

ORDINANCE

08-24



Agenda Item Cover Sheet

Agenda Item N^o. D-2

Meeting Date November 06, 2008

- Consent Section
 Regular Section
 Public Hearing

Subject: Public Hearing on the Proposed Hillsborough County Emergency Access to Gated Developments Ordinance			
Department Name: County Attorney's Office			
Contact Person: Charlotte V. Diggs		Contact Phone: 272-5670	
Sign-Off Approvals:			
		Mary Helen Farris	10/23/2008
		<small>Managing County Attorney</small>	<small>Date</small>
Renée Francis Lee	10/23/2008	NA	Date
<small>County Attorney</small>		<small>Joint Department Director</small>	
Eric Johnson	10/23/2008	Charlotte Diggs	10/23/2008
<small>Management and Budget - Approved as to Financial Impact Accuracy</small>		<small>Assistant County Attorney</small>	
<small>Date</small>		<small>Date</small>	

Staff's Recommended Board Motion:

Hold a public hearing to consider enacting the Hillsborough County Emergency Access to Gated Developments Ordinance, which will impose mandatory requirements upon gated developments to report updated security gate access information to the Hillsborough County Sheriff's Office, as well as to Hillsborough County Fire Rescue. Implementation of this ordinance is anticipated to result in a minimal increase in enforcement activities by the Sheriff's Office, and any additional costs can be absorbed within continuation level budgets.

Financial Impact Statement:

Implementation of this ordinance is anticipated to result in a minimal increase in enforcement activities by the Sheriff's Office, and any additional costs can be absorbed within continuation level budgets.

Background:

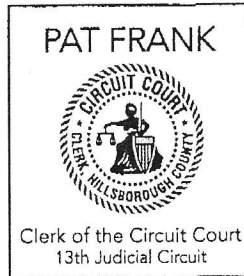
Due to an increase in problems obtaining timely access to gated communities during an emergency, the Hillsborough County Sheriff's Office requested that the Board of County Commissioners consider enacting an ordinance to mandate gated communities to provide updated security gate access information. As a charter county, Hillsborough County has home rule authority pursuant to Article VII,

ORD # 08-24

Section 1 of the Florida Constitution, as well as Florida Statutes Chapter 125, to enact ordinances in the interest of the health, safety and welfare of its residents. The Ordinance will allow for misdemeanor prosecution of the violator/gated development in county criminal court for noncompliance, and there will be a thirty-day time period for compliance commencing upon passage of the ordinance. Research was conducted in conjunction with Hillsborough County Fire Rescue, and the Ordinance meets with their requirements under the applicable fire codes. This hearing has been duly advertised and noticed pursuant to law.

List Attachments:

Hillsborough County Emergency Access to Gated Developments Ordinance



November 19, 2008

Norma J. Wise, Director
Hillsborough County Law Library
501 E. Kennedy Boulevard Ste. 100
Tampa, Florida 33602-5027

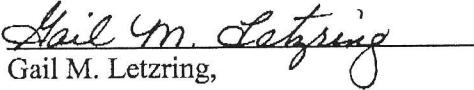
Re: Ordinance #08-24
Hillsborough County Emergency Access to Gated Developments Ordinance

Dear Ms. Wise:

Attached please find a copy of Hillsborough County Ordinance #08-24 which was adopted by the Board of County Commissioners on November 6, 2008. We are also forwarding acknowledgment received from the Secretary of State. This ordinance has an effective date of November 12, 2008.

If I can provide additional information or be of further assistance, please do not hesitate to contact me.

Sincerely,


Gail M. Letzring,
Manager, BOCC Records

md

Attachments

cc: Evelyn Jefferson, Municipal Code Corporation
Debra A. Cole, Hillsborough County Sheriff's Office
Sandra Davidson, County Attorney's Office
Charlotte V. Diggs, Assistant County Attorney
Bill Nesmith, Fire Chief, Fire Rescue
Lis Mendez, County Attorney's Office
Shelia Alfonso, County Attorney's Office

