

<b>Item Number:</b>	<b>A.(4)</b>
<b>Meeting Date:</b>	<b>3/5/2018</b>
<b>Item Type:</b>	<b>ORDINANCES/RESOLUTIONS - Public Hearings</b>

**AGENDA  
REQUEST FORM  
CITY OF CAPE  
CORAL**



**TITLE:**

Ordinance 17-18 Public Hearing

**REQUESTED ACTION:**

Approve or Deny

**STRATEGIC PLAN INFO:**

1. Will this action result in a Budget Amendment? No
2. Is this a Strategic Decision? Yes
  - If Yes, Priority Goals Supported are listed below.
  - If No, will it harm the intent or success of the Strategic Plan?

**ELEMENT E: INCREASE QUALITY OF LIFE FOR OUR CITIZENS BY DELIVERING PROGRAMS AND SERVICES THAT FOSTER A SAFE COMMUNITY**

**PLANNING & ZONING/HEARING EXAMINER/STAFF RECOMMENDATIONS:**

**SUMMARY EXPLANATION AND BACKGROUND:**

The City of Cape Coral has had a steady increase to numerous instances of credit card skimmers being placed in gas pumps located within the City. Credit card skimmers are devices that thieves install on gas station pumps that accept payment via a credit or debit card, to illegally capture and steal the customer's credit card information and bank account information and funds.

Physical access to the interior of these pump's electronics comes as a result of an industry wide failing to install unique locks on their products. For decades, pump manufacturers have made generic keys that will open the same pump used in California all the way to Florida, which has culminated in a relative ease of access for installing skimming devices. Passed in 2017, Florida Statute 525.17(10), does provide some requirements on the use of security measures to protect the consumer from gas pump skimmers. The statutory prescribed methods fall primarily into either an upfront investment of technology by station owners or a continual investment in time on the station's part to physically and regularly check the pumps for tampering, as exposed by a security tape.

It is recommended by the police department that it is in the best interest of the public health, safety, and welfare to require additional protections that will enable the police to know if a gas pump is secure. Additional, security measures will be required for owners and measures that choose not to or can't comply with options (1) and (2) of the proposed ordinance.

**LEGAL REVIEW:**

**EXHIBITS:**

Ordinance 17-18  
Staff Presentation

**PREPARED BY:**

Division- Department- City  
Attorney

**SOURCE OF ADDITIONAL INFORMATION:**

Police Chief David Newlan

**ATTACHMENTS:**

Description	Type
▣ Ordinance 17-18	Ordinance
▣ Staff Presentation	Backup Material

## 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





# Ordinance 17-18: Retail Gas Pump Security Measures

Presented by Chief David M. Newlan, Cape Coral Police Department



## Trends : Financial Crimes and Fraud

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- One of the fastest growing segments of crime nationwide.
- Fastest growing segment of crime in Cape Coral and SWFL.
- Why?
  - Low risk.
  - High reward.

