APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
FEB 07 2012 LF/cms

EFFECTIVE DATE
FEB 16 2012

ORDINANCE NO. 2012-04

AN ORDINANCE RELATED TO GASOLINE STATION PRICE SIGN REQUIREMENTS IN ORANGE COUNTY, FLORIDA; AMENDING SECTION 31.5-5, ORANGE COUNTY CODE, DEFINITIONS, TO INCLUDE DEFINITIONS FOR THE TERMS "GASOLINE" AND "GASOLINE STATION OR GAS STATION"; CREATING DIVISION 4, ARTICLE II, CHAPTER 31.5, ORANGE COUNTY CODE, REQUIRING GASOLINE STATIONS TO POST GASOLINE PRICES; PROVIDING FOR MINIMUM SIGN STANDARDS AND APPLICABILITY; PROVIDING A COMPLIANCE SCHEDULE; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, as provided in section 1(g) Article VIII of the Constitution of the State of Florida, and section 125.01(1), Florida Statutes, Orange County, Florida, a Charter County, enjoys all governmental, corporate, and proprietary powers necessary to conduct County government, perform County functions, and render County services, and may exercise any power for County purposes, not inconsistent with law; and

WHEREAS, Orange County is recognized throughout the United States and the world as a leading leisure and business travel destination; and

WHEREAS, as of the 2010 census, Orange County is home to approximately 1,145,956 citizens; and

WHEREAS, in 2010, Orange County hosted more than 51.5 million visitors with approximately 70% of domestic travelers arriving to the area by automobile, making the area one of the most visited in the nation; and

WHEREAS, in 2010, more than 34 million passengers passed through Orlando International Airport, including more than 3 million international passengers; and

WHEREAS, Orange County is one of the largest rental car markets in the world; and

WHEREAS, in 2010, visitors to Orange County and the Orlando area spent more than $28 billion in the local economy; and

WHEREAS, directly employing around 20% of the local workforce, the leisure and hospitality industry is the leading employer in the region and is the single largest industry sector in the area economy; and

WHEREAS, the health of the local economy depends heavily on the leisure and hospitality industry and in turn the health of this industry depends in part on the reputation of Orange County and Orlando as a fair and consumer-friendly place to visit and do business; and

WHEREAS, unscrupulous and deceptive business practices negatively impact the citizens of Orange County and visitors; and

WHEREAS, testimony has been provided by Visit Orlando, citizens of Orange County, and others, indicating that unscrupulous proprietors of some gasoline stations in Orange County do not display their gasoline prices so that passing motorists, whether tourist or citizen, are aware of the prices before stopping; and

WHEREAS, the Orange County Board of County Commissioners ("Board") hereby finds that there are or have been retail gasoline stations in Orange County that sell gasoline and do not display their prices so that passersby are aware of the gasoline prices before stopping; and

WHEREAS, the Board hereby finds that this ordinance advances an important government purpose, i.e., helping protect both citizens and visitors from an unfair and deceptive trade practice by providing notice to passing motorists of prices; and

WHEREAS, the Board hereby finds that this ordinance is in the best interest of the public health, safety, and welfare of citizens and visitors to Orange County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. ***Recitals.*** The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Amendments to Section 31.5-5. Section 31.5-5, Orange County Code, is hereby amended to add the following new definitions:

Sec. 31-5-5. Definitions.

* * *

<u>"Gasoline" means a flammable and combustible liquid commonly used as a motor fuel.</u>

<u>"Gasoline station" or "gas station" means a place of business offering gasoline for retail sale.</u>

In all other respects, section 31.5-5 shall remain unchanged.

Section 3. Creation of Division 4, Article II, Chapter 31.5. Division 4, Article II, Chapter 31.5, Orange County Code, is hereby created to read as follows:

Division 4. Gasoline Station Signage

Sec. 31.5-98. Gasoline Station Sign Requirements.

a. *Purpose.* The purpose of this division is to protect consumers from an unfair and deceptive trade practice of unscrupulous operators of gas stations. It is standard practice of some in the retail gasoline industry for gasoline stations to post their fuel prices on signs visible from the street. Consumers rely on these signs to compare prices between competing gasoline retailers. Failure to abide by this customary practice is especially unfair where gasoline retailers, by virtue of their location, serve a largely tourist clientele that may be unfamiliar with local market conditions and trade practices.

