



17th Regular Session

ORDINANCE NO. SP- **1482** S-2005

AN ORDINANCE PROHIBITING THE UNDERDELIVERY AND/OR SHORTSELLING OF GAS AND ILLEGAL TRADING BY GASOLINE RETAIL OUTLETS AND IMPOSING A FINE OF FOUR THOUSAND PESOS (P4,000.00) AND/OR ONE (1) MONTH IMPRISONMENT FOR THE FIRST OFFENSE, FIVE THOUSAND PESOS (P5,000.00) AND/OR TWO (2) MONTHS IMPRISONMENT FOR THE SECOND OFFENSE, AND THE REVOCATION OF BUSINESS LICENSE AND/OR THREE (3) MONTHS IMPRISONMENT FOR THE THIRD AND SUBSEQUENT OFFENSES.

Introduced by Councilors JOSEPH P. JUICO, FRANZ S. PUMAREN, ANTONIO E. INTON, JR., ERIC Z. MEDINA, WINSTON "Winnie" T. CASTELO, ELIZABETH A. DELARMENTE, JORGE B. BANAL, JR., RESTITUTO B. MALAÑGEN and FRANCISCO A. CALALAY, JR.

WHEREAS, the Quezon City Treasurer's Office recently reported that a number of gasoline retail outlets in Quezon City were engaged in underdelivery and/or short-selling of gas and illegal trading, to the detriment of the motorists and the gasoline-buying public;

WHEREAS, the underdelivery and/or short-selling of gas and illegal trading are reprehensible and unlawful activities which exacerbate our current energy crisis and seriously undermine the government's efforts in addressing our economic problems;

WHEREAS, during these times of economic hardship, further aggravated by the rising costs of petroleum, it is imperative that the motorists and the gasoline-buying public obtain the proper quantity of gas they purchase from the retail outlets;

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WHEREAS, the various dealers/owners/operators of gasoline retail outlets in Quezon City, as well as representatives of established oil companies, agreed in principle to sign and abide by the terms of a Memorandum of Agreement (MOA) to be formalized later, which MOA shall provide for the inspection, calibration, and sealing by the Office of the City Treasurer;

WHEREAS, under Section 458 (a)(2)(xv) the Sangguniang Panlungsod is empowered to "regulate the inspection, weighing and measuring of articles of commerce" such as gasoline;

WHEREAS, under Section 458 (a)(1)(iii) of Republic Act No. 7160 (R.A No. 7160) otherwise known as "Local Government Code of 1991," the Sangguniang Panlungsod is empowered to "approve ordinances imposing a fine not exceeding Five Thousand Pesos (P5,000.00) or an imprisonment for a period not exceeding one (1) year, or both in the discretion of the court, for the violation of a city ordinance;"

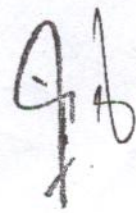
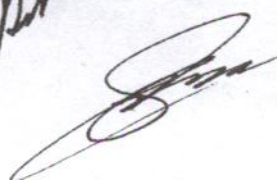
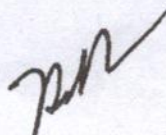
WHEREAS, under Section 455 (b)(3)(iv) of R. A. No. 7160, the City Mayor has the power to "issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance."

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF QUEZON CITY IN SESSION ASSEMBLED:

SECTION 1. COVERAGE AND DEFINITION OF TERMS - This Ordinance shall apply to all persons, natural or juridical, engaged in the business of retailing gasoline.

For the purpose of this Ordinance, (1) a "Retail Outlet" shall refer to a gasoline station, outlet, facility, or business establishment, which sells or dispenses gas directly to individual end user/s or to the public.



"Calibration" shall herein refer to the act, method, or process of (1) testing the accuracy of a dispensing pump meter in delivering gasoline; or (2) measuring that the actual quantity of gas being dispensed is within the tolerable minimum quantity as determined under Department of Energy (DoE) Rules and Circulars.

