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Sponsors: Janet Venecz – Councilwoman at Large
Dan Spitale – Councilman at Large

ORDINANCE NO. 9605

AN ORDINANCE REGULATING THE HOURS OF OPERATION OF AUTOMOBILE FUELING STATIONS WITHIN THE CITY OF HAMMOND

(as amended)

WHEREAS, Indiana Code 36-8-2 grants the City of Hammond general powers concerning public safety, health and general welfare; and

WHEREAS, Indiana Code 36-8-2-4 and 36-8-2-10 authorizes the City of Hammond to regulate the use of property that might endanger public health, safety, or welfare, and specifically allows for the regulation of business operations within city limits; and

WHEREAS, the City of Hammond finds it necessary to regulate automobile fueling station hours of operation due to the ongoing desire to control crime, deter the continued impact of cross-border crime from Illinois and to prevent violent acts and criminal offenses occurring at automobile fueling stations during the hours of 12:00 a.m. and 5:00 a.m.; and

WHEREAS, recently a homicide took place at an automobile fueling station, and since the introduction of this ordinance a shooting occurred at another fueling station, as just the latest violent act taking place at an automobile fueling station and that such violent acts place public health and safety at risk; and

WHEREAS, the Common Council has held two public hearings on this ordinance to allow members of the public including fueling station owners, employees at fueling stations, residents, police officers, and others voice their opinions regarding the closure of fueling stations between the hours of 12:00 a.m. and 5:00 a.m.; and

WHEREAS, the Hammond Police Department through its Chief William Short and Lieutenant Karl Eidam spoke at the public hearings and indicated the challenges that the Hammond Police Department has in patrolling fueling stations overnight, the fact that statistical data will not show the amount of crime that occurs at fueling stations at night because criminals utilize fueling stations as a

meeting place, but will disperse upon police arrival time and time again, and that furthermore the police department from a crime control standpoint fully supports the closures contemplated in this ordinance; and

WHEREAS, not a controlling factor, but as an additional piece of information, the police department further indicated that when responding to any call at a fueling station, from the very mundane to the very violent, that it will respond with multiple patrol vehicles and officers, leaving parts of the city that those vehicles and officers would usually be patrolling left unguarded due to the needed presence at fueling stations; and

WHEREAS, the administration, to fulfill requests made by council members provided data on both violent and non-violent crime at fueling stations showing the hundreds of police calls over a period of 2019-2023 that further supports the need to control crime at fueling stations to assist in preventing and lowering crime throughout the city; and

WHEREAS, the City of Hammond finds the regulation of hours of automobile fueling stations falls within the City's police powers and specifically its desire to control crime and that the hours restricted are reasonably related to crime control and the prevention and reduction of crime and the maintenance of public safety, health, and general welfare; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Hammond, in the exercise of their powers, as follows:

Automobile Fueling Stations: Hours of Operation

- A. It shall be unlawful for automobile fueling stations to open earlier than five o'clock (5:00) A.M., unless otherwise determined by the Board of Public Works and Safety as set forth in paragraph F.
- B. Automobile fueling stations shall close no later than twelve o'clock (12:00) A.M., unless otherwise determined by the Board of Public Works and Safety as set forth in paragraph F.
- C. No automobile fueling station shall permit any person other than an operator and its

employees to remain in or on an automobile fueling station premises longer than thirty (30) minutes after the closing hour or thirty (30) minutes prior to the opening hour.

- D. For purposes of this section, automobile fueling station is as defined in Section 1.50 of the City of Hammond Zoning Ordinance, as a building or other permanent structure or a tract of land used exclusively for the storage, dispensing, and sale of gasoline or other motor fuels and for any uses accessory thereto.
- E. An automobile fueling station granted a variance of use by the Common Council, upon recommendation by the Board of Zoning Appeals, must adhere to the hours of operation conditioned in the variance of use or as set forth in any other agreement with the City.
- F. An automobile fueling station may petition the Board of Public Works and Safety requesting an exception to the hours of operation set forth in this section. Upon request, the Board of Public Works and Safety shall hold a hearing at which time the automobile fueling station may present evidence to the Board in the form of testimony and exhibits. The fueling station shall be responsible for notifying any property owner within 300 feet of the fueling station of the hearing and of the opportunity for the property owner to be heard in favor or against the request of the fueling station. The Board of Public Works and Safety shall notify the automobile fueling station in writing of its ruling by regular, electronic, and certified mail within ten (10) days of the hearing. The determination of the Board of Public Works and Safety under this section is final. If an exception is granted, it shall be valid for one (1) year from the date of the determination. A fueling station must re-apply to the Board of Public Works and Safety annually before the expiration date for a renewal of the exception. The factors that the Board of Public Works and Safety will consider shall include but not be limited to the following:

1. Incidence of criminal acts and police calls over the last five years with emphasis on the last twenty-four months;

2. Whether the fueling station is part of the FUSUS program allowing cameras to be monitored by the Hammond Police Department;
 3. Whether or not there is an adequate security presence overnight at the fueling station;
 4. Whether or not the fueling station is in a residential area versus a commercial or industrial area;
 5. Whether or not the fueling station would be considered to be easily accessible by interstate travelers;
 6. Whether or not the fueling station has had other city ordinance violations and whether or not it currently is in violation of any city ordinance placing emphasis on those that could impact safety;
 7. Whether or not the fueling station has adequate lighting for night-time operations;
 8. Whether or not the fueling station is properly licensed with the city and whether or not it has now or in the past had their business license suspended, revoked, or has operated with an expired business license;
 9. Any other relevant factor;
- G. Penalty, see § 10.99. Any automobile fueling station in operation during the restricted times, as set forth in paragraphs A and B, is subject to citation. Each day constitutes a separate offense.
- H. If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.
- I. This ordinance shall take effect on November 1, 2023.

THEREFORE, BE IT ORDAINED by the Common Council, that this Ordinance shall be

in full force and effect upon signing by the President of the Common Council and approval by the Mayor, and Publication as provided by law.

[SIGNATURE PAGE TO FOLLOW]

ADOPTED AND APPROVED BY the Common Council of the City of Hammond, Indiana, this 14th day of August, 2023.



Scott Rakos, President
Hammond Common Council

ATTEST:



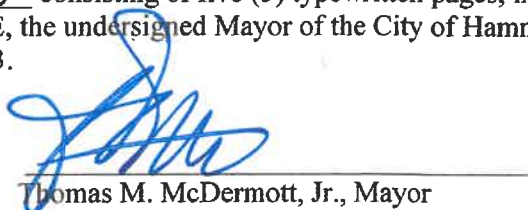
Robert J. Golec, City Clerk
City of Hammond, Indiana

PRESENTED BY ME, the undersigned City Clerk of the City of Hammond, Indiana, to the Mayor, for approval and signature, this 14th day of August, 2023.



Robert J. Golec, City Clerk
City of Hammond, Indiana

The foregoing Ordinance No. 91605 consisting of five (5) typewritten pages, including this page, was APPROVED AND SIGNED BY ME, the undersigned Mayor of the City of Hammond, Indiana, this 16th day of August, 2023.



Thomas M. McDermott, Jr., Mayor
City of Hammond, Indiana

Approved PASSED by the Common Council on the 14th day of August, 2023 and by the Mayor on the 16th day of August, 2023.



Robert J. Golec, City Clerk,
Hammond, Indiana