

1 CITY OF BONITA SPRINGS, FLORIDA
2 ORDINANCE NO. 19-08
3
4

5 AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA,
6 PROVIDING FOR RETAIL GAS PUMP SECURITY MEASURES;
7 ESTABLISHING SECURITY MEASURE REQUIREMENTS FOR OWNERS
8 AND OPERATORS OF RETAIL GAS PUMPS; PROVIDING FOR
9 SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS;
10 AND PROVIDING FOR AN EFFECTIVE DATE.
11

12 **WHEREAS**, the Charter provides that the City Council shall have the broadest
13 exercise of home rule powers permitted under the state Constitution and the laws of the
14 state; and
15

16 **WHEREAS**, the use of credit card skimmers at gas stations throughout the City of
17 Bonita Springs is a growing concern; and
18

19 **WHEREAS**, credit card skimmers are devices that thieves install on gas pumps,
20 which accept payment via a credit or debit card, to illegally capture and steal the
21 customer's credit or debit card information; and
22

23 **WHEREAS**, the City Council finds that the security measures required by this
24 ordinance will help protect consumers from credit card skimmers and identity theft at gas
25 station pumps; and
26

27 **WHEREAS**, pursuant to the Article VIII of the Florida Constitution, the City of
28 Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to
29 adopt ordinances necessary for the exercise of its powers in for health, safety, and
30 general welfare; and
31

32 **WHEREAS**, the City Council has determined that it is in the best interests and
33 welfare of the City of Bonita Springs and its residents to enact this Ordinance.
34
35

36 **THE CITY OF BONITA SPRINGS HEREBY ORDAINS:**
37

38 **Section 1. Recitals Adopted.**
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40 That each of the above stated recitals is hereby adopted and confirmed as being
41 true, and the same are hereby incorporated as a part of this Ordinance.
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43 **Section 2. Creating Chapter 26, Article IV – Credit Card Skimmers**
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1 The Bonita Springs City Code is hereby amended creating Chapter 26, Miscellaneous
2 Offenses, Article IV, Credit Card Skimmers. Such Article is created as follows:

3 Sec. 26-70. - Definitions

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

6 (a) "Fuel Pump" shall mean a machine or device used to dispense petroleum
7 fuel for sale to the public at retail.

8 (b) "Payment Card" shall have the same meaning as defined in §817.625,
9 Florida Statutes, as may hereafter be amended.

10 (c) "Owner" shall mean the record title owner of the property on which a Fuel
11 Pump is located.

12 (d) "Operator" shall mean the person or legal entity which leases, manages,
13 or operates a Fuel Pump.

14 (d) "Scanning Device" shall have the same meaning as defined in §817.625,
15 Florida Statutes, as may hereafter be amended.

16 Sec. 26-71. – Fuel Pump Security Requirements

17 (a) Each Fuel Pump which contains a Scanning Device in Bonita Springs
18 shall have affixed to or installed on the exterior of any Fuel Pump a visible
19 Fuel Pump lock, which requires an access key unique to each facilities'
20 location, to restrict the unauthorized access of consumer Payment Card
21 information. The access key shall be maintained at the facility at all times.

22 (b) As an alternative to the foregoing security measure, one or more of the
23 following security measures may be implemented:

24 (1) A device or anti-breach system that will render the Fuel Pump, or
25 the Scanning Device in the Fuel Pump, inoperable if the Fuel Pump
26 is accessed without proper security code entry; or

27 (2) A tamper-resistant or responsive security module, device or system
28 that encrypts the customer Payment Card information in the
29 Scanning Device or upon detecting an intrusion disables the
30 Scanning Device and causes a zeroisation of all sensitive data.

31 The Owner or Operator of any Fuel Pump that chooses to install an
32 alternative security measure pursuant to this section shall

1 demonstrate compliance with this section of the Code to a code or
2 law enforcement officer.

3 (c) Fuel Pumps that have been found in compliance with this section may be
4 appropriately marked by the appropriate enforcing entity for identification
5 purposes.

6 (d) A security measure affixed or installed on a Fuel Pump pursuant to
7 subsections (A) or (B) shall be maintained by the Owner or Operator in
8 good working condition at all times.

9 (e) The requirements provided by this Article shall apply in City of Bonita
10 Springs and are to be enforced by City code enforcement officers and the
11 Office of the Lee County Sheriff.

12 **Sec. 26-72. - Violations**

13 (a) When discovered by a law enforcement officer, a violation of any portion of this
14 Ordinance by an owner or operator may be punishable by a fine not exceeding
15 \$250.00 per fuel pump. Each day that a violation exists shall constitute a
16 separate and distinct violation.

17 (b) When discovered by a code enforcement officer, a violation of any portion of this
18 Article shall subject the owner or operator to the code enforcement provisions
19 and procedures provided in City Code and Chapter 162, Florida Statutes, as may
20 be amended. Violations of this Article may be punishable by a fine of up to
21 \$250.00 per fuel pump. Each day that a violation exists shall constitute a
22 separate and distinct violation.

23 **Section 3. SEVERABILITY**

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25 The provisions of this Ordinance are severable, and it is the intention to confer the
26 whole or any part of the powers herein provided for. If any court of competent jurisdiction
27 shall hold any of the provisions of this Ordinance unconstitutional, the decision of such
28 court shall not affect or impair any remaining provisions of this Ordinance. It is hereby
29 declared to be the legislative intent that this Ordinance would be adopted had such
30 unconstitutional provision not been included therein.

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32 **Section 4. CONFLICTS OF LAW**

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34 Whenever the requirements or provisions of this Ordinance are in conflict with the
35 requirements or provisions of any other lawfully adopted City of Bonita Springs ordinance
36 or Florida Statutes, the more restrictive shall apply.
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1 **Section 5. CODIFICATION AND SCRIVENER'S ERRORS**

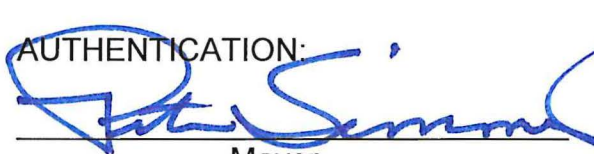
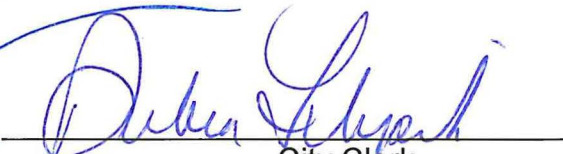
2
3 It is the intention of the City Council that the provisions of this Ordinance shall
4 become and be made part of the Bonita Springs Code; that sections of this Ordinance
5 may be renumbered or re-lettered and that the word "ordinance" may be changed to
6 "section", "article", or such other appropriate word or phrase in order to accomplish such
7 intention; and that any typographical errors which do not affect the intent may be
8 authorized by the City Manager without need of public hearing, by filing a corrected copy
9 with the City Clerk. It is further the intent of the City Council that the provisions of this
10 Ordinance may be modified as a result of consideration that may arise during public
11 hearing(s) and that such modifications shall be incorporated into the final version.
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13 **Section 6. EFFECTIVE DATE**

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15 The effective date of this ordinance shall be thirty (30) days from its adoption date.
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17 DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs,
18 Lee County, Florida, this 18th day of September, 2019.

19 AUTHENTICATION:

20 
21 
22 _____
23 Mayor City Clerk

24 APPROVED AS TO FORM:

25 
26 _____
27 City Attorney

28 Vote:

29 Carr Aye O'Flinn Aye
30 DeWitt Aye Quaremba Absent
31 Forbes Aye Simmons Aye
32 Gibson Aye

33 Date filed with City Clerk: _____

34 11/4/19