

**AN ORDINANCE CREATING SECTION 9.46 OF THE BROWNSVILLE  
MUNICIPAL CODE - OWNER LIABILITY FOR VIOLATIONS OF THEFT OF  
MOTOR FUEL**

Village of Brownsville 2016  
Ordinance Number 2016-03

WHEREAS, intentionally absconding without paying for fuel sold at retail or offered for sale at retail (hereafter “theft of motor fuel”) is a violation Brownsville Municipal Code section 9.015(1) - 9.943.21, which section adopts Wis. Stats sec. 943.21 (1m) (d).

WHEREAS, the Village Board finds that for the good of public peace and order there is a need to impose owner liability on theft of motor fuel.

NOW, THEREFORE, the Village Board of the Village of Brownsville do ordain as follows:

1. Section 9.46 of the Brownsville Municipal Code is created to read as follows:

**9.46 VEHICLE OWNER LIABILITY FOR THEFT OF MOTOR FUEL**

- (1) The owner of a vehicle involved in a violation of Brownsville Municipal Code section 9.015(1) - 9.943.21 of this chapter (theft of motor fuel) shall be liable for such violation as provided in this section.
- (2) The complainant shall provide a report containing the following information to the police department within three days of the alleged violation:
  - (a) The time and location of the violation.
  - (b) The license number and description of the vehicle involved in the violation.
  - (c) The description of the operator if known.
  - (d) Video recordings or photo if available.
- (3) It shall be no defense to a violation of this section that the owner was not operating or in control of the vehicle at the time of the violation.
- (4) The following are defenses to a violation of this section:
  - (a) The vehicle owner has made documented report to a law enforcement agency that the vehicle was stolen before the violation occurred. In such case, the owner has not violated this section.
  - (b) The vehicle owner provides the police department with the name and address of the person operating the vehicle at the time of the violation and the person so named admits to operating the vehicle at the time of the violation. In such case, the person operating the vehicle and not the owner shall be charged under this section.

(c) The vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessor provides the police department with the information required under § 343.46(3), Wis. Stats. In such case, the lessee and not the lessor shall be charged under this section.

(d) The vehicle is owned by a dealer, as defined in § 340.01(11), Wis. Stats., but including the persons specified in § 340.01(11)(a) to (d), Wis. Stats., and at the time of the violation the vehicle was being operated by any person on a trial run, and the dealer provides a traffic officer with the name, address and operator's license number of the person operating the vehicle. In such case, the person operating the vehicle, and not the dealer, shall be charged under this section.

**(5) PENALTY PROVISIONS**

Any person violating this Section 9.46 shall be subject to a forfeiture of not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00) for the first violation and not less than one hundred dollars (\$100.00) and not more than four hundred dollars (\$400.00) for subsequent violations.

2. This ordinance shall become effective upon passage and publication as required by law.

Introduced by: President Bloohm/Marshal Seymour

Passed and approved November 9, 2016 by the Village Board of the Village of Brownsville in the County of Dodge, State of Wisconsin.

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Jeffrey Bloohm, Village President

ATTEST:

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Marilyn Hailey, Village Clerk