

**CHAPTER 780**  
**Fuel Pump Security**

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**780.01 APPLICABILITY.**

This Chapter shall be applicable throughout the County of Summit, Ohio, and shall take effect on January 1, 2017.

**780.02 DEFINITIONS.**

As used in this Chapter, certain terms are defined as follows:

(a) "County Council" means the legislative and taxing authority of the County of Summit, Ohio set forth in Article III of the County Charter.

(b) "County Fiscal Officer" means the office set forth in Article IV, Section 4.01 (2) of the County Charter which is authorized to conduct fuel quality testing pursuant to Section 745.04 of these Ordinances.

(c) "Office" means the Office of Consumer Affairs.

(d) "Payment Card" means a credit card, charge card, debit card, or any other card that is issued to a consumer as defined in Section 759.02(b) of these Ordinances, and used by that consumer to complete a Consumer Transaction as defined in Section 759.02(c).

(e) "Retail Petroleum Fuel Measuring Device" means any machine at a retail fuel dispensing premises open to the public that is used to pump petroleum fuels or other types of fuel into a motor vehicle as defined in Section 4501.01(B) of the Ohio Revised Code.

(f) "Scanning Device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or strip of a payment card as defined in subsection (d) of this Section.

**780.03 TAMPER PREVENTION MEASURES.**

Each person who owns or manages a retail petroleum fuel measuring device shall have affixed to or installed onto the retail petroleum fuel measuring device a functioning, unaltered and undamaged security measure to restrict the unauthorized access of customer payment card information. The security measure must include one or more of the following:

(a) The placement of pressure-sensitive security tape issued by the Office and bearing the Office's name and logo over the panel opening that leads to the scanning device hardware of the retail petroleum fuel measuring device. The pressure-sensitive security tape must be placed in a manner that will restrict the unauthorized opening of the panel as well as inform consumers of the unauthorized opening of the panel if the seal has been broken or tampered with.

In order to comply with this Subsection, the pressure –sensitive security tape that is used by the person owning or managing a retail petroleum fuel measuring device must be

purchased from the Office and shall bear the name and logo of the Office. The Office shall ensure a sufficient quantity of pressure-sensitive security tape is made available for purchase, shall ensure that the name and logo of the Office appear on the tape and shall establish a fee for the same equal to the Office's actual cost for the same, plus ten percent (10%) for administration. Furthermore, prior to each sale, the Office shall verify that the purchaser is, in fact, an owner or manager of a retail petroleum fuel measuring device. Upon the adoption of this Ordinance, the Office shall make available, at no cost, a sufficient amount of pressure-sensitive security tape to each owner or manager of a retail petroleum fuel measuring device for the initial compliance with this Section for all devices owned or managed by that owner or manager. Thereafter, all pressure-sensitive tape shall be purchased from the Office as set forth herein.

(b) A device or system that will render the retail petroleum fuel measuring device or the scanning device in the measuring device inoperable if there is an unauthorized opening of the panel.

(c) A device or system that safely encrypts the customer payment card information in the scanning device.

(d) A device or system that signals an alarm if the retail petroleum fuel measuring device or the scanning device in the measuring device has been accessed without authorization.

(e) Any other security measures approved by the Office.

#### **780.04 CIVIL PENALTIES AND COSTS.**

Any owner or manager of a retail petroleum fuel measuring device, who operates the device without a security measure required by Section 780.03 or with an altered or damaged security measure, shall receive written notice of noncompliance with a copy of this Chapter from the Office. Upon receipt of the notice, the owner or manager of the retail petroleum fuel measuring device shall have thirty (30) calendar days to comply with this Chapter. After the thirtieth (30) day of noncompliance, the original violation shall be considered a second violation and the Office may issue a civil penalty for any and all subsequent violations for the same petroleum fuel measuring. Such a civil penalty shall be assessed as follows:

(a) Not less than \$100.00 nor more than \$500.00 for a second violation per retail petroleum fuel measuring device in a two year period.

(b) Not less than \$250.00 nor more than \$1,000.00 for a third violation per retail petroleum fuel measuring device in a two year period.

(c) Not less than \$500.00 nor more than \$1,500.00 for a fourth violation per retail petroleum fuel measuring device in a two year period.

(d) Not less than \$750.00 nor more than \$2,000.00 for a fifth or any additional violations per retail petroleum fuel measuring device beyond that in a two year period.

All penalties collected by the Office pursuant to this Section shall be allocated for the use of the Office.

#### **780.05 ADMINISTRATIVE HEARING.**

Any person subject to a civil penalty shall have a right to request an administrative hearing before a Review Board within ten (10) days of receipt of the notice of a civil penalty. The County Council President shall appoint three (3) district or at-large County Council members to serve on the Review Board. When possible, the President shall include the Council member that represents the district in which the retail petroleum fuel measuring device is located. The President may appoint a different Review Board to hear each appeal as necessary.

The applicant shall file notice in writing with Council of the applicant's intention to appeal the Office's decision to impose a civil penalty to the Review Board. The applicant shall also file a copy of the appeal with the Office. Council shall schedule such appeal hearing and notify the applicant as to the place, date, and time within thirty (30) days after notification. After a hearing on the matter, the Board may sustain, disapprove, or reduce such civil penalty and such decision shall be final. Such decision by the Review Board constitutes a final appealable order and is subject to appeal under Section 2506.01 of the Ohio Revised Code.

#### **780.06 OUT OF SERVICE DEVICES AND DEVICES WITHOUT SCANNERS.**

This Chapter applies only to retail petroleum fuel measuring devices that have a scanning device that are able to accept and process a Payment Card as a source of payment. This Chapter does not apply to retail petroleum fuel measuring devices that are out of service for reasons including, but not limited to service maintenance, repair, or installation provided that it is in compliance with this Chapter when it is subsequently operational. This Chapter does not apply to petroleum fuel measuring devices that do not have a scanning device that accepts and processes a Payment Card as a source of payment.

#### **780.07 COUNTY FISCAL OFFICER INSPECTION.**

During routine fuel quality testing of petroleum fuel measuring devices within the County pursuant to Section 745.04 of these Ordinances, the County Fiscal Officer or the Fiscal Officer's designee may inspect the devices to ensure that security measures as defined in Section 780.03 are installed onto the devices. In the event the Fiscal Officer or the Fiscal Officer's designee observes a petroleum fuel measuring device without one or more of the security measures outlined in Sections 780.03, the Fiscal Officer may inform the Office of the failure of the retail petroleum fuel measuring device to comply with Section 780.03.