

ORDINANCE NO. 2019-01

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 42, MISCELLANEOUS OFFENSES, CREATING SECTION 42-5, SECURITY MEASURE REQUIREMENTS FOR OWNERS AND OPERATORS OF RETAIL GAS PUMPS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Section 166.021, Florida Statutes, municipalities may exercise their powers for municipal purposes and to preserve the health, safety, and general welfare of its residents, except when expressly prohibited by law; and

WHEREAS, the use of credit card skimmers at gas stations throughout Southwest Florida and the City of Venice is a growing concern; and

WHEREAS, credit card skimmers are devices that thieves install on gas station pumps, which accept payment via a credit or debit card, to illegally capture and steal the customer's credit or debit card information; and

WHEREAS, city council finds that the security measures required by this ordinance will help protect consumers from credit card skimmers and identity theft at gas station pumps; and

WHEREAS, city council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA:

SECTION 1. The Whereas clause above is ratified and confirmed as true and correct.

SECTION 2. Chapter 42, Miscellaneous Offenses, is hereby amended to create Section 42-5, Security measure requirements for owners and operators of retail gas pumps, as follows:

Sec. 42-5. Security measure requirements for owners and operators of retail gas pumps.

(a) Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Gas Pump means a machine or device used to dispense petroleum fuel for sale to the public at retail.

The City of Venice Code of Ordinances is amended as follows with ~~strike through text~~ identifying deletions and underlined text indicating additional language.

Payment Card shall have the same meaning as defined in §817.625, Florida Statutes, as may hereafter be amended.

Scanning Device shall have the same meaning as defined in §817.625, Florida Statutes, as may hereafter be amended.

(b) Every owner or operator of a gas pump within the municipal limits of the City of Venice shall have affixed to or installed onto the exterior of any gas pump, which contains a scanning device, a visible gas pump panel locking device that requires an access key unique to each gas station location to prevent the unauthorized access of customer payment card information. The access key shall be maintained at the gas station at all times. As an alternative to the foregoing security measure, an owner or operator of a gas pump in the City may affix or install onto any gas pump that contains a scanning device one or more of the following security measures in accordance with §525.07(10)(a), Florida Statutes:

- (1) A device or system that will render the gas pump, or the scanning device in the gas pump, inoperable if there is an unauthorized opening of the gas pump panel;
or
- (2) A device or system that encrypts the customer payment card information in the scanning device; or
- (3) Another security measure approved by the Florida Department of Agriculture and Consumer Services.

Owners and operators of gas pumps that choose to install an alternative security measure pursuant to this section shall demonstrate compliance with this section to a City official upon request. Gas pumps that have been found in compliance with this section may be appropriately marked by the City for identification purposes.

(c) A security measure affixed to or installed onto a gas pump pursuant to Subsection (b) shall be maintained by the owner or operator in good working condition at all times.

(d) Failure to comply with this section shall constitute a violation, and shall subject the owner or operator to the code enforcement provisions and procedures provided in Section 1-14 of this Code. Violations of this section shall be punishable by a fine in an amount not exceeding \$500.00 per gas pump. Each day that a violation exists shall constitute a separate and distinct violation.

SECTION 3. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 4. If any part, section, subsection or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, such part, section, subsection or other portion, or the prescribed application thereof,

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shall be severable and the remaining provisions of this ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The city council specifically declares that no invalid or prescribed provision or application was an inducement to the enactment of this ordinance and that it would have enacted this ordinance regardless of the invalid or prescribed provision or application.

SECTION 5. This ordinance shall take effect immediately upon approval and adoption as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 8TH DAY OF JANUARY, 2019.

First Reading: December 11, 2018

Final Reading: January 8, 2019

Adoption: January 8, 2019

John W. Holic, Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

I, LORI STELZER, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council at a meeting thereof duly convened and held on the 8th day of January 2019 a quorum being present.

WITNESS my hand and the official seal of said City this 8th day of January 2019.

Lori Stelzer, MMC, City Clerk

(SEAL)

Approved as to form:

City Attorney