

**RESOLUTION 2015-05**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE BAYTREE COMMUNITY DEVELOPMENT DISTRICT, ADOPTING THE BAYTREE COMMUNITY DEVELOPMENT DISTRICT GATE FACILITIES RULE; PROVIDING FOR RULES PERTAINING TO GATE ACCESS CARDS; AUTHORIZING DISTRICT MANAGEMENT TO DEACTIVATE GATE ACCESS CARDS AND SUSPEND FACILITY ACCESS UNDER SPECIFIED CIRCUMSTANCES; PROVIDING FOR GATE FACILITIES FEES AND CHARGES; PROVIDING THAT THE GATE FACILITIES RULE SHALL BECOME PART OF THE RULES OF THE BAYTREE COMMUNITY DEVELOPMENT DISTRICT; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the Baytree Community Development District (the “District”) is a local unit of special-purpose government created and existing pursuant to Chapter 190, Florida Statutes, being situated entirely within Brevard County, Florida;

**WHEREAS**, the Board of Supervisors of Baytree Community Development District (the “Board”) is authorized by Sections 190.011(5) and 190.035, Florida Statutes to adopt rules and set rates, fees, and charges pursuant to Chapter 120, Florida Statutes;

**WHEREAS**, the District is the owner of and is responsible for the operation and maintenance of certain public rights-of-way and the soft-gate security facilities within the boundaries of the District, which include, but are gates, gate arms, cameras, audio-visual and recording equipment, lighting, wiring, cabling, and electrical facilities, and other appurtenant security or security-related improvements benefiting the residents and property owners within the District and within the Isles of Baytree pursuant to a roadway cost sharing agreement with the Isles of Baytree Homeowners’ Association, Inc. (the “Gate Facilities”);

**WHEREAS**, the residents may gain access through the Gate Facilities through the resident lane by use of a transponder, ePass, or other card or electronic reader system;

**WHEREAS**, the Gate Facilities are located at two areas of ingress and egress of the Baytree subdivision;

**WHEREAS**, the District Board finds that it is in the best interest of the District to establish certain rules governing access by residents of Baytree and the Isles of Baytree to the community and the operations of the Gate Facilities;

**WHEREAS**, in addition, the Gate Facilities are often damaged by residents, their guests, and visitors to the community, who fail to yield when gate arms are in the down or closed position, who

take action to manually lift or open gates, or whose vehicles strike such facilities;

**WHEREAS**, when Gate Facilities are damaged and evidence is available connecting a particular vehicle or individual to the damage, the District attempts to be made whole and works towards collecting Gate Facilities fees, charges, and costs associated with repairing said damage, as previously approved by the District Board;

**WHEREAS**, in some circumstances, residents of Baytree who live within the boundaries of the District and residents of the Isles of Baytree have damaged the Gate Facilities and have refused to respond or refused or neglected to pay Gate Facilities fees despite clear visual and documentary evidence linking the damage to a vehicle they own or which is registered to their household;

**WHEREAS**, the District Board of Supervisors desires to protect the integrity, operation and aesthetics of the Gate Facilities of the District, while ensuring that those responsible for damaging the Gate Facilities pay for the repair of such damaged Gate Facilities and that access to the Baytree or Isles of Baytree communities through the resident lanes is monitored and administered in an effective and efficient manner;

**WHEREAS**, the District properly advertised a public hearing in order to hear and receive comments on the proposed District Rule pursuant to the requirements of Chapter 120, Florida Statutes;

**WHEREAS**, after a duly advertised public hearing, the District Board of Supervisors finds it to be in the best interests of the District, the integrity and maintenance of its Gate Facilities, and the residents and property owners of the District to adopt the Gate Facilities Rule attached as Exhibit A to this Resolution; and

**WHEREAS**, the District has complied with the provisions of Chapters 120 and 190, and has conducted a public hearing to address proposed rules establishing fees, rules and regulations pertaining to the operation and maintenance of District facilities; and

**WHEREAS**, it is further the intent of the District Board that the fees, charges and costs associated with damage to Gate Facilities and reactivation of Gate Access Cards be established as part of the Gate Facilities Rule, and that the Gate Facilities Rule be implemented as part of the Rules of the Baytree Community Development District, Chapter III; and

**WHEREAS**, upon adoption by the Board of Supervisors, the Gate Facilities Rule shall be included within Chapter III of the Rules of the Baytree Community Development District.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF BAYTREE COMMUNITY DEVELOPMENT DISTRICT, THAT:**

**Section 1.** The above recitals are true and correct and by this reference are hereby incorporated into and made an integral part of this Resolution.