ORDINANCE No. 08- 24

AN ORDINANCE OF HILLSBOROUGH COUNTY, FLORIDA TO BE CALLED "THE HILLSBOROUGH COUNTY EMERGENCY ACCESS TO GATED DEVELOPMENTS ORDINANCE"; PROVIDING FOR INTENT AND DEFINITIONS; ESTABLISHING MANDATORY REQUIREMENTS FOR GATED DEVELOPMENTS TO COMPLY WITH PROCEDURES TO ENABLE TIMELY AND SUFFICIENT ACCESS BY LAW ENFORCEMENT AND EMERGENCY SERVICES PERSONNEL IN THE EVENT OF AN EMERGENCY; PROVIDING FOR A THIRTY-DAY COMPLIANCE PERIOD; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Hillsborough County is an urban county which has a growing prevalence of gated developments; and

WHEREAS, many gated developments each have their own unique method of providing access to emergency vehicles, including remote control devices, keys, cards, and emergency phone numbers; and,

WHEREAS, the Board of County Commissioners of Hillsborough County, Florida (hereinafter referred to as "Board") is concerned with the potential inability of law enforcement and other emergency services personnel to sufficiently and timely gain access into a gated development in the event of an emergency; and,

WHEREAS, the mandatory provision by gated developments of detailed security gate access information will prove to be a more adequate system to reduce delay or confusion over the method of gaining emergency access into a particular gated development, thereby shortening response times and potentially saving lives; and,

WHEREAS, Hillsborough County, as a charter county pursuant to the adopted Hillsborough County Charter (1983), has home rule authority pursuant to Article VIII, Section 1 of the Florida Constitution and Chapter 125, Florida Statutes, to enact an ordinance to mandate the provision by gated developments of detailed security gate access information, in the interest of public safety ; and

WHEREAS, initially, the Board will implement a thirty (30) day compliance period, to allow County staff, law enforcement, and other relevant County departments time to initiate a public awareness campaign and to develop and coordinate the process and criteria for the Emergency Access to Gated Developments Ordinance; and

WHEREAS, the Board desires to have the compliance period commence upon the passage of the Ordinance; and

WHEREAS, after the compliance period has expired, the Board desires to enforce violations of the Ordinance through prosecution in the same manner as misdemeanors are prosecuted, pursuant to Florida Statute §125.69 ; and

WHEREAS, the Board finds that implementation of the Emergency Access to Gated Developments Ordinance as set forth herein will promote, protect and improve the health, safety and welfare of its citizens, consistent with the authority of and limitations on the County pursuant to the Florida Constitution and Florida Statutes;

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

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Ordinance 08-24, entitled Hillsborough County Emergency Access to Gated Developments Ordinance, shall be created to read as follows:

Hillsborough County Emergency Access to Gated Developments Ordinance.

2.1 Intent.

The purpose of this Ordinance is to protect the health, safety, and welfare of the citizens of Hillsborough County, consistent with Chapter 125, Florida Statutes, by mandating the provision by gated developments of detailed security gate access information as defined in Section 2.3 herein.

2.2 Provision of detailed security gate access information.

The County shall mandate the provision of detailed security gate access information by owners as a means to reduce delay or confusion over how to gain entry into a particular gated development, thereby shortening response times and potentially saving lives while assisting law enforcement personnel in the enforcement of other laws, which are designed to protect and improve public health, safety and welfare.

2.3 Definitions.

Unless the context otherwise requires, the following definitions shall apply to this Ordinance:

- (a) *Authority having jurisdiction* shall mean the authority which has jurisdiction for providing emergency services, law enforcement

services, and/or fire rescue protection for a specific address in an area of the county.

- (b) *Emergency vehicle* shall mean any marked or unmarked law enforcement vehicle, fire truck, fire rescue staff vehicle, ambulance and/or ambulance staff vehicle, and rescue units.
- (c) *Owner* shall mean the person, corporation, homeowner's association or other entity identified by the Property Appraiser's Office as the owner of record of the relevant property in violation.
- (d) *Gated Development* shall mean any residential development which may be fenced and has a secured gate, at the roadway entrance to the facility, preventing free access by the public.
- (e) *Residential Development* means those occupancies in which sleeping accommodations are provided for normal residential purposes and include all buildings designed to provide sleeping accommodations. *Residential Development* does not include individual homes or one- and two-family occupancies with individual gates.
- (f) *Security Gate Access Information* means any access instructions, access security codes, or approved access devices that are necessary for the authority having jurisdiction to gain emergency access through a security gate.

