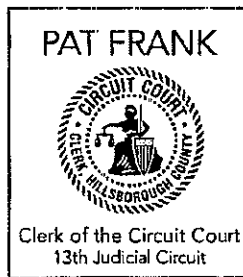


ORDINANCE

11-23



December 15, 2011

Norma J Wise, Director
Hillsborough County Law Library
501 E. Kennedy Boulevard Ste. 100
Tampa, Florida 33602-5027

Re: Ordinance #11-23
Gas Pumping Assistance For Persons With Disabilities Ordinance

Dear Ms. Wise:

Attached please find a copy of Hillsborough County Ordinance #11-23 which was adopted by the Board of County Commissioners on December 7, 2011. We are also forwarding acknowledgment received from the Secretary of State. This ordinance has an effective date of January 1, 2012

If I can provide additional information or be of further assistance, please do not hesitate to contact me.

Sincerely,


Julia Poupart,
Director, BOCC Records/VAB

md

Attachments

cc: Evelyn Jefferson, Municipal Code Corporation
Debra A Cole, Hillsborough County Sheriff's Office
Aracelis Maldonado, Library Services
Jeffrey Huggins, Aide to Commissioner Sandy Murman
Della Curry, Aide to Commissioner Sandy Murman
Nancy Milam, County Attorney's Office
Cynthia S. Oster, Senior Assistant County Attorney
Carol Brite, County Attorney's Office
Jack Brooks, Director, CCC Accounting
Sharon Sweet, BOCC Records



Agenda Item Cover Sheet

Agenda Item N° D-4

Meeting Date December 07, 2011

Consent Section
 Regular Section
 Public Hearing

Subject:
 Public Hearing to consider enactment of the Gas Pumping Assistance For Persons With Disabilities Ordinance, Resolution Providing Civil Penalties, Hearing Officer Procedures, and Hearing Officers' Jurisdiction, Powers and Compensation.

Department Name: County Attorney's Office

Contact Person: Cynthia S. Oster Contact Phone: 813-272-5670

Sign-Off Approvals:

	Jennie Tarr	<u>11/29/2011</u>
	<small>Managing County Attorney</small>	<small>Date</small>
Don Odom	<u>11/29/2011</u>	NA
<small>County Attorney</small>	<small>Date</small>	<small>Joint Department Director</small>
Tom Fesler	<u>11/30/2011</u>	Cynthia Oster
<small>Management and Budget - Approved as to Financial Impact Accuracy</small>	<small>Date</small>	<small>Assistant County Attorney</small>
		<small>Date</small>

Staff's Recommended Board Motion:

(1) Conduct a public hearing to consider enactment of the Gas Pumping Assistance For Persons With Disabilities Ordinance, and (2) Adopt a Resolution providing civil penalties for ordinance violations, appointment procedures for Hearing Officers, and Hearing Officers' jurisdiction, powers and compensation

There is no financial impact by approving this item.

Financial Impact Statement:

There is no financial impact by approving this item.

Background:

On November 16, 2011, the Board of County Commissioners (BOCC) authorized the County Attorney's Office to set and advertise a public hearing on December 7, 2011 to consider enactment of an ordinance that would facilitate state and federal laws requiring gas pumping assistance for persons with disabilities.

The American with Disabilities Act (ADA) requires gas stations, including those offering self-service, to provide equal access for their customers with disabilities. For self-service gas stations, the ADA

* ORD# 11-23
 Resolution R11-134 Murman / Higgin botham
 7 to 0

requires the station to provide refueling assistance upon the request of a customer with a disability if there is more than one attendant on duty at the station and to post signs in visible locations informing the customers that they may obtain this assistance by honking or otherwise signaling an employee.

However, the attendant on duty may not hear the horn or may not understand that the honking or other signaling is for the purpose of obtaining refueling assistance. Therefore, persons with disabilities are still finding it difficult to get the assistance they need.

In an effort to provide greater assistance to persons with disabilities in refueling their vehicles, the proposed Ordinance requires the placement of a decal displaying the gas station/convenience store's telephone number on gas pumps so that customers with disabilities can call into the gas station/convenience store from their cellular phones to request refueling assistance. The posted telephone numbers must be operational and are to be answered by an employee of the gas station/convenience store. In addition, the proposed Ordinance provides for: a process for filing and investigating complaints of violations of the proposed Ordinance; enforcement powers, which include issuing a Notice of Violation, entering into Assurances of Voluntary Compliance, seeking injunctive relief and referring the matter to appropriate federal and state agencies; civil and criminal penalties; and, an administrative hearing process. Under the proposed Ordinance, the Equal Opportunity Administrator's Office is designated as the agency to receive complaints of violations of the proposed Ordinance and the ADA Coordinator is designated as the enforcement agency. However, such designations may be changed by the County Administrator, whenever he deems it necessary.

As provided in the proposed Ordinance, the attached Resolution establishes the amount of the fines which may be imposed by the ADA Coordinator or Hