

**AGENDA ITEM SUMMARY SHEET**  
**VILLAGE COUNCIL MEETING**  
**November 7, 2018**

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**Agenda Item:**

Second Reading/Public Hearing: Ordinance No. 2018-25 An Ordinance of the Village Council of the Village of Estero, Florida, Providing for Retail Gas Pump Security Measures; Establishing Security Measure Requirements for Owners and Operators of Retail Gas Pumps; Providing for Severability, Codification and an Effective Date

**Description:**

First reading of the Ordinance was held at the October 17, 2018 Council meeting. Since the first reading, the following transpired:

- Section 5 - Effective Date has been revised to read: "The Ordinance shall take effect January 1, 2019."
- Code Compliance Officer Stanley Knight visited the 10 Estero gas stations on October 25, 2018 and provided them with a copy of the ordinance along with a letter from the Village Manager advising of the public hearing set for November 7, 2018.

**Action Requested:**

Adopt Ordinance No. 2018-25.

**Financial Impacts:**

Minimal amount for advertising second reading/public hearing of the ordinance.

**Attachments:**

1. Ordinance No. 2018-25

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**VILLAGE OF ESTERO, FLORIDA**

**ORDINANCE NO. 2018 - 25**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF  
THE VILLAGE OF ESTERO, FLORIDA,  
PROVIDING FOR RETAIL GAS PUMP SECURITY  
MEASURES; ESTABLISHING SECURITY  
MEASURE REQUIREMENTS FOR OWNERS AND  
OPERATORS OF RETAIL GAS PUMPS;  
PROVIDING FOR SEVERABILITY; PROVIDING  
FOR CODIFICATION; AND PROVIDING FOR AN  
EFFECTIVE DATE.**

**RECITALS**

**WHEREAS**, pursuant to Section 166.021, Fla. Stats., 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 Village of Estero is a growing concern; and

**WHEREAS**, credit card skimmers are devices that thieves install on gas 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 Village 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 Village Council hereby finds that this ordinance is in the best interest of the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED** by the Village Council of the Village of Estero, Florida, as follows:

**Section 1.** The forgoing recitals are true and correct and are incorporated herein by this reference.

**Section 2. Gas Pump Credit Card Security.**

(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:



46 **GAS PUMP** shall mean a machine or device used to dispense petroleum fuel for sale  
47 to the public at retail.

48  
49 **PAYMENT CARD** shall have the same meaning as defined in Section 817.625, Fla.  
50 Stats., as may hereafter be amended.

51  
52 **SCANNING DEVICE** shall have the same meaning as defined in Section 817.625, Fla.  
53 Stats., as may hereafter be amended.

54  
55 (b) Every owner or operator of a gas pump in the Village of Estero shall have  
56 affixed to or installed onto the exterior of any gas pump, which contains a scanning  
57 device, a visible gas pump panel locking device that requires an access key unique to  
58 each gas station location to restrict the unauthorized access to customer payment card  
59 information. The access key shall be maintained at gas stations at all times. As an  
60 alternative to the foregoing security measure, an owner or operator of a gas pump in  
61 the Village may affix or install onto any gas pump that contains a scanning device one  
62 (1) or more of the following security measures:

63 (1) A device or system that will render the gas pump, or the scanning device  
64 in the gas pump, inoperable if there is an unauthorized opening of the gas pump panel;  
65 or

66 (2) A device or system that encrypts the customer payment card information  
67 in the scanning device.

68 Owners and operators of gas pumps that choose to install an alternative  
69 security measure pursuant to this section shall demonstrate compliance with this  
70 Section to a Village official upon request. Gas pumps that have been found in  
71 compliance with this Section by the Village may be appropriately marked by the  
72 Village for identification purposes.

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74 (c) A security measure affixed or installed onto a gas pump pursuant to Subsection  
75 (b) shall be maintained by the owner or operator in good working condition at all times.

76  
77 (d) Failure to comply with this Section shall constitute a violation of this Section  
78 and shall subject the owner or operator to the code enforcement provisions and  
79 procedures provided in the Village of Estero Code of Ordinances. Violations of this  
80 Section shall be punishable by a fine of not less than \$250.00 per gas pump. Each day  
81 that a violation exists shall constitute a separate and distinct violation.

82  
83 **Section 3. Severability.**

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85 In the event that any portion of this ordinance is for any reason held invalid or  
86 unconstitutional by any court of competent jurisdiction, such portion shall be deemed  
87 a separate, distinct and independent provision, and such holding shall not affect the  
88 validity of the remaining portions of this ordinance.

91 **Section 4. Codification.**

92  
93 The Village Council intends that this Ordinance be made part of the Code of the Laws  
94 and Ordinances, of the Village of Estero, Florida; and that the sections of this  
95 Ordinance can be renumbered or re-lettered to the appropriate word or phrase to  
96 accomplish codification, and regardless of whether this Ordinance is ever codified, the  
97 Ordinance can be renumbered or re-lettered and typographical errors and clarification  
98 of ambiguous wording that do not affect the intent can be corrected with the  
99 authorization of the Village Manager without the need for a public hearing.

100  
101 **Section 5. Effective Date.**

102  
103 This Ordinance shall take effect January 1, 2019 ~~30 days following its adoption by the~~  
104 ~~Village Council.~~

105  
106 **PASSED** on first reading this 17<sup>th</sup> day of October, 2018.

107  
108 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,  
109 Florida this 7<sup>th</sup> day of November, 2018.

110  
111 Attest:

**VILLAGE OF ESTERO, FLORIDA**

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113  
114 By: \_\_\_\_\_  
115 Kathy Hall, MMC, Village Clerk

By: \_\_\_\_\_  
James R. Boesch, Mayor

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117  
118 Reviewed for legal sufficiency:

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120  
121 By: \_\_\_\_\_  
122 Burt Saunders, Esq., Village Attorney

124	Vote:	AYE	NAY
125	Mayor Boesch	_____	_____
126	Vice Mayor Ribble	_____	_____
127	Councilmember Batos	_____	_____
128	Councilmember Errington	_____	_____
129	Councilmember Levitan	_____	_____
130	Councilmember McLain	_____	_____
131	Councilmember Wilson	_____	_____