2.4 Uniform Emergency Access to Gated Developments.

Each new or existing residential development, access to which is limited by a security gate or gates which are unmanned or otherwise not physically attended by a person on a twenty-four (24) hour basis, shall provide detailed security gate access information to the authority having jurisdiction over the gated development. This includes information regarding any emergency vehicle access system described in Section 2.5 herein. Information regarding any changes to security gate access information shall be provided to the authority having jurisdiction over the gated development within twenty-four (24) hours of the change in information.

2.5 Emergency Vehicle Access System.

The Hillsborough County Fire Rescue Department requires that all new gated developments comply with the Florida Fire Prevention Code by installing a Knox Box Rapid Entry System, per Hillsborough County Ordinance 87-40, as amended. Compliance with Ordinance 87-40 as amended will satisfy the requirements for compliance with this Ordinance.

2.6 Violation.

A violation of this Ordinance shall occur when a gated development fails to comply with the requirements of Section 2.4. Violations of this Ordinance shall be enforced pursuant to Section 2.8 herein.

2.7 Thirty-day time period for compliance.

Existing gated developments shall have thirty (30) days from the effective date of this Ordinance to comply with the provisions of Section 2.4 herein. Gated developments developed after the effective date of this Ordinance shall comply with the provisions of Section 2.4 prior to or concurrent with installation of an unmanned security gate. It shall be the responsibility of the gated development to contact the authority having jurisdiction in order to provide the information required by Section 2.4. For the purposes of this Ordinance, a gated development shall be considered an existing gated development if it has obtained construction plan approval prior to the effective date of this Ordinance. Upon the termination of the initial thirty (30) day period to comply, gated developments will be subject to the enforcement provision as provided in Section 2.8 herein.

2.8 Administration and Enforcement.

The responsibility of initiating and administering enforcement of this section shall be vested in the authority having jurisdiction over the respective gated development. Pursuant to section 125.69, Florida Statutes (2007), a gated development who violates any provision of this Ordinance shall be

subject to prosecution in the name of the State in the same manner as misdemeanors are prosecuted; and, upon conviction, such owner shall be punished by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment in the County Jail not to exceed sixty (60) days, or by both such fine and imprisonment. Each day or fraction thereof the violation continues shall be considered as a separate offense.

2.9 Minimum Access.

The provisions of this section are intended to insure a minimum level of access by emergency personnel during emergencies and shall not be construed to guarantee the safety of a gated development during an emergency.

2.10 Exceptions.

This Ordinance shall not apply to those gated developments which are physically attended by a person on a twenty-four (24) hour basis.

Section 3.

Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4.

Effective Date. This Ordinance shall take effect upon receipt of official acknowledgment from the Department of State that a copy of said Ordinance has been duly filed with said office.

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, Pat Frank, Clerk of the Circuit Court and Ex-Officio Clerk of the Board of County Commissioners, do hereby certify that the above and foregoing ordinance is a true and correct copy of an ordinance adopted by the Board of County Commissioners of Hillsborough County, Florida, in its regular public meeting of November 6, 2008 the same appears on record in Minute Book 390 of the Public Records of Hillsborough County, Florida.

WITNESS my hand and official seal this 10th day of November, 2008.

PAT FRANK, CLERK

By: Beverly Anne Miller
Deputy Clerk

Approved as to form and legality.

By: Charlotte V. King
Assistant County Attorney





FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

November 13, 2008

Honorable Pat Frank
Clerk of the Circuit Court
Hillsborough County
P. O. Box 1110
Tampa, Florida 33601-1110

Attention: Gail M. Letzring, Manager BOCC Records

Dear Mr. Frank:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated November 12, 2008, and certified copy of Hillsborough County Ordinance No. 08-24, which was filed in this office on November 12, 2008.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

RECEIVED
2008 NOV 19 PM 3:06
DELIVER TO
THE BOARD (B)

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dlis.dos.state.fl.us>

COMMUNITY DEVELOPMENT
850.245.6600 • FAX: 850.245.6643

STATE LIBRARY OF FLORIDA
850.245.6600 • FAX: 850.245.6744

STATE ARCHIVES OF FLORIDA
850.245.6700 • FAX: 850.488.4894

LEGISLATIVE LIBRARY SERVICE
850.488.2812 • FAX: 850.488.9879

RECORDS MANAGEMENT SERVICES
850.245.6750 • FAX: 850.245.6795

ADMINISTRATIVE CODE AND WEEKLY
850.245.6270 • FAX: 850.245.6282

9602

The Tampa Tribune

Published Daily

Tampa, Hillsborough County, Florida

State of Florida)
County of Hillsborough) SS.

