt of notice” means the affixing of a notice to the Vehicle alleged to have been employed in a violation of this chapter, or by delivery of such notice to the owner or driver thereof.
5. Other Fees and Assessments: A forty-five dollar ($45.00) administrative fee shall be assessed for the City’s cost of collecting past due debts.

C. Strict Liability of Owner: Whenever any Vehicle shall have been employed in a violation of this chapter, the person in whose name such Vehicle is registered shall be strictly liable for such violation and the penalty therefor.

11.46.060: APPEALS:

A. Appeal Procedures: A violation of this chapter may be appealed as follows:

1. The City Manager shall appoint such hearing officers as he or she deems appropriate to consider matters relating to the unauthorized use of streets.
2. Any person having received notice of such unauthorized use, or the owner of any Vehicle employed in such use, may file a notice of appeal within 15 days of the violation with the City Recorder.
3. The City Recorder shall deliver the Notice of Appeal to the hearing officer within two days.
4. The person charged with an offense under this chapter shall present and contest such alleged unauthorized use to the hearing officer.
5. The burden to prove any defense shall be upon the person raising such defense.
6. The hearing officer may find that no unauthorized use occurred and dismiss the ticket.
7. If the hearing officer finds that an unauthorized use occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may dismiss the notice of unauthorized use and release the owner or driver from liability thereunder. Such defenses are:
   i. At the time of the receipt of the notice, possession of the subject Vehicle had been acquired in violation of the criminal laws of the state;
   ii. If the notice of unauthorized use alleges a violation of any ordinance pertaining to a parking meter, such meter was mechanically malfunctioning to the extent that its reliability is questionable;
   iii. Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property;
   iv. If the hearing officer finds that the owner of the Vehicle is deceased but was living when the ticket was issued;
   v. If the hearing officer finds that the Vehicle was sold with the original license plates on, and the ticket was received prior to the sale, provided the sale is reported to the DMV and the bill of sale is provided within twenty (20) days of receipt of the parking notice;
8. If the hearing officer finds that an unauthorized use occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may reduce
the penalty associated therewith, but in no event shall such penalty be reduced below the sum of ten dollars ($10.00). Such defenses are:

i. At the time of receipt of the notice, possession of the subject Vehicle had been acquired pursuant to the written lease agreement or similar written agreement;

ii. The subject Vehicle was mechanically incapable of being moved from such location; provided, however, such defense shall not apply to any Vehicle which remains at such location in excess of six (6) hours;

iii. Any markings, signs or other indicia of parking use regulation were not clearly visible or comprehensible;

iv. At the time of receipt of notice for expired registration, the Vehicle was registered but the sticker not displayed, or if the Vehicle is registered within five (5) days of the expiration date;

v. At the time of the notice of violation a residential parking permit was valid but not properly displayed;

vi. Such other mitigating circumstances as the hearing officer may find, with the written approval of the court’s traffic manager, which must include the basis for the decision. A report on such decisions is to be provided to the Mayor and City Council on a quarterly basis.

9. If the hearing officer finds that an unauthorized use occurred and no applicable defense exists, the hearing officer may, in the interest of justice and on behalf of the City, enter into an agreement for the timely or periodic payment of the applicable penalty.

10. If the penalty imposed pursuant to this chapter remains unsatisfied after forty (40) days from the receipt of notice, or ten (10) days from such date as may have been agreed to by the hearing officer, the City may use such lawful means as are available to collect such penalty, including costs and attorney fees.

SECTION II.

This Ordinance shall become effective upon passage, signature and notice of publication.

PASSED AND APPROVED this 7th day of February, 2013.

By: 

Dennis R. Webb, Mayor
VOTING:

Lynn H. Pace  Yea ___ Nay ____ (Absent)
J. James Palmer, Jr.  Yea X  Nay ___
Sabrina R. Petersen  Yea X  Nay ___
Patricia Pignanelli  Yea X  Nay ___
Steven H. Gunn  Yea X  Nay ___
Dennis R. Webb  Yea X  Nay ___

ATTEST:

[Seal]

Stephanie N. Carlson
Stephanie N. Carlson, MMC
City Recorder

DEPOSITED in the office of the City Recorder this 7th day of February, 2013.

RECORDED this 7th day of February, 2013.
CERTIFICATE OF PUBLICATION

I hereby certify that Ordinance 2013-03 was passed on the 7th day of February, 2013 and this Ordinance, or a summary hereof, was published in the Salt Lake Tribune according to law on the 17th day of February 2013.

[Signature]
City Recorder

CITY OF HOLLADAY
PUBLIC NOTICE OF
ORDINANCE ADOPTION

Notice is hereby given that on the 7th day of February, 2013 the Holladay City Council adopted Ordinance 2013-03.

Ordinance 2013-03 adopts an ordinance prohibiting vehicles from idling in certain circumstances, to help educate the public and to protect the public health and improve the environment.

The complete ordinance is available for public inspection during normal working hours from 8:00 a.m. to 5:00 p.m. Monday through Friday in the office of the City Recorder located at 4580 S 2300 E, Holladay, UT.

Dated this 17th day of February, 2013.

BY ORDER OF THE HOLLADAY CITY COUNCIL

Stephanie N. Carlson, MMC
Holladay City Recorder

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