The Office of the City Treasurer and/or its representatives from the Weights and Measures Section, is the authorized calibrating entity or the proper authority referred to in this Ordinance.

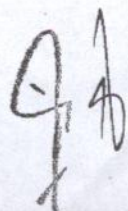
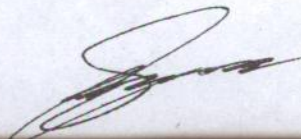
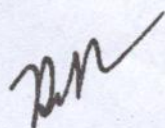
SECTION 2. PROHIBITED ACTS - It shall be unlawful for a Retail Outlet to engage in the underdelivery and/or short-selling of gas, and illegal trading within the territorial jurisdiction of Quezon City.

SECTION 3. UNDERDELIVERY AND/OR SHORT-SELLING.
- Underdelivery and/or short-selling of gas is deemed committed when a Retail Outlet is found to have delivered or dispensed less than the tolerable minimum quantity of minus fifty (50) milliliters for every ten (10) liters of gas as measured by a calibrating bucket certified and sealed by the DOST-ITDI.

SECTION 4. ILLEGAL TRADING - Illegal trading is deemed committed when a Retail Outlet has failed to have its dispensing pumps calibrated and sealed by the proper authority.

SECTION 5. PRESUMPTIONS - It shall be presumed that a Retail Outlet committed underdelivery and/or short-selling when it is found using a dispensing pump that is not approved by the DoE or has tampered, destroyed or altered the government seal affixed or attached by the proper authority.

Underdelivery and/or short-selling of gas shall also be presumed when the seal affixed by the duly authorized representatives or service contractors of the oil company in cases contemplated under Section 7 of this ordinance, has been tampered, destroyed, or altered.



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The absence of an "out-of-order" sign or padlock locking the dispensing pump that has gone off-calibration shall be deemed an actual use of the pump for the conduct of retailing, and shall give rise to the presumption of underdelivery and/or short-selling.

A dispensing pump found with a broken or no seal shall continue prima facie evidence of underdelivery and/or short-selling.

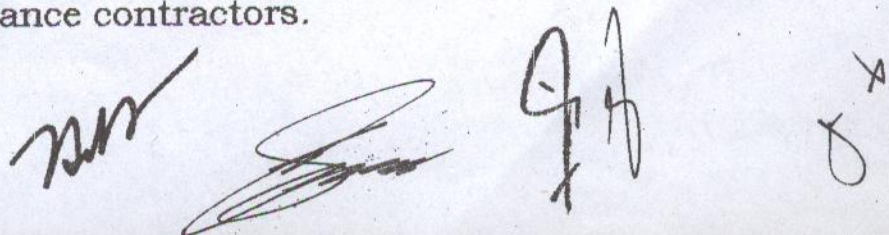
SECTION 6. CALIBRATION AND SEALING BY THE PROPER AUTHORITY - All Retail Outlets shall be responsible for the proper calibration and accuracy of their dispensing pumps. All dispensing pumps must be properly calibrated quarterly or every three (3) months, and sealed by the proper authority.

A dispensing pump that is not calibrated and sealed, goes off-calibration, or not delivering the correct quantity shall be clearly marked by the Retail Outlet with an "out-of-order" sign and padlocked, and shall not be used until the said pump is recalibrated and resealed by the proper authority.

SECTION 7. SERVICE/MAINTENANCE CONTRACTORS; EXCEPTION TO THE RULE - In the event that the proper authority is unable to recalibrate and reseal a dispensing pump within two (2) business days from date and time of reporting by the Retail Outlet, the duly authorized representatives or service contractors of the oil company may calibrate the dispensing pump provisionally, subject to the final calibration by the Office of the City Treasurer and/or its representatives from the Weights and Measurement Section.

The authority performing the calibration provisionally shall install a seal to guard against the unauthorized adjustment of the dispensing pump, which seal should not be broken or removed until the final calibration of the proper authority.

