

TRAFFIC ENFORCEMENT IN GATED SUBDIVISION

The question was posed, can Patrol Officers patrol gated subdivision with privately owned streets and enforce traffic related offences? Communities with privately owned streets are able enter into an agreement with the City allowing Officers to enforce traffic within the community.

Certain traffic related offences can be enforced in gated communities with privately owned streets currently, these include Driving While Intoxicated, Reckless Driving, etc. In addition to these enforcements, a provision in the Texas Transportation Code permits private subdivisions to petition a City with a population of 300 or more to enforce additional traffic laws (to include speeding, parking and disregard of traffic control devices) and City Ordinances relating to traffic.

Transportation Code 542.008 states:

Sec. 542.008. TRAFFIC REGULATIONS: PRIVATE SUBDIVISIONS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a subdivision in which the roads are privately owned or maintained that is located in a municipality with a population of 300 or more.

(b) On petition of 25 percent of the property owners residing in the subdivision or on the request of the governing body of the entity that maintains the roads, the governing body of the municipality may extend by ordinance any traffic rules that apply to a road owned by the municipality, or by the county in which the municipality is located, to the roads in the subdivision so that the roads of the subdivision are under the same traffic rules, if the governing body of the municipality finds the ordinance in the interest of the municipality generally. A petition under this subsection must specify the traffic rules that are sought to be extended. The ordinance may extend any or all of the requested rules.

(c) As a condition of extending a traffic rule under Subsection (b), the governing body of the municipality may require that owners of property in the subdivision pay all or part of the cost of extending and enforcing the traffic rules in the subdivision, including the costs associated with the placement of necessary official traffic control devices. The governing body of the municipality shall consult with the appropriate law enforcement entity to determine the cost of enforcing traffic rules in the subdivision.

(d) On issuance of an order under this section, the private roads in the subdivision are considered to be public highways or streets for purposes of the application and enforcement of the specified traffic rules. The governing body of the municipality may place official traffic control devices on property abutting the private roads if:

- (1) those devices relate to the specified traffic rule; and
- (2) the consent of the owner of that property is obtained or an easement is available for the placement.

In summary, on petition of the property owners (25% of the property owners or the governing body) of a gated subdivision, the City may extend by ordinance, any traffic rule that would apply to other City owned streets. The City may grant the ordinance if the City Council finds the ordinance to be in the interest of the City as a whole. The petitioner must also specify the traffic rules that are sought to be enforced, the ordinance may extend to any or all requested rules.

As a condition of the agreement, the City may require the owners of the property in the gated subdivision to pay all cost associated with the placement of any official traffic control devices and signage as needed.

The first step in this process is for the Homeowner's Association Organization (HOA) to submit a petition to City Council to consider privately owned streets public streets for the purpose of enforcement of traffic rules. The petition must be signed by the property owners, not renters, and constitute 25% of the property owners or the governing body of the HOA. These signatures will be confirmed through the City's GIS Department. The petition should also outline what traffic rules are sought to be extended to the community. Such rules may include traffic rules and laws regarding speed, signal indicators, stop signs, parking and similar traffic laws.

Once the petition is submitted, the City may enter into an agreement with the HOA via an ordinance adopted through the City Council. The City Manager may be delegated the authority from the Council as well.

Prior to enforcement action occurring, it is also recommended that two other steps take place. First, the City Public Works Department ensures traffic control signage conform to the Texas Manual of Uniform Traffic Control Devices, the cost of this would be the responsibility of the HOA seeking the agreement. Second, residents in this subdivision be notified that the ordinance has been adopted and enforcement action will commence (e.g. Flyers, email, post cards).