

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2807

By: Terrill

COMMITTEE SUBSTITUTE

An Act relating to cities and towns; enacting the Semipublic Community Act; providing definitions; allowing municipalities to establish semipublic communities in accordance with the act; specifying criteria for semipublic communities; providing gating requirements for semipublic communities; requiring the formation of a homeowners' association; specifying responsibilities of the homeowners' association; requiring the execution of certain agreement; specifying contents of the agreement; requiring certain copying and filing of the agreement; specifying formation of homeowners' association; providing for transfer of certain responsibilities; requiring dedication of certain streets, water and sanitary systems; requiring plan approval by the municipal governing body and planning commission; amending 69 O.S. 2001, Section 1213, which relates to obstructing road or right-of-way; providing certain exception; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43-121 of Title 11, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Semipublic Community Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43-122 of Title 11, unless there is created a duplication in numbering, reads as follows:

As used in the Semipublic Community Act:

1. "Municipality" shall mean a city or town incorporated pursuant to Section 2-101 et seq. and 3-101 et seq. of Title 11 of the Oklahoma Statutes;

2. "Governing body" shall mean the acting council or board of a municipality;

3. "Developer" means the person, partnership, corporation, or other legal entity who is improving and developing a parcel of land within the municipality and who is legally responsible to the municipality for the construction of improvements within a subdivision or as a condition of a building permit;

4. "Homeowners' association" is a nonprofit corporation, subject to a contract between each individual member and the corporation;

5. "Nonpeak hours of traffic" shall mean the times in which demand for use of the residential streets by nonsubdivision residents is not conventional nor high and shall be defined as between the hours of 6:01 P.M. to 5:59 A.M. every calendar day;

6. "Peak hours of traffic" shall mean the times in which accessibility is routine in the normal course of municipal-wide residential activity, which includes the service times of school buses, and shall be defined as between the hours of 6 A.M. to 6 P.M. every calendar day;

7. "Person" means any person, firm, partnership, special district, metropolitan district, or general district, association, corporation, company, or organization of any kind;

8. "Semipublic community" shall mean a subdivision containing semipublic roads that meets the requirements set forth in the Semipublic Community Act;

9. "Semipublic road" shall mean a road in which full accessibility is without restriction during peak hours of residential traffic and is dedicated to the municipality; and

10. "Subdivision" shall mean the division or redivision of land into two or more lots, tracts, sites or parcels for the purpose of transfer of ownership or for development, or the dedication or vacation of a public, private or semipublic right-of-way or easement.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43-123 of Title 11, unless there is created a duplication in numbering, reads as follows:

A municipal governing body may establish a semipublic community in accordance with the specifications provided in the Semipublic Community Act. A semipublic community may be allowable as a planned unit development (PUD) as permitted pursuant to Section 43-110 et seq. of Title 11 of the Oklahoma Statutes. Semipublic communities are only allowable in areas where connectivity to other subdivisions is deemed not necessary by the governing body to further any valued municipal function or a duty.

For purposes of the Semipublic Community Act, a semipublic community shall meet the following minimum criteria:

1. All of the roads in the semipublic community shall be paved in accordance to municipal requirements. Paving material shall be a minimum six (6) inches in depth and may be asphalt or concrete;

2. It shall be the responsibility of the developer to see that semipublic communities shall have no obstruction to ingress and egress during peak traffic hours;

3. The developer shall install all utilities and shall construct streets, and curbs and gutters in accordance with municipal standards and the residential local and commercial collector specifications of the municipality. All semipublic streets shall have a curb and gutter. Minimum paving standards shall be improved to have a minimum eight (8) inches of stabilized road base in all semipublic communities;

4. The developer is responsible to ensure that all semipublic community roads shall carry a municipal bond for a period of five (5) years. The bond shall be for one hundred percent (100%) during the first year and fifteen percent (15%) for each of the remaining four (4) years;

5. All streets in a semipublic community shall be accessible to municipal emergency vehicles at all times, through the use and maintenance of a gating system as provided and specified in Section 4 of the Semipublic Community Act;

6. All streets in a semipublic community shall be serviced with private street lights that shall be installed by the developer at the expense of the developer. Any maintenance and monthly service fees shall be paid by the homeowners' association;

7. All semipublic communities shall be marked with adequate notice that each street is a "semipublic street"; and

8. All amenities shall be implemented and maintained through private means.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43-124 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. Gate requirements for semipublic communities shall be in accordance with the following:

1. The gates shall be located a sufficient distance from a main arterial street to allow three cars to line up at the gate without interfering with vehicles utilizing the arterial street; however, in no case shall the gate be located closer than seventy (70) feet from the curb or edge of pavement of the arterial street;

2. A turnaround lane shall be provided for vehicles immediately in front of the access gates with a minimum of a thirty-eight-foot radius;

3. Speed bumps, road spikes, barbs or other tire-damaging devices shall not be allowed;

4. Any adopted municipal standards for streets, sidewalks, fire lanes, fire hydrants and other engineering and development requirements shall apply to semipublic communities;

5. An entry keypad shall be located on a pedestal near the normal access route. The entry code shall be used for nonemergency access. The access code shall be given to the fire department, police department and all other emergency services of the municipality;

6. An emergency activation key or Knox-Box key shall be located on the keypad pedestal. When activated, the activation key or Knox-Box key will cause the gate to open and stay open until the emergency system is reset by the fire department, the police department or other emergency services provider;

