

CITY OF PUNTA GORDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PUNTA GORDA, FLORIDA, AMENDING CHAPTER 15, "OFFENSES AND MISCELLANEOUS", OF THE PUNTA GORDA CODE, AMENDING RESERVED SECTION 15-8, ESTABLISHING SECURITY MEASURE REQUIREMENTS FOR OWNERS AND OPERATORS OF RETAIL GAS PUMPS; PROVIDING FOR CONFLICT AND SEVERABILITY AND PROVIDING 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 Punta Gorda 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, the 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, the City Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PUNTA GORDA, FLORIDA THAT:

I. Chapter 15, Reserved Section 15-18, Punta Gorda Code is hereby amended to read as follows:

Sec. 15-18 Retail gas pump security measures.

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

Gas Pump shall mean 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 §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 Punta Gorda 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 (1) or more of the following security measures in accordance with §575.07(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 pursuant 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 Section 15-18 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 Section 15-18 shall constitute a violation, and shall subject the owner or operator to the code enforcement provisions and procedures provided in Chapter 9A of the Punta Gorda Code. Violations of Section 15-18 shall be punishable by a fine of not less than \$250.00 per gas pump. Each day that a violation exists shall constitute a separate and distinct violation.

II. It is the declared intent of the City Council that, if any section, subsection, sentence, clause, phrase or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

III. Any ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

IV. This ordinance shall take effect immediately upon its adoption.

ADOPTED in regular session of the City Council of the City of Punta Gorda, Florida this _____ day of September 2018.

RACHEL KEESLING, Mayor

ATTEST:

KAREN SMITH, City Clerk

APPROVED AS TO FORM:

DAVID M. LEVIN, City Attorney