

EHB 2807

1 THE STATE SENATE
2 Monday, April 10, 2006

3 ENGROSSED

4 House Bill No. 2807

5 ENGROSSED HOUSE BILL NO. 2807 - By: TERRILL of the House and
6 GARRISON of the Senate.

7 An Act relating to cities and towns; enacting the Semipublic
8 Community Act; providing definitions; allowing
9 municipalities to establish semipublic communities in
10 accordance with the act; specifying criteria for semipublic
11 communities; providing gating requirements for semipublic
12 communities; requiring the formation of a homeowners'
13 association; specifying responsibilities of the homeowners'
14 association; requiring the execution of certain agreement;
15 specifying contents of the agreement; requiring certain
16 copying and filing of the agreement; specifying formation of
17 homeowners' association; providing for transfer of certain
18 responsibilities; requiring dedication of certain streets,
19 water and sanitary systems; requiring plan approval by the
20 municipal governing body and planning commission; amending
21 69 O.S. 2001, Section 1213, which relates to obstructing
22 road or right-of-way; providing certain exception; providing
23 for codification; and providing an effective date.

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

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

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

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

1 As used in the Semipublic Community Act:

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

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

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

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

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

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

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

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

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

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

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

18 A municipal governing body may establish a semipublic community
19 in accordance with the specifications provided in the Semipublic
20 Community Act. A semipublic community may be allowable as a planned
21 unit development (PUD) as permitted pursuant to Section 43-110 et
22 seq. of Title 11 of the Oklahoma Statutes. Semipublic communities
23 are only allowable in areas where connectivity to other subdivisions

1 is deemed not necessary by the governing body to further any valued
2 municipal function or a duty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 10. Should any problem occur in the operation of the gate, or
14 any violation of this section occur, the gate shall remain open and
15 accessible until the problem is resolved or the gate is repaired and
16 tested; and

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

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

- 1 1. Providing the homeowners' names, addresses and emergency
2 contact numbers of all officers to the fire department and the
3 police department;
- 4 2. Maintenance, testing and repairs of all functions of the
5 gate;
- 6 3. Establishing the access code to the gates and assuring that
7 the fire department, police department and other emergency services
8 have the proper code number. Changing the code shall not be
9 permitted without proper notification to the appropriate municipal
10 offices;
- 11 4. Accompanying and assisting the fire department during annual
12 inspection and testing of the operating systems;
- 13 5. Maintaining a service agreement with a qualified contractor
14 to ensure year-round maintenance and continuous functionality; and
- 15 6. Requiring that the minimum gate opening width, including
16 clearance for all improvements related to the gate, shall not be
17 less than twenty-six (26) feet for a single gate or fifteen (15)
18 feet for each half of a double gate, or a minimum of twenty (20)
19 feet for each single gate on an entrance that has two separate lanes
20 for ingress and egress.

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

1 A. The city manager, upon recommendation of the community
2 development director, as may be appointed by the governing body, and
3 the fire chief and police chief, shall approve an access agreement
4 with the developer, homeowners' association, or other responsible
5 property owners, providing for an annual inspection of each gate to
6 ensure that each gate is tested to meet all of the requirements of
7 this section prior to it being approved for operation or continued
8 operation. The access agreement shall include a hold-harmless
9 clause, wherein the developer, homeowners' association or other
10 responsible property owners agree to hold the city harmless in the
11 event that the emergency devices on the gates fail, and the fire
12 department or police department are compelled to crash the gates in
13 order to respond to an emergency call or situation. In the event
14 that damage to any municipally owned vehicle is caused by the
15 failure of the developer, homeowners' association or other
16 responsible property owners to notify in a timely fashion the fire
17 department and the police department of a new access code, or
18 failure to submit a key to a new lock on the emergency activation
19 key, the developer, homeowners' association or other responsible
20 property owners shall be liable for the cost of repairs to
21 municipally owned equipment as a result of a crash of the gate.
22 B. Verification of the access agreement and a copy thereof
23 shall be kept on file at the fire department and the police

1 department, along with the name of the gate contractor, address,
2 twenty-four-hour telephone numbers, and the developer, homeowners'
3 representative, or the name of the responsible property owner,
4 address and emergency-access telephone numbers. These verification
5 and copy requirements are minimum requirements for approval of the
6 annual inspection of the gate. The fire department shall conduct
7 the annual inspection on the anniversary date each year of the date
8 of approval of the access agreement.

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

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

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

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

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

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

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

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

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

22 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 4-3-06 -
23 DO PASS.