

ORDINANCE NO. 2021-29

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 42, MISCELLANEOUS OFFENSES, BY DELETING 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 AN EFFECTIVE DATE

WHEREAS, during the 2021 Florida legislative session, Senate Bill 430 was passed and adopted into law which preempts to the state the regulation of fuel measuring devices; and

WHEREAS, Section 42-5 of the City of Venice Code of Ordinances requires the owners and operators of retail gas pumps to install certain security measures to prevent the theft of credit card information; and

WHEREAS, City Council desires to rescind Section 42-5 in its entirety due to it being preempted by state law.

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

SECTION 1. The above whereas clauses are ratified and confirmed as true and correct.

SECTION 2. Chapter 42, Miscellaneous Offenses, Section 42-5, Security measure requirements for owners and operators of retail gas pumps, is hereby deleted in its entirety 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.~~

~~*Payment card* shall have the same meaning as defined in F.S. § 817.625, as may hereafter be amended.~~

~~*Scanning device* shall have the same meaning as defined in F.S. § 817.625, 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:~~

~~(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 other than the placement of pressure-sensitive security tape over the panel opening that leads to the scanning device for the retail petroleum fuel measuring device in a manner that will restrict the unauthorized opening of the panel.~~

~~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 and chapter 2, article VI of this Code. Each day that a violation exists shall constitute a separate and distinct violation.~~

SECTION 3. All ordinances or parts of ordinances in conflict herewith 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, 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 become effective immediately upon its approval and adoption, as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 14TH DAY OF SEPTEMBER 2021.

First Reading: August 24, 2021

Final Reading: September 14, 2021

Adoption: September 14, 2021

Ron Feinsod, 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 14th day of September, a quorum being present.

WITNESS my hand and the official seal of said City this 14th day of September, 2021

Lori Stelzer, MMC, City Clerk

Approved as to form:

Kelly Fernandez, City Attorney