**Section 2.** The Baytree Community Development District Gate Facilities Rule attached hereto as Exhibit A is hereby adopted.

**Section 3.** The District Manager is hereby directed to distribute this Resolution to the Isles of Baytree Homeowners' Association, Inc., and as required by Chapters 120 and 190, Florida Statutes. The District Manager is further directed to publish the Gate Facilities Rule on the District's website, and to generally make copies of such Rules available for inspection or copying by members of the general public pursuant to Florida's Public Records Law.

**Section 4.** The Gate Facilities Rule shall be implemented as the newly created Chapter III of the Rules of the Baytree Community Development District.

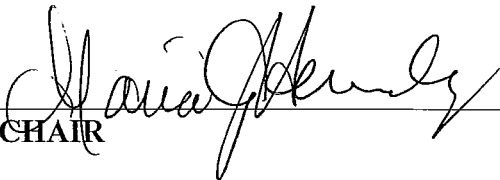
**Section 5.** All motions, resolutions or parts of motions or resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6.** If any clause, section, paragraph, provision, or other part or application of this Resolution is held by court of competent jurisdiction to be unconstitutional, ineffective, or invalid, in part or as applied, it shall not affect the validity of the remaining clauses, sections, paragraphs, provisions, parts, or applications of the Resolution.

**Section 7.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED THIS 4<sup>th</sup> DAY OF June, 2015.

**BAYTREE COMMUNITY  
DEVELOPMENT DISTRICT**

  
\_\_\_\_\_  
CHAIR

**ATTEST:**

  
\_\_\_\_\_  
SECRETARY/ASSISTANT SECRETARY

**BAYTREE**  
**COMMUNITY DEVELOPMENT DISTRICT**

**Chapter III of the Rules of the**  
**Baytree Community Development District**

**Gate Facilities Rule**

**(Adopted June 3, 2015)**

**Section 3.01 Gate Facilities Rule.**

(1) Title. This rule may be cited and referred to as the Baytree Community Development District Gate Facilities Rule.

(2) Gate Facilities, defined. The Baytree Community Development District (the “District”) funds, operates, and maintains certain security and security-related improvements, facilities and equipment, including multiple guardhouses, gates, gate arms, cameras, audio-visual and recording equipment, lighting, wiring, cabling, and electrical facilities, and other appurtenant security or security-related improvements benefiting the residents and property owners within the District and the Isles of Baytree subdivision located outside of and adjacent to the boundaries of the District (collectively, the “Gate Facilities”), which Gate Facilities are located at the two means of ingress and egress for the Baytree development at (1) north entrance at Baytree Drive and (2) south entrance at Baytree Drive. The Gate Facilities are utilized for access to the Baytree and Isles of Baytree subdivisions.

(3) Damage to Gate Facilities. Any damage to the Gate Facilities shall be assessed against the registered owner or driver of the vehicle or against the individual causing damage to the Gate Facilities, as the case may be in accordance with the Gate Facilities fees set forth in Section 3.01(8) of this Gate Facilities Rule.

(4) Gate Access Transponders.

(a) The District Gate Facilities are designed to include a non-resident lane and a resident lane for purposes of entering the Baytree and Isles of Baytree communities. Those utilizing the resident lane gain access through the use of a District-issued gate access card, electronic reader, ePass, or transponder, depending on the access system approved and in use by the District (the “Gate Access Transponder”).

(b) Gate Access Transponders are non-transferable and may be obtained by

contacting the District Manager's office, as designated on the District website, the cost of each Gate Access Transponder shall be determined by the District Board, but which shall be no more than the actual cost of the Gate Access Transponder plus 10% for administration.

