

**LEE COUNTY ORDINANCE NO. 19-\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA, ESTABLISHING FUEL PUMP  
SECURITY MEASURE REQUIREMENTS FOR OWNERS AND  
OPERATORS OF RETAIL FUEL PUMPS; PROVIDING FOR  
PENALTIES WHEN THE TERMS OF THIS ORDINANCE ARE  
VIOLATED; PROVIDING FOR CONFLICT AND SEVERABILITY;  
PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR  
MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT  
PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, pursuant to Chapter 125, Florida Statutes, the Board of County Commissioners may adopt ordinances necessary to preserve the health, safety and welfare of the residents of Lee County; and

WHEREAS, the use of credit card skimmers at fuel stations in Lee County is a growing concern; and

WHEREAS, credit card skimmers are devices that thieves install on fuel 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 Board finds that the security measures required by this Ordinance will help protect consumers purchasing fuel in Lee County by restricting the unauthorized access of customer payment card information at fuel pumps; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed Ordinance on May 8, 2019, and recommended approval of the Ordinance; and

WHEREAS, the Board hereby finds that this Ordinance is in the best interest of the public health, safety, and welfare of consumers and residents of Lee County.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

**SECTION ONE: TITLE**

This Ordinance shall be known and cited as "The Lee County Fuel Pump Security Ordinance."

**SECTION TWO: DEFINITIONS**

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings set forth herein:

- A. "Fuel Pump" shall mean a machine or device used to dispense petroleum fuel for sale to the public at retail.
- B. "Payment Card" shall have the same meaning as defined in §817.625, Florida Statutes, as may hereafter be amended.

- C. "Owner" shall mean the record title owner of the property on which a Fuel Pump is located.
- D. "Operator" shall mean the person or legal entity which leases, manages, or operates a Fuel Pump.
- E. "Scanning Device" shall have the same meaning as defined in §817.625, Florida Statutes, as may hereafter be amended.

### **SECTION THREE: FUEL PUMP SECURITY REQUIREMENTS**

- A. Each Fuel Pump which contains a Scanning Device in Lee County shall have affixed to or installed on the exterior of any Fuel Pump a visible Fuel Pump lock, which requires an access key unique to each facilities' location, to restrict the unauthorized access of consumer Payment Card information. The access key shall be maintained at the facility at all times.
- B. As an alternative to the foregoing security measure, one or more of the following security measures may be implemented:
  - 1. A device or anti- breach system that will render the Fuel Pump, or the Scanning Device in the Fuel Pump, inoperable if the Fuel Pump is accessed without proper security code entry; or
  - 2. A device or system that encrypts the customer Payment Card information in the Scanning Device.

The Owner or Operator of any Fuel Pump that chooses to install an alternative security measure pursuant to this section shall demonstrate compliance with this section of the Code to a Code Enforcement Specialist or Law Enforcement Officer upon request.

- C. Fuel Pumps that have been found in compliance with this section may be appropriately marked by the appropriate enforcing entity for identification purposes.
- D. A security measure affixed or installed on a Fuel Pump pursuant to subsections (A) or (B) shall be maintained by the Owner or Operator in good working condition at all times.
- E. The requirements provided by this Ordinance shall apply in unincorporated Lee County and are to be enforced by Lee County Code Enforcement and the Office of the Lee County Sheriff.

### **SECTION FOUR: PENALTY FOR VIOLATIONS**

- A. When discovered by a Law Enforcement Officer, a violation of any portion of this Ordinance by an owner or operator may be punishable by a fine not exceeding \$250.00 per fuel pump. Each day that a violation exists shall constitute a separate and distinct violation.

- B. When discovered by a Code Enforcement Specialist, a violation of any portion of this Ordinance shall subject the owner or operator to the code enforcement provisions and procedures provided in Lee County Ordinances and Chapter 162, Florida Statutes, as may be amended. Violations of this Ordinance may be punishable by a fine of up to \$250.00 per fuel pump. Each day that a violation exists shall constitute a separate and distinct violation.

**SECTION FIVE: CONFLICT AND SEVERABILITY**

In the event this Ordinance conflicts with any other Ordinance of Lee County or other applicable law, the more restrictive shall apply. If any court of competent jurisdiction holds any phrase or portion of this Ordinance invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

**SECTION SIX: SCRIVENER'S ERRORS**

The Board of County Commissioners intends that this Ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

**SECTION SEVEN: MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

**SECTION EIGHT: EFFECTIVE DATE**

This Ordinance shall become effective as of July 1, 2019.

Commissioner \_\_\_\_ made a motion to adopt the foregoing ordinance, seconded by Commissioner \_\_\_\_\_. The vote was as follows:

John Manning	_____
Cecil Pendergrass	_____
Vacant	_____
Brian Hamman	_____
Frank Mann	_____

DULY PASSED AND ADOPTED THIS 21<sup>ST</sup> DAY OF MAY, 2019.

ATTEST:  
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Brian Hamman, Vice-Chair

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

\_\_\_\_\_  
Office of the County Attorney

CAO Draft 5/9/2019 11:20:00 AM