For this purpose, Retail Outlets and oil companies shall be required to submit a list of its duly accredited service/maintenance contractors.



SECTION 8. FINES AND SANCTION - Any person, natural or juridical, found violating, and/or abetting or aiding in the violation of any provision of this Ordinance shall be penalized by a fine of Four Thousand Pesos (P4,000.00) and/or imprisonment of one (1) month for the first offense, Five Thousand Pesos (P5,000.00) and/or imprisonment of two (2) months for the second offense, and the revocation of its business license, and/or imprisonment of three (3) months for the third and subsequent offense, at the discretion of the Court. In case of a corporation, the penalty of imprisonment shall be suffered by the Chairman of the Board and/or its President.

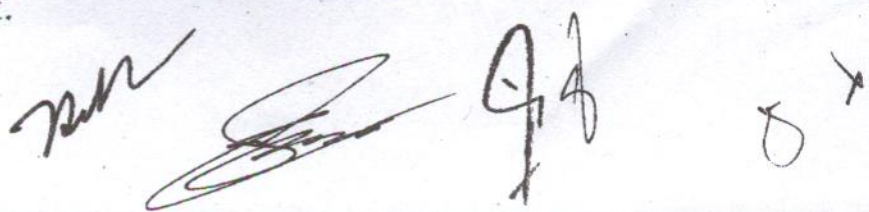
The City Mayor, may upon the recommendation of the Office of the City Treasurer, Business Permits and Licensing Office, and/or DoE, order the suspension, revocation or termination of the business permits, and closure of the Retail Outlets.

SECTION 9. INITIATION OF CRIMINAL ACTION - Any person may initiate a criminal action against those committing any of the prohibited acts defined or provided in this Ordinance. However, the Quezon City government, thru the Office of the City Treasurer may *motu proprio* file a case in violation of this Ordinance.

SECTION 10. INITIATION OF ADMINISTRATIVE PROCEEDINGS - The initiation of criminal action under this Ordinance shall be without prejudice to the filing of an administrative action against such person pursuant to DoE Department Circular No. DC 2003-11-010, entitled "Providing the Rules and Regulations Governing the Business of Retailing Liquid Petroleum Products."

SECTION 11. APPLICABILITY CLAUSE - DoE issuances and circulars, as well as other existing laws, insofar as they are not inconsistent with the provisions of this Ordinance, shall be applied suppletorily.


SECTION 12. SEPARABILITY CLAUSE - If any provision of this Ordinance is declared unconstitutional or invalid, the provisions that are not affected thereby shall continue to be in full force and effect.

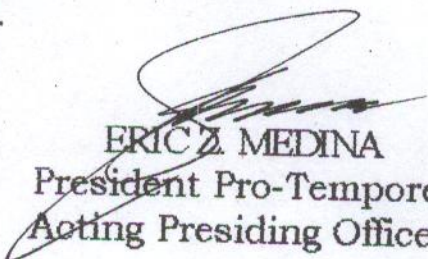
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SECTION 13. EFFECTIVITY CLAUSE - This Ordinance shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation in Quezon City.

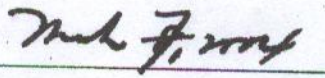
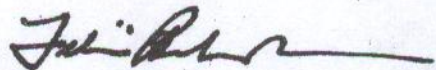
ENACTED: January 25, 2005.

ATTESTED:


EUGENIO V. JURILLA
City Council Secretary

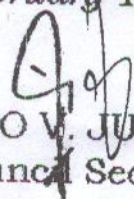

ERIC Z. MEDINA
President Pro-Tempore
Acting Presiding Officer

APPROVED:



FELICIANO R. BELMONTE, JR.
City Mayor

CERTIFICATION

This is to certify that this Ordinance which was APPROVED on Second Reading on January 25, 2005, was finally PASSED on Third/Final Reading by the City Council on February 1, 2005.


EUGENIO V. JURILLA
City Council Secretary

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