

ORDINANCE 17 - 18

AN ORDINANCE AMENDING CHAPTER 12, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE I, GENERAL PROVISIONS, CITY OF CAPE CORAL CODE OF ORDINANCES TO CREATE SECTION 12-8, RETAIL GAS PUMP SECURITY MEASURES; ESTABLISHING SECURITY MEASURE REQUIREMENTS FOR OWNERS AND OPERATORS OF RETAIL GAS PUMPS; PROVIDING SEVERABILITY AND 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 the City of Cape Coral 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, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 12, Article I, Section 12-8, is hereby created to read as follows:

§ 12-8 Retail gas pump security measures.

(a) 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 in the City of Cape Coral 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 restrict 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:

(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.

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 12-8 by the City 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 and operator in good working condition at all times.

(d) Failure to comply with this Section 12-8 shall constitute a violation of Section 12-8, and shall subject the owner or operator to the code enforcement provisions and procedures provided in Sections 2-81 through 2-96, Cape Coral Code of Ordinances. Violations of this Section 12-8 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.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective on May 1, 2018.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2018.

JOE COVIELLO, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO	_____	NELSON	_____
GUNTER	_____	STOKES	_____
CARIOSCIA	_____	WILLIAMS	_____
STOUT	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2018.

REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:



JOHN E. NACLERIO, III
ASSISTANT CITY ATTORNEY

Ord/GasPump Security Measures
1/23/18