7. An emergency-release hitch pin shall be installed on the control arm. This hitch pin, when removed, will detach the control arm from the gate and allow the gate to swing open freely with manual intervention;

8. A battery backup system shall be provided for each gate. The batteries shall be trickled charged to maintain electrical energy, and in the event of loss of normal electric current, cause the gate to open and stay open until reset by a responsible member of the homeowners' association;

9. The location of all entrance pedestals, emergency activation keys or Knox-Box keys, keypads, hitch pins, related equipment, operation of gate, signage, opening design, swinging or sliding operation of the gate, or any other design specifications shall be constructed and installed in accordance with the plans approved by the community development director and the fire chief of the municipality;

10. Should any problem occur in the operation of the gate, or any violation of this section occur, the gate shall remain open and

accessible until the problem is resolved or the gate is repaired and tested; and

11. When a covered entry is requested, the minimum height shall be no less than sixteen (16) feet.

B. A homeowners' association shall be established by the semipublic community. The homeowners' association shall be responsible for the following:

1. Providing the homeowners' names, addresses and emergency contact numbers of all officers to the fire department and the police department;

2. Maintenance, testing and repairs of all functions of the gate;

3. Establishing the access code to the gates and assuring that the fire department, police department and other emergency services have the proper code number. Changing the code shall not be permitted without proper notification to the appropriate municipal offices;

4. Accompanying and assisting the fire department during annual inspection and testing of the operating systems;

5. Maintaining a service agreement with a qualified contractor to ensure year-round maintenance and continuous functionality; and

6. Requiring that the minimum gate opening width, including clearance for all improvements related to the gate, shall not be less than twenty-six (26) feet for a single gate or fifteen (15) feet for each half of a double gate, or a minimum of twenty (20) feet for each single gate on an entrance that has two separate lanes for ingress and egress.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43-125 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The city manager, upon recommendation of the community development director, as may be appointed by the governing body, and

the fire chief and police chief, shall approve an access agreement with the developer, homeowners' association, or other responsible property owners, providing for an annual inspection of each gate to ensure that each gate is tested to meet all of the requirements of this section prior to it being approved for operation or continued operation. The access agreement shall include a hold-harmless clause, wherein the developer, homeowners' association or other responsible property owners agree to hold the city harmless in the event that the emergency devices on the gates fail, and the fire department or police department are compelled to crash the gates in order to respond to an emergency call or situation. In the event that damage to any municipally owned vehicle is caused by the failure of the developer, homeowners' association or other responsible property owners to notify in a timely fashion the fire department and the police department of a new access code, or failure to submit a key to a new lock on the emergency activation key, the developer, homeowners' association or other responsible property owners shall be liable for the cost of repairs to municipally owned equipment as a result of a crash of the gate.

B. Verification of the access agreement and a copy thereof shall be kept on file at the fire department and the police department, along with the name of the gate contractor, address, 24-hour telephone numbers, and the developer, homeowners' representative, or the name of the responsible property owner, address and emergency-access telephone numbers. These verification and copy requirements are minimum requirements for approval of the annual inspection of the gate. The fire department shall conduct the annual inspection on the anniversary date each year of the date of approval of the access agreement.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43-126 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. Upon completion of the responsibilities by the developer cited in the Semipublic Community Act, the developer shall ensure the formation of the homeowners' association by incorporating the association with the Secretary of State. Upon receipt of the certificate of incorporation, all responsibilities of the developer shall transfer to the homeowners' association.

B. All streets in a semipublic community shall be dedicated to the municipality in which the community is situated. All water, sanitary sewer, and storm sewer systems in a semipublic community shall also be dedicated to the municipality.

C. A semipublic community shall be drawn and submitted to the planning commission and municipal governing body for their approval or disapproval.

SECTION 7. AMENDATORY 69 O.S. 2001, Section 1213, is amended to read as follows:

Section 1213. (a) Any person or persons who shall willfully or knowingly obstruct or damage any public road or highway by obstructing the side or cross drain or ditches thereof, or by turning water upon such road or highway or right-of-way, or by throwing or depositing brush, trees, stumps, logs, or any refuse or debris whatsoever in the road or highway, or on the sides or in the ditches thereof, or by fencing across or upon the right-of-way of the same, or by planting any hedge within the lines established for such road or highway, or by changing the location thereof, or shall obstruct said road, highway or drains in any other manner whatsoever, except for gating of certain roadways as permitted by Section 4 of this act; however, any preexisting roadway dedicated for highway use shall not be gated or obstructed in any way, or, except as provided in subsection (b) of this section, any person or persons who shall willfully or knowingly deface, damage, destroy or remove any traffic-control device, road sign, signboard, guide sign or signpost shall be deemed guilty of a misdemeanor.

(b) If any person or persons willfully or knowingly defaces, damages, destroys or removes any traffic-control device, road sign, signboard, guide sign or signpost and such action results in personal injury to or death of any person, the person or persons responsible for such action shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not more than two (2) years, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment. Notice of this provision shall be placed in the manual provided by the Department of Public Safety which manual is issued for purpose of passing driving privilege.

(c) The governing body who finds any road or highway obstructed as above specified shall notify the person violating the provisions of this section, verbally or in writing, to remove such obstruction forthwith, and if such person does not remove the obstruction within ten (10) days after being notified, he shall pay the sum of Five Dollars (\$5.00) for each and every day after the tenth day such obstruction is maintained or permitted to remain, such fine to be recovered by suit brought by the governing body in any court of competent jurisdiction.

SECTION 8. This act shall become effective November 1, 2006.

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