

ORDINANCE NO. 18-024

AN ORDINANCE CREATING A MUNICIPAL RETAIL MOTOR FUEL TAX FOR THE CITY OF MONMOUTH

WHEREAS, the City of Monmouth is a home rule unit under subsection (a) of Section 6 of Chapter VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

WHEREAS, the continued and increasing use of public streets and parking facilities by motor vehicles has resulted in a great increase in the funds necessary for their upkeep; and

WHEREAS, the City has determined that imposing a municipal retail motor fuel tax is a reasonable manner in which to secure additional funding for the construction, improvement and maintenance of such streets and parking facilities, as it is collected from users of the streets and parking facilities, as opposed to the general public; and

WHEREAS, in furtherance of its home rule powers, it is necessary and desirable for the City of Monmouth to amend its ordinances regarding taxation by creating a municipal retail motor fuel tax, and limiting the use of the proceeds of such tax to the construction, improvement and maintenance of the public streets and parking facilities;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Monmouth, Illinois as follows:

Section 1:

Section 126.00 of Chapter 126 of the Monmouth Code of Ordinances, entitled “MUNICIPAL RETAIL MOTOR FUEL TAX”, is hereby amended to include the following subsections:

CHAPTER 126

MUNICIPAL RETAIL MOTOR FUEL TAX

§126.10 SHORT TITLE:

The tax imposed by this Chapter shall be known as the “Municipal Retail Motor Fuel Tax”.

§126.20: DEFINITIONS:

For the purpose of this Chapter, whenever any of the following words, terms or definitions is used herein, they shall have the meaning ascribed to them in this Section:

- A. “Dealer” means every Person engaged in the business of the Retail sale of Motor Fuel including any person who has an established place of business for such purposes ascribed to them in this Section.
- B. “Motor Fuel” means all volatile and flammable liquids produced, blended or compounded for the purpose of, or which as suitable or practicable for, operating internal combustion engines.
- C. “Person” means any natural person, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, co-partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal nonprofit, or otherwise; whenever the term “person” is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean that the owners or part owners thereof and, as applied to corporations, the officers thereof.
- D. “Retail” means the sale for any good and valuable consideration to a person for use as a consumer.

§126.30 TAX IMPOSED:

- A. Beginning September 1, 2018, there is hereby imposed and shall immediately accrue and be collected a tax upon the privilege of purchasing motor fuel at retail in the City of Monmouth at a rate of one cent (\$0.01) per U.S. Gallon.
- B. In the event motor fuel is dispensed by a unit of measure other than U.S. Gallon, then the tax shall be imposed at the same ratio of one cent (\$0.01) per U.S. Gallon to the unit of measure.

§126.40 LIABILITY FOR PAYMENT: The ultimate incidence of and liability for payment of said tax shall be borne by the retail purchaser. The tax herein levied shall be in addition to any and all other taxes. Nothing in this Chapter shall be construed to impose the tax upon the occupation of selling motor fuel. It shall be the duty of every Dealer to secure said tax under rules and regulations prescribed by the City Council and as otherwise provided by this Chapter.

§126.50 COLLECTION OF TAX: Every Dealer required to collect the tax levied by this Chapter shall secure said tax from the retail purchaser at the time the dealer collects payment for the motor fuel. The tax shall be paid by the retail purchaser to the person required to collect it as trustee for and on account of the City of Monmouth. The Dealer shall be entitled to withhold from tax collections a services fee equal to 1% of the amounts collected.

§126.60 FILING OF RETURN: Not later than the twentieth (20th) day of the month the Dealer shall transmit a report of sale of motor fuel in the previous month to the City of Monmouth on such forms and in such manner as prescribed by the City. Each report of sale of motor fuel shall be accompanied by a remittance of the appropriate amount of tax applicable to the sale reported and a signed copy of Illinois Department of Revenue Form ST-1 (Sales and Use Tax Return).

§126.65 RECORDS, INSPECTIONS: Every Dealer shall keep complete and accurate records, including a daily sheet showing the gross gallons of Motor Fuel sold for each day, and the amount of motor fuel tax collected on each day. For purposes of administering and enforcing this Chapter, the City Administrator, or designee shall have the right to inspect all books, records and reports of Retail sellers of Motor Fuel during normal business hours.

§126.70 RULES AND REGULATIONS: The City may promulgate rules and regulations not inconsistent with the provisions of this Chapter concerning the enforcement and application of this Chapter. The term “rules and regulations” includes, but is not limited to, a case-by-case determination whether or not the tax imposed by this Chapter applies to a Dealer or transaction.

§126.80 FAILURE TO FILE RETURN OR PAY TAX WHEN DUE: If for any reason any tax return is not filed when due, a penalty of five percent (5%) on the amount of tax which would be due shall be added and collected. If a return is not filed within ten (10) days of the required filing date, a penalty of twenty-five percent (25%) of the amount of tax due shall be imposed and paid in addition to the tax due. If for any reason any tax is not paid when due and remains unpaid more than thirty (30) days after it was otherwise due, an additional penalty at the rate of five percent (5%) per thirty (30) day period or any part thereof, beginning on the thirtieth (30th) day after the due date, on the amount of tax which remains unpaid, shall be added and collected. (i.e. in the first 30 days a thirty percent (30%) penalty is due and each successive thirty (30) day period, or any part thereof, adds an additional five percent (5%) penalty). Whenever any person shall fail to pay any tax herein provided, the City may bring or cause to be brought an action to

enforce the payment of said tax on behalf the City of Monmouth in any court of competent jurisdiction.

§126.90 RECORDS:

- A. Each dealer shall keep the books, which at a minimum, include:
 - 1) The number of gallons of motor fuel sold at retail each day by the dealer in the City of Monmouth.
 - 2) The actual motor fuel tax collected for each day by the dealer.
- B. The City Administrator or designee shall at all reasonable times have full access to such records.
- C. To the extent permitted by law, the financial records of any dealer submitted pursuant to this Chapter or any rule and regulation promulgated thereunder shall not be available for public inspection in order to protect the dealer's right to privacy.

§126.10 DISPOSITION OF RECORDS OF TAX: All proceedings resulting from imposition of the tax under this Chapter, including penalties, shall be paid to the City of Monmouth and shall be credited to and deposited in a Restricted Fund of the City allocated for street and parking facilities construction, improvements and maintenance or such other fund(s) as may be determined from time to time by the corporate authorities of the City.

§126.11 PENALTY: Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with or resisting or opposing the enforcement of any of the provisions of this Chapter, except when otherwise specifically provided, upon the conviction thereof, shall be punished by a fine of not less than Two Hundred Fifty Dollars (\$250.00) no more than Seven Hundred Fifty Dollars (\$750.00). Each day of violation shall constitute a separate and distinct offense.

Section 2:

In all other respects, Chapter 126 of the Monmouth Code of Ordinances previously enacted shall remain in full force and effect.

Section 3:

This ordinance shall be in full force and effect September 1, 2018 and after due publication in pamphlet form, passage and approval thereof as provided by law.

PASSED this _____ day of _____, A.D., 2018.

APPROVED this _____ day of _____, A.D., 2018.

MAYOR

ATTESTED:

CITY CLERK

Ayes: _____

Nays: _____

Absent or not voting: _____

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