

1st Reading:
2nd Reading:

SPONSOR: WISBROCK

ORDINANCE NO. ____

BILL NO. 22-10

AN ORDINANCE AMENDING ARTICLE XIV, MISCELLANEOUS OFFENSES, OF CHAPTER 205, OFFENSES, BY ENACTING A NEW SECTION 205.2110 RELATING TO REQUIRING PREPAYMENT OR PREAPPROVAL FOR FUEL PURCHASES.

WHEREAS, the St. Louis County Police Department learned that Jefferson County enacted an ordinance requiring preapproval or prepayment for certain fuel purchases; and

WHEREAS, the St. Louis County Police Department, City of Fenton Precinct, brought such to the attention of the Board of Aldermen and requested that the Board enact a similar ordinance; and

WHEREAS, at the February 6, 2020, Committee Meeting, the Board of Aldermen discussed the regulations and effect such may have on businesses, and were informed that the Fenton precinct spends a considerable amount of time and resources investigating fuel theft drive-offs, which can also endanger the public due to the reckless driving of those leaving the premise; and

WHEREAS, the City has police powers, including pursuant to Chapter 67 RSMo., to enact laws and regulations for the safety, health, and general welfare of the City and its residents; and **WHEREAS**, on March 19, 2020, the Board of Aldermen approved Ordinance 4018 – An Ordinance amending Article XIV, Miscellaneous Offences, of Chapter 205, Offenses, by enacting a new Section 205.685 related to requiring prepayment or preapproval for fuel purchases; and

WHEREAS, subsequently, it was found that Ordinance 4018 was not included in the adoption of Ordinance 4185 adopting a new Code of Ordinances and, therefore, was inadvertently repealed; and

WHEREAS, as discussed at the February 10, 2022, Committee Meeting, the Board desires to readopt regulations related to requiring prepayment or preapproval for fuel purchases to be in the new Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FENTON, MISSOURI, AS FOLLOWS:

Section 1. Article XIV, Miscellaneous Offenses, of Chapter 205, Offenses, is hereby amended by enacting a new Section 205.2110 to read as follows:

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Section 205.2110 Prepayment or Preapproval For Fuel Purchases.

A. **Purpose.** The crime of theft of motor fuel can be dramatically reduced by requiring a person to prepay or have preapproval before having access to fuel. Allowing persons to obtain fuel without prepayment or preapproval creates a situation where persons can attempt to drive-off without payment, which can endanger the public in various ways including the reckless driving of the person driving off, and requires many resources to investigate such crime which could be used for other police services. Therefore, the purpose of enacting prepayment or preapproval requirements for fuel purchases, in accordance with this Section, is to protect and enhance the public health, safety, and welfare of the residents and businesses of the City and of those persons traveling upon the highways, roads, and streets of the City.

B. **Definitions.** As used in this Section, the following terms shall have the following meanings:

PAYMENT

Tender of any legal means, including cash (accepted official government currency), credit card, debit card, check, money order, or otherwise acceptable form of payment, including established charge accounts. Tendering such legal means to be finalized at the conclusion of the transaction shall be considered payment in full.

PREAPPROVAL

Preapproval means that the business has issued an identification card to the purchaser that verifies and records the purchaser's driver's license information.

PREPAYMENT

Prepayment means Payment in advance for any quantity of gasoline or diesel fuel sold at any time.

C. **General Requirement and Prohibitions.** All business establishments with retail, self-service, fuel pumps located thereon must require Prepayment or Preapproval in advance for any quantity of fuel sold at any time, except as provided herein. It shall be unlawful for any person to:

1. Activate any gasoline and/or diesel fuel-pumping device prior to receiving Payment in full or providing Preapproval for the gasoline and/or diesel fuel dispensed.
2. Allow or permit any person to dispense gasoline and/or diesel fuel from a fuel-dispensing unit or fuel-pumping device at a retail fuel business unless the person has first made Prepayment for the amount of fuel to be dispensed or received Preapproval.

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- D. ***Scope and Exception.*** This Section shall apply to all businesses of any kind within the City that that sell gasoline and/or diesel fuel with retail, self-service fuel pumps. However, this Section shall not apply to bulk or wholesale delivery of fuel.
- E. ***Affirmative Defense.*** It shall be an affirmative defense if the person allows the dispensing of gasoline or diesel fuel for the purpose of repair and/or testing of the dispensing device used by the business.
- F. ***Penalties.*** A person commits an offense if he or she knowingly performs an act prohibited by this Section, or knowingly fails to perform an act required by this Section. Any person, employee, owner, manager/supervisor, assistant, agent, or retail fuel business establishment who violates any provision of this Section shall be subject to penalties and/or monetary fines as set forth in Section 100.060. In each instance of violation of this Section, the Prosecuting Attorney may recommend a minimum fine, in addition to any other recommendations, as set forth below:
1. For first violations or situations not addressed below, the Prosecuting Attorney shall use his or her discretion, not to exceed two hundred dollars (\$200.00) for the first violation.
 2. For a second violation committed within a twelve-month period beginning with the first violation: two hundred and seventy-five dollars (\$275.00).
 3. For a third violation committed within a twelve-month period beginning with the first violation: three hundred and fifty dollars (\$350.00).
 4. For a fourth or subsequent violation committed within a twelve-month period beginning with the first violation: four hundred dollars (\$400.00).

Section 2. The portions of this ordinance shall be severable. In the event that any portion of this ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this ordinance are valid, unless the court finds that the valid portions of this ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the Board of Aldermen would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 3. This ordinance shall be in full force and effect ninety (90) days after the date of its passage and approval.

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PASSED this 24th day of February 2022.

BOB BRASSES, MAYOR

APPROVED 24th day of February 2022.

BOB BRASSES, MAYOR

ATTEST:

Jane Hungler, City Clerk

Motion to approve. Roll Call vote:

Ayes:

Nays:

Absent:

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