



City of Foley, AL

407 E. Laurel Avenue
Foley, AL 36535

Signature Copy

Ordinance: 16-2022-ORD

File Number: 16-0503

Enactment Number: 16-2022-ORD

AN ORDINANCE ESTABLISHING A NEW TAX ON CERTAIN MOTOR FUEL DELIVERIES
MADE IN THE CORPORATE LIMITS AND POLICE JURISDICTION OF THE CITY OF FOLEY

WHEREAS, the City of Foley has road, bridge, and transportation infrastructure needs that are disproportionately large when compared to its population due to the heavy tourist and non-resident traffic that travels through the City; and

WHEREAS, the small proportion of taxes collected by the State on gasoline and motor fuel transactions that are distributed to municipalities are done so based only on population; and

WHEREAS, the City Council of the City of Foley has found and determined that an additional source of municipal revenue is needed to help provide for the general needs of the City, including its road, bridge, and transportation infrastructure needs; and

WHEREAS, the City Council of the City of Foley has found and determined that imposing an additional local tax on certain motor fuel transactions would help spread the burden of the new tax on all motor fuel consumers in and around Foley rather than burdening only City residents; and

WHEREAS, the City of Foley has the authority to charge an additional tax on certain motor fuel transactions pursuant to state law;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Foley at its meeting on the 6th day of September, 2016, as follows:

Section 1. That the Code of the City of Foley be amended to add a new Article to Chapter 5, which would be called Article IX - MOTOR FUEL TAX, and that in said Article IX the following provisions, which are hereby adopted and enacted, should be codified:

CHAPTER 5 - BUSINESS LICENSES, TAXES AND REGULATIONS

Article IX. - MOTOR FUEL TAX

Sec. 5-160. Definitions.

The following terms, as used in this Article, shall have the following respective meanings and definitions ascribed to them:

“Distributor” means any business, legal entity, association, trust or person who acquires motor fuel from a supplier in Alabama for subsequent sale at wholesale.

“Gallons” means the total volume of a product, exclusive of any temperature or pressure adjustments, considerations, or deductions, stated in U.S. gallons.

“Motor fuel” includes gasoline, naphtha, diesel fuel, bio-diesel, blended fuel, liquefied gas, and any other inflammable liquid or substance that is advertised as, offered for sale as, suitable for use as, or used as fuel for the propulsion of a motor vehicle on the public highways in the State. The term “motor fuel” shall not include kerosene oil, fuel oil, or crude oil which is more commonly used for heating, lighting, or industrial purposes, unless such products are blended with diesel or other products to cause them to be suitable for motor vehicle use. The term “motor fuel” shall also not include fuel specially designed for use in the operation of aircrafts and which is sold for aviation purposes.

Sec. 5-161. Motor Fuel Tax imposed.

A tax is hereby imposed on each gallon of motor fuel that is delivered into the corporate limits of the City by a distributor in an amount equal to three cents (\$0.03) per gallon.

A tax is hereby imposed on each gallon of motor fuel that is delivered into the police jurisdiction, but outside of the corporate limits, of the City by a distributor in an amount equal to one and one-half cents (\$0.015) per gallon.

Sec. 5-162. Monthly tax return.

Each distributor shall, on or before the twentieth (20th) day of each month, file with the City of Foley Revenue Department a motor fuel tax return on a form required by the City that contains the following data: (1) the total quantity, in gallons, of all motor fuel delivered by such distributor into the corporate limits of the City during the preceding month, and from this amount, the total quantity of taxable and exempt deliveries; and (2) the total quantity, in gallons, of all motor fuel delivered by such distributor outside of the corporate limits but within the police jurisdiction of the City during the preceding month, and from this amount, the total quantity of taxable and exempt deliveries. For any deliveries which the distributor alleges to be exempt, the distributor shall attach such statements, documents, and evidence to their filing and return to justify and explain their claim of an exemption.

Sec. 5-163. All distributors must have a business license.