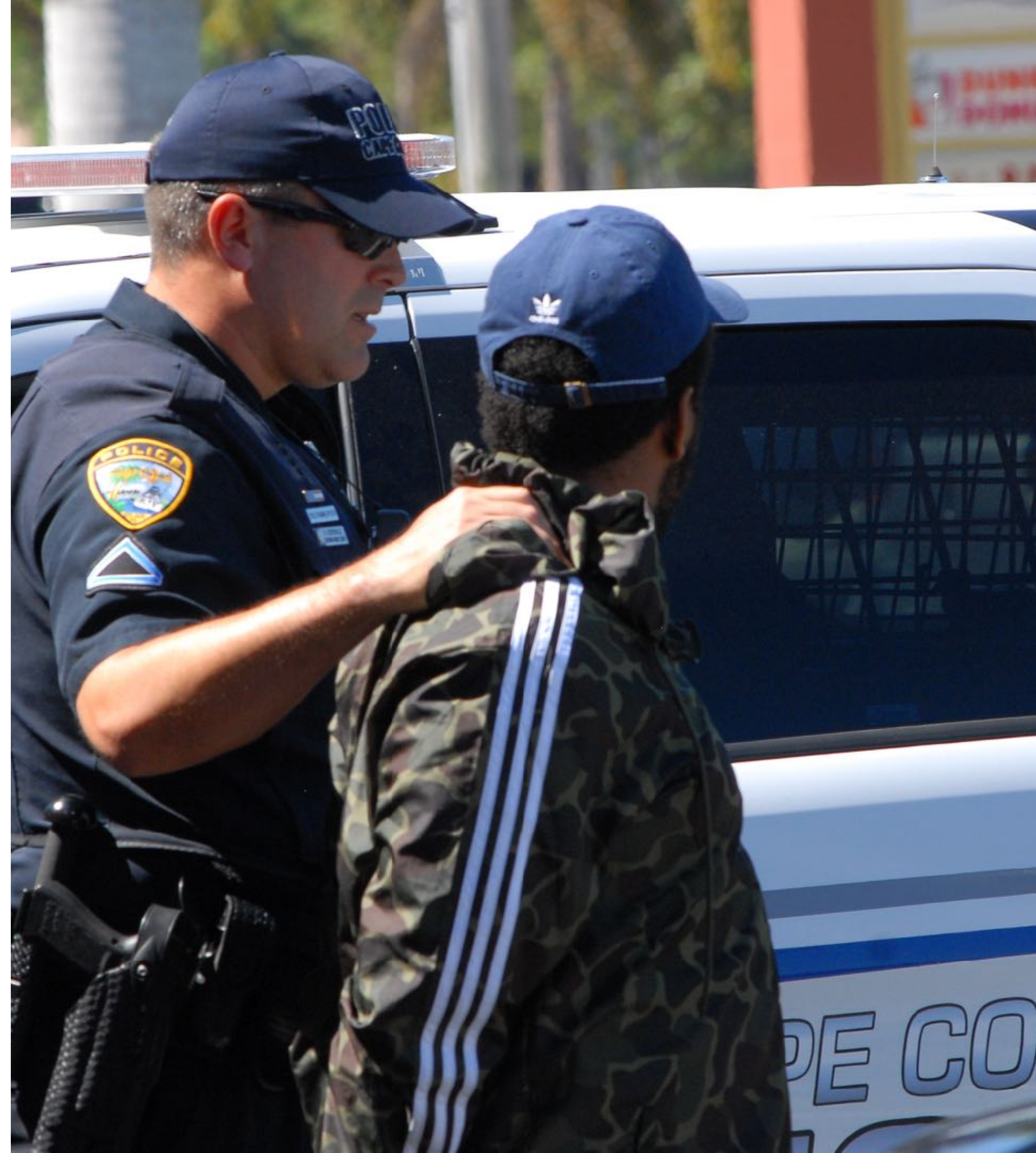




# Trends : Financial Crimes and Fraud

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- Multiple attack vectors:
  - Phone scams;
  - Computer viruses, spyware, key-loggers (AKA “malware”);
  - E-mail and messaging scams (AKA phishing);
  - Consumer data breaches, and
  - **Credit card cloning/skimming.**





# Skimmers in Cape Coral

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- Economic Crimes Unit works with retailers, Lee County Sheriff's Office and the Florida Department of Agriculture.
- Proactive sweeps of pumps.
  - Locate and seize placed skimmers.
- Reactive investigations.
  - When skimmers are located.
  - When fraudulent transactions are detected.





# Skimmers in Cape Coral

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- **16 skimming devices** found in Cape Coral in the last **13 months**
- Primarily targeting older, lower-technology pumps.
- Skimmers are getting more advanced:
  - Overlay
  - Embedded
  - Bluetooth (embedded)
  - GSM cellular (embedded)





# Ordinance 17-18

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- **Who it impacts:**

- Every owner or operator of a gas pump which contains a scanning device in the City of Cape Coral used to dispense petroleum fuel for sale to the public at retail.

