

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: November 6, 2006

SUBJECT: Public Hearing – Entry Gate Ordinance

ATTACHMENTS: Public Hearing Notice, Draft Ordinance, Draft Amendment

SUMMARY OF REQUEST:

On October 2, 2006 the Board of Commissioners designated November 6, 2006 at 7:00 p.m. as a Public Hearing for the purpose of receiving public comment on the proposed ordinance regulating entry gates. Notice was provided in the legal notice section of the Times News on October 20 and 23, 2006.

Staff has surveyed the County and has identified eight existing gated communities and four more under construction. Some of the existing communities will not meet the requirements of Section 2, paragraphs A and B (setback and turnaround distances).

COUNTY MANAGER'S RECOMMENDATION/ACTION REQUIRED:

Following the Public Hearing the Board may act on this proposal by:

- 1) Adopt the proposed ordinance as presented.
- 2) Amend Section 2, paragraph A and B for application in new construction only and adopt the ordinance with changes.

**PUBLIC HEARING NOTICE FOR
HENDERSON COUNTY ENTRY GATE ORDINANCE
NOVEMBER 6, 2006, 7:00 P.M. AT THE
HENDERSON COUNTY
COMMISSIONER'S MEETING ROOM**

On November 6, 2006 at 7:00 p.m., in the Commissioner's Meeting Room, 100 North King Street, the Henderson County Board of Commissioner's will hold a public hearing on the proposed Henderson County Ordinance concerning regulation of entry gates for gated communities and subdivisions. All interested persons are invited to attend.

AN ORDINANCE CONCERNING PROTECTION OF GATED COMMUNITIES AND SUBDIVISIONS

WHEREAS, the Henderson County Board of Commissioners has determined that certain gates as used by subdivisions and other communities within Henderson County could impede the provision of emergency law enforcement, fire protection and other services to the residents of such subdivisions and communities; and,

WHEREAS, in exercise of its police power for the protection of the welfare and safety of Henderson County residents, the Henderson County Board of Commissioners has determined that the following is needed to insure the safety of the County's residents; and,

WHEREAS, the following balances the need of law enforcement, fire protection and other emergency responders in Henderson County for unimpeded access to the residents of such communities with the desire of such residents for the security and appearance of a gated community; and,

WHEREAS, in exercise of its police power for the protection of the welfare and safety of Henderson County residents, the Board of Commissioners adopts the following.

NOW, THEREFORE, BE IT HEREAFTER ORDAINED by the Board of Commissioners of Henderson County that a new provision of the Henderson County Code is hereby enacted, as follows:

ENTRY GATES

1. Definitions. Except as otherwise defined herein, all terms contained herein shall have their meaning as otherwise defined in the Henderson County Code, or if not so defined, as commonly used. The following terms are specifically defined as follows:

- A. Access control device: equipment and/or machinery that opens and closes an entry gate.
- B. Entry gate: movable partition for controlling access and egress.

- C. Vehicle: Any motor vehicle which is allowed to use the public roadways in North Carolina, but not including vehicles which include trailers or semi-trailers.

2. Design.

A. All subdivision or community entry gates shall be setback sufficiently far from public road or street access to allow for the stacking of at least three vehicles out of the public travel lanes on the public road or street.

B. An additional setback between the point of the access control device and the entry gate shall be required to allow a vehicle which is denied access to safely turn around and exit onto a public street.

C. Approach and departure areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area.

3. Size of entry gate area. Entry gates shall have sufficient minimum gate widths and openings to allow safe passage of all vehicles. Overhead barriers or obstructions shall provide a minimum thirteen feet six inches (13' 6") vertical clearance at its lowest point.

4. All plans for entry gates for which construction is not complete as of the adoption hereof shall be subject to inspection by the Henderson County Fire Marshal and Henderson County Sheriff's Department for compliance with the provisions. Once such plans are approved, the entry gate shall be constructed in compliance with such plans.

5. All entry gates for which construction is complete as of the adoption hereof shall be retrofitted in such manner as to be in compliance with the terms of this Ordinance within six (6) months of the date of adoption hereof.

6. The developer and homeowners' association shall provide unfettered access to all private streets by emergency and law enforcement vehicles. Access procedures must ensure immediate access through the entry gates for emergency and law enforcement vehicles responding to emergencies without need of special keys or codes. This may be done by access control device approved by Henderson County. As an alternative the developer or homeowners association may provide a person to provide immediate access to emergency service personnel on a 24 hour basis. The developer and homeowner's association shall provide and annually update documentation necessary to provide this access to the Henderson County Fire Marshal and Sheriff's Department that proposed entry gates and access procedures meet all County standards for access by emergency and law enforcement vehicles. If the homeowner's association fails to maintain reliable access for the provision of emergency or other public services, the County may enter the gated residential development and open, disable or remove any gate or device, which is a barrier to access, at the sole expense

of the homeowners' association. The declaration of covenants, conditions and restrictions and any other relevant documents of the homeowners' association shall include a statement to this effect.

7. The developer and homeowners' association shall reasonable guarantee access to all private streets by Henderson County and State of North Carolina employees operating within the scope of their official duties to perform zoning, inspections and other governmental regulatory activities, and to all public utility companies to perform installation and maintenance activities of public utility infrastructure. A statement to this effect shall be filed with the Henderson County Sheriff's Department and appear on the final plat of all new development.

This section shall be effective upon adoption, and shall be codified as a free-standing ordinance, and shall be cross-referenced as a part of the Henderson County Subdivision Ordinance (and any subsequently adopted replacement therefore), and compliance herewith shall be deemed to an additional requirement of such Ordinance.

Possible amendment to Entry Gate Ordinance:

(changes in *italic*)

Section 2. Design

- A. All subdivision or community entry gates *constructed hereafter* shall be setback sufficiently far from public road or street access to allow for the stacking of at least three vehicles out of the public travel lanes on the public road or street.
- B. *All entry gates hereafter constructed shall have an additional setback between the point of the access control device and the entry gate to allow a vehicle which is denied access to safely turn around and exit onto a public street.*