b. *Gasoline price signs required.* It is unlawful and a violation of this division for any person, firm, or corporation to sell gasoline at retail, or to allow gasoline to be sold at retail, unless the premises on which the gasoline is sold contains a sign or signs conforming to the requirements of this division. For Gas stations under construction pursuant to a valid building permit issued by the County building official before the date of adoption of this ordinance (February 7, 2012) and all other gas stations subsequently constructed sign or signs shall display the current and accurate unit sales price for at least two non-diesel grades of unleaded gasoline, with one of the prices being for the lowest octane rated unleaded gasoline offered for sale on the premises. Prices shall be displayed in terms of dollars and parts thereof per gallon of gasoline.

c. *Sign standards.* Signs required by subsection b. of this section, shall conform to the following minimum standards:

1. *Location of signs.* Signs shall conform to all setback requirements of the County's land development code,

and other applicable laws, and shall be designed and located on the premises of the gas station so that passing motorists are effectively apprised of the current and correct price of the gasoline sold on the premises.

2. *Sign size.* Signs shall conform to maximum sign area and dimension requirements of the County's land development code, except as provided in paragraph 5. of this part, and other applicable laws. Each of the numerals constituting the dollars and cents price per gallon of fuel shall be at least 14 inches tall and 8 and one-half inches wide. This part does not apply to the size of numerals constituting fractions of a penny.

3. *Visibility.* Such a sign shall be placed at no less than a 45 degree angle to the primary roadway frontage, unless the sign is located at intersecting streets on a corner lot the sign shall be kept free from vegetation and other obstructions that effectively block the view of the sign from the adjacent street or roadway. In all cases the view of the sign from the adjacent street or roadway shall be unobstructed. The numerals constituting the price of gasoline shall sharply contrast with the background color of the sign so that a passing motorist of average visual acuity is effectively apprised of the price of the gasoline sold on the premises. If the gasoline price sign is contained within a sign face with other advertising material, the gasoline pricing shall be separate and distinct from the other material so that the gasoline price is not camouflaged or effectively hidden from passing motorists.

4. *Illumination.* Such a sign shall be illuminated in a manner that makes the sign visible at night to a person of average visual acuity.

5. *Sign area variance.* Unless a sign is deemed conforming per subsection d., below, a gas station that as of the date of adoption of this ordinance (February 7, 2012) exceeds its maximum allowable sign area, or would exceed its maximum allowable sign area if in compliance with this division, may exceed such restrictions to the minimum extent necessary to comply with the minimum requirements of this division. A sign

installed pursuant to this section is hereby deemed to be a legally existing nonconforming structure; however, such sign shall be brought into compliance with subsection 31.5-98(b) of this division when a structural improvement to the station's total sign package is undertaken that results in the replacement of the sign or signs.

d. *Applicability; compliance schedule.* As of the date of adoption of this ordinance (February 7, 2012), all gas stations open for business that display an unobstructed and clearly visible sign or signs displaying the current and accurate unit price for any unleaded gasoline offered for sale on the premises are deemed conforming for purposes of this ordinance as long as said sign or signs is displayed. As of the date of adoption of this ordinance (February 7, 2012), all gas stations open for business that do not display the current and accurate unit price for any unleaded gasoline offered for sale on the premises shall at a minimum display the current and accurate unit price for the lowest octane rated unleaded gasoline offered for sale on the premises and shall comply with the requirements of this Division 4, Article II, Chapter 31.5, Orange County Code, by April 23, 2012. Gas stations under construction pursuant to a valid building permit issued by the County building official before the date of adoption of this ordinance (February 7, 2012) and all other gas stations subsequently constructed shall conform to the requirements of this division prior to the issuance of a certificate of occupancy for the gas station by the County building official.

e. *Scope.* The requirements of this division apply only to gas stations located within the unincorporated area of the County.

Sec. 31.5-99. Enforcement and Penalty.

Code enforcement officers are hereby authorized to issue a notice of violation of this division when, based upon personal investigation, the code enforcement officer has reasonable cause to believe a violation has occurred. Violations of this division are punishable as provided at Article 2, Chapter 11, Orange County Code, or as provided in chapter 501, Florida Statutes, relating to consumer protection.

Section 4. ***Effective Date.*** This ordinance shall become effective pursuant to general law.

APPROVED AND ADOPTED by the Board of County Commissioners of Orange County, Florida, on this 7th day of February, 2012.

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: _____
Teresa Jacobs
Orange County Mayor

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

Date: FEB 13 2012

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