All distributors must hold a valid City business license. It shall be unlawful for any distributor to make any sales or deliveries of motor fuel in the corporate limits or police jurisdiction of the City without first having obtained a business license from the City, including any distributors who do not have a place of business within the corporate limits or police jurisdiction of the City.

Sec. 5-164. Tax cumulative.

This motor fuel tax established and levied under this Article is in addition to and cumulative of all business privilege licenses, franchise fees, sales taxes,

use taxes and other sums of money of any nature otherwise due to be paid to the City.

Sec. 5-165. Payment due date

The motor fuel tax established and levied under this Article is due and payable to the City Revenue Department no later than the twentieth (20th) day of each calendar month for all taxable motor fuel deliveries made during the preceding month. Payment shall accompany the distributor's monthly tax return. In addition to any other amounts then due, a distributor who fails to timely pay some or all of the motor fuel tax owed under this Article shall also pay the City a default penalty equal to twenty percent (20%) of the amount of the delinquent tax owed.

Sec. 5-166. Penalties for violations.

Any distributor failing or omitting to pay all such motor fuel taxes when due, or failing or omitting to timely file an accurate and complete monthly tax return, as required by this Article shall be guilty of an offense against the City, and such offense shall be deemed a continuing offense for each day that the distributor remains in default which shall constitute a separate offense. Punishment for each such offense shall be a maximum fine of \$500 per offense, and shall constitute good cause for the City Council to suspend or revoke a distributor's business license.

Sec. 5-167. Duty to furnish information.

Upon demand by the City Clerk or a City of Foley Revenue Department representative, or their authorized representatives, all such information as may be required to prove the correct amount of tax to which any person is subject shall be furnished to the City, and it shall be the duty of such person, upon such demand, to submit to the City for inspection and examination, all books of account, invoices, papers, reports and memoranda containing entries showing the amount of purchases, sales, receipts, deliveries, transfers, exchanges, inventory and other information from which the correct amount of tax may be determined.

Sec. 5-168. Pumps must be metered.

It shall be the duty of every distributor to have a meter in good working order on each tank and on each pump which is used to make or accept deliveries of motor fuel and/or which is used to dispense motor fuel. It shall further be the duty of every distributor to keep and maintain accurate records of the readings of the meters and of their transactions so as to enable the distributor and the City to audit and verify that the distributor's statement of activity and tax return and to verify that the distributor's tax remittance under this Article is in the correct amount.

Sec. 5-169. Exemption for subsequent deliveries of motor fuel already taxed.

The motor fuel tax established by this Article is owed in connection with the first time a motor fuel gallon enters the police jurisdiction or corporate

limits of the City, and if the motor fuel tax has already been received by the City, any subsequent re-deliveries of that same motor fuel gallon will be exempt from further taxation under this Article unless such subsequent re-delivery causes the motor fuel to be moved from the police jurisdiction to the corporate limits for the first time in which event the distributor responsible for the subsequent re-delivery into the corporate limits shall be liable for the additional tax owed hereunder.

Sec. 5-170. Other Exemptions.

Any distributor who is delivering motor fuel to the United States, the State of Alabama, Baldwin County, the City of Foley, or any of their departments or agencies shall be exempt from paying the motor fuel tax under this Article on such deliveries.

Sec. 5-171. - Proceeds of tax deposited in general fund.

The proceeds derived from the motor fuel tax levied in this Article shall be placed in the general fund of the City subject to appropriation by the City Council for any lawful purpose of the City.

Section 2. That the provisions of this Ordinance are severable, and if any provision is found or declared to be unconstitutional, such portion shall be deemed severed and the remainder of this Ordinance shall remain in full force and effect.

Section 3. That this Ordinance shall become effective, following its publication as required by law, on December 1, 2016.

PASSED, APPROVED AND ADOPTED this 19th day of September, 2016.

President's Signature _____

Date _____

Attest by City Clerk _____

Date _____

Mayor's Signature _____

Date _____