- (c) The District shall maintain a record of valid Gate Access Transponders issued to each unit within Baytree and the Isles of Baytree. Only owned, leased, or company-provided/work-related vehicles (non-commercial), and as permitted by the Baytree Community Association, Inc. may be assigned a Gate Access Transponder. Each Gate Access Transponder shall be assigned to a particular vehicle and may not be transferred to another vehicle. Owners shall present proof of ownership, whether by deed or by record of the Brevard County Property Appraiser. Gate Access Transponders are valid only as long as the vehicle owner continues to reside in Baytree or the Isles of Baytree, and shall be de-activated once it is known that those conditions are no longer satisfied. It is the responsibility of the unit owner(s) to notify the District of any change of address, or sale or other transfer of any vehicle assigned a Gate Access Transponder. Before the issuance of any Gate Access Transponders to tenants or lessees, the following items must be presented to the District:

- (i) Approved renter or lessee affidavit signed by the property owner and the approved renter, copies of which forms may be obtained at the Baytree Community Association Office; and
- (ii) Copy of the applicable lease instrument, which shall contain a defined term within which the lease is valid and in effect; and
- (iii) Copy of proof from the applicable homeowners or property owners association that the lease has been approved or accepted by said association; and
- (iv) Payment of the appropriate Transponder Fee.

(5) Deactivation of Gate Access Transponders. The District Manager or his designee shall have the authority to deactivate ALL Gate Access Transponders issued to a particular unit within the District or Isles of Baytree, upon a determination by the District Manager or his or her designee, after reviewing supporting documentation, that:

- (a) The ownership of the unit has been changed, the tenant or resident has otherwise permanently vacated the unit, or the Gate Access Transponder is not on the vehicle registered with the District; or
- (b) The term of the lease provided to the District pursuant to Section 3.01(4)(c)(ii) above has expired, and the District has not been provided with written notification or documentation that the term of said lease has,

in fact, been extended; or

- (c) A least thirty (30) days has expired since the owner has commenced eviction proceedings against and served a previously-approved renter or lessee or has obtained an order of eviction in a court of competent jurisdiction; or
- (d) Any information presented to the District pursuant to Section 3.01(4)(c) is false or is no longer applicable or accurate; or
- (e) a order has been issued by a court of competent jurisdiction directing that the District deactivate a Gate Access Transponder issued to a particular individual or vehicle; or
- (f) There exists unpaid Gate Facilities fees imposed pursuant to this Rule and due and owing to the District, subject to the following:
  - (i) the District possesses video, eyewitness, or documentary evidence that an individual, or a vehicle registered to the unit within the District or a guest to that unit has caused damage to the Gate Facilities of the District; and
  - (ii) The District has sent a correspondence to said unit, which correspondence shall (1) detail the date and location of the incident, the individual(s) or vehicle(s) involved, and the damage caused to the District Gate Facilities, (2) indicate that such Gate Facilities fees must be paid to the District within at least thirty (30) days, and (3) indicate that all Gate Access Transponders issued to the unit will be deactivated without further notice if payment is not received by the District within said thirty (30) day period.

(6) Appeal of Deactivation of Gate Access Transponders. Prior to the expiration of the thirty (30) day period referenced in Section 3.01(5)(f)(ii), the deactivation of Gate Access Transponders and the Gate Facilities fees may be appealed in writing directly to the District Board of Supervisors (the “Board”), which will hear said appeal at its next regular meeting. During the time of the appeal until it is heard by the Board, Gate Access Transponders will not be deactivated. Gate Access Transponders will be deactivated if the individual(s) appealing the deactivation fails to appear at the next regular meeting of the Board or the appeal is denied by the Board.

(7) Reactivation of Gate Access Transponders. Gate Access Transponders may be reactivated by the District Manager or his or her designee upon payment of all unpaid Gate Facilities fees and costs to the District or when directed by the Board after an appeal has been filed and heard pursuant to Section 3.01(6) above.

- (8) Gate Facilities Fees. Gate Facilities fees shall be as follows:

- (a) Removing, pulling, or knocking off gate arm requiring re-attachment (no damage to gate arm or other Gate Facilities) .....\$150.00;
- (b) Re-activating a deactivated Gate Access Transponder..... \$30.00 per Gate Access Transponder or \$50.00 per unit (covers all Gate Access Transponders assigned to unit), whichever is less;
- (c) Damage to other Gate Facilities not referenced in this section shall be assessed at cost plus ten (10%) for administration fees.
- (d) Purchasing additional, new or lost Gate Access Transponders .....\$20 each or actual cost, whichever is higher