

Order 64-08/09
Given first reading on 9/3/08
Public Hearing, Amended & Passage 9/15/08 8-0 (Cohen absent)

EDWARD J. SUSLOVIC (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
DANIEL S. SKOLNIK (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JAMES I. COHEN (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

AMENDMENT TO PORTLAND CITY CODE

CHAPTER 28 TRAFFIC AND MOTOR VEHICLES
ARTICLE V. POLICE TRAFFIC DIVISION
SECTION 28-195

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Chapter 28, Article V, Police Traffic Division, Section 28-195 of the Portland City Code is hereby enacted as follows:*

Sec. 28-195. Idling of private passenger motor vehicles.

(a) Application. This section applies to gasoline-powered private passenger vehicles. This section does not apply to commercial vehicles or other vehicles which are subject to the provisions of 38 M.R.S.A. § 585-K.

~~(ab) Five-minute limitation. No person may cause or allow a private passenger motor vehicle to idle for more than five consecutive minutes in any sixty-minute period. For purposes of this section, "idle" shall mean that the primary propulsion engine is running while the vehicle is stationary and not engaged in a gear to power the drive train.~~

~~(bc) Exceptions. The limitation set forth in the preceding subsection (b) shall not apply to:~~

- ~~(1) Fire trucks, police cars, ambulances and other emergency vehicles while responding to an emergency call or emergency vehicles that must maintain onboard medication at a specific temperature.~~
- ~~(2) Utility vehicles, including contractor's equipment, while engaged in the construction,~~

~~maintenance or repair of utility facilities. Vehicles not actively engaged in construction activity do not fall under this exception and must comply with the limitation.~~

(13) Motor vehicles idling while in a traffic lane, as the result of congested traffic conditions beyond the driver's control (traffic jams);

~~(4) Refrigeration units of delivery vehicles.~~

(2) Motor Vehicles idling when operating a defroster, heater, air conditioner or installing equipment solely to prevent a safety or health emergency and not as part of a rest period;

(3) Motor vehicles idling for maintenance, servicing, repair or diagnostic purposes if idling is required for such an activity;

(4) Motor vehicles idling as part of a state or federal inspection to verify that all equipment is in good working order if idling is required as part of the inspection;

(5) Motor vehicles idling due to mechanical difficulties over which the operator has no control if the vehicle owner submits the repair paperwork or product receipt by mail within 30 days to the appropriate authority verifying that the mechanical problem has been fixed. If no repair paperwork is submitted within 30 days, the vehicle owner is subject to penalties as provided in subsection (d);

(6) Motor Vehicles idling for not longer than an additional 10 minutes beyond the limit imposed in subsection (b) to operate heating equipment when the ambient air temperature is 32 degrees Fahrenheit or below; and

(7) Motor Vehicles idling as needed for the purpose of providing heat when the ambient air temperature is below 0 degrees Fahrenheit.

(ed) Prima facie evidence. The fact that a parked motor vehicle is idling in violation of this section shall

be prima facie evidence that the unlawful idling was caused or allowed by the person in whose name that vehicle is registered.

(~~e~~) Enforcement and penalties.

- (1) This section shall be enforced by the police department and the parking division, through the police officers and parking control officers.
- (2) Any person who violates this section shall be punished by a minimum penalty of fifty dollars (\$50.00).
- (3) Any person who violates this section shall have the option in lieu of going to court of paying a waiver fee of twenty-five dollars (\$25.00) within ten (10) days of the receipt of a notice of violation or court summons.
- (4) For a period of one hundred and eighty (180) days following the effective date of this section, violators shall only receive written warnings for violations; after the 180-day period, violations shall be fully enforced in accordance with this section.