Before the undersigned authority personally appeared C. Pugh, who on oath says that she is the Advertising Billing Supervisor of The Tampa Tribune, a daily newspaper published at Tampa in Hillsborough County, Florida; that the attached copy of the

Legal Ads IN THE Tampa Tribune

In the matter of Legal Notices

was published in said newspaper in the issues of

10/24/2008

Affiant further says that the said The Tampa Tribune is a newspaper published at Tampa in said Hillsborough County, Florida, and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each day and has been entered as second class mail matter at the post office in Tampa, in said Hillsborough County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, this advertisement for publication in the said newspaper.

NOTICE OF INTENT TO CONSIDER COUNTY ORDINANCE

NOTICE IS HEREBY GIVEN TO WHOM IT MAY CONCERN:

NOTICE is hereby given that the Board of County Commissioners of Hillsborough County, Florida, intends to consider for the purpose of enactment, the following ordinance at a meeting on **November 6, 2008 at 2:00 p.m.** in the Board of County Commissioners Board Room, County Center Second Floor, 601 East Kennedy Boulevard, Tampa, Florida:

AN ORDINANCE OF HILLSBOROUGH COUNTY, FLORIDA TO BE CALLED "THE HILLSBOROUGH COUNTY EMERGENCY ACCESS TO GATED DEVELOPMENTS ORDINANCE"; PROVIDING FOR INTENT AND DEFINITIONS; ESTABLISHING MANDATORY REQUIREMENTS FOR GATED DEVELOPMENTS TO COMPLY WITH PROCEDURES TO ENABLE TIMELY AND SUFFICIENT ACCESS BY LAW ENFORCEMENT AND EMERGENCY SERVICES PERSONNEL IN THE EVENT OF AN EMERGENCY; PROVIDING FOR A THIRTY-DAY COMPLIANCE PERIOD; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING AN EFFECTIVE DATE.

ANY PERSON WHO MIGHT WISH TO APPEAL ANY DECISION MADE BY THE HILLSBOROUGH COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING ANY MATTER CONSIDERED AT THE FORTHCOMING PUBLIC HEARING OR MEETING IS HEREBY ADVISED THAT THEY WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE THEY MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH WILL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH SUCH APPEAL IS TO BE BASED. ALL INTERESTED PARTIES MAY APPEAR AT THE ABOVE REFERENCED HEARING AND BE HEARD WITH RESPECT TO THE PROPOSED ORDINANCE. A COPY OF THE PROPOSED ORDINANCE MAY BE INSPECTED BY THE PUBLIC AT THE CLERK'S OFFICE ON THE 12TH FLOOR OF THE COUNTY CENTER AT 601 E. KENNEDY BLVD., TAMPA, FL 33602.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS NEEDING SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THESE PROCEEDINGS, AND ALSO THOSE SEEKING AN INTERPRETER, SHOULD CONTACT THE CITIZENS' ACTION CENTER AT TELEPHONE NUMBER (813) 272-5900 NOT LATER THAN 48 HOURS PRIOR TO THE PROCEEDINGS.

CHAIRMAN, BOARD OF COUNTY COMMISSIONERS
Hillsborough County, Florida

#9602 10/24/08

Sworn to and subscribed by me, this 24 day of October, A.D. 2008

Personally Known or Produced Identification _____
Type of Identification Produced _____



Ana Maria Hodel
Commission #DD551367
Expires: MAY 11, 2010
WWW.AARONNOTARY.COM

RECEIVED BY

OCT 30 2008

COUNTY ATTORNEYS OFFICE
ACCOUNTANT