- **What it requires:**

- 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
- Something as simple as a “lock and hasp”

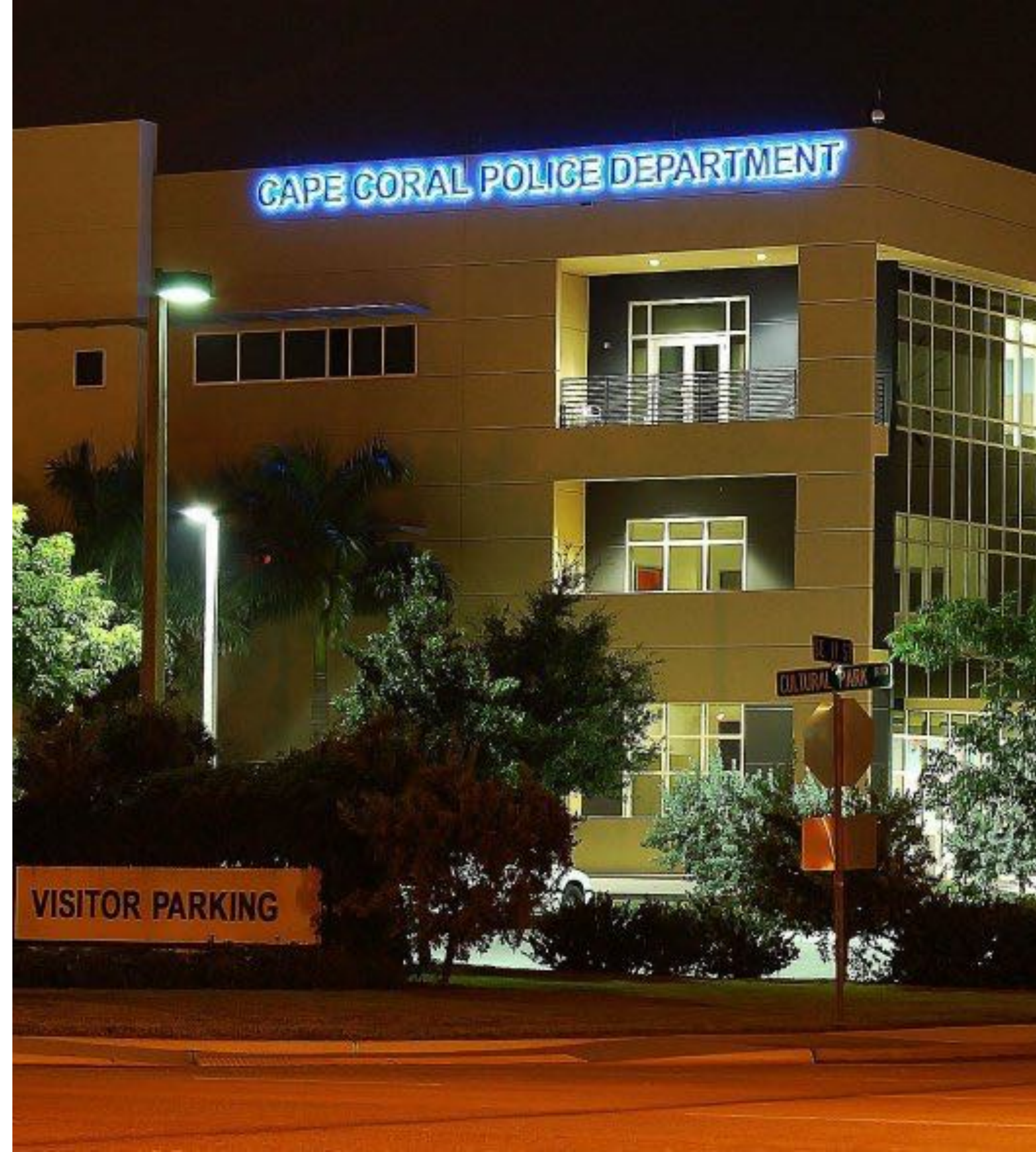




# Ordinance 17-18

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- Alternately...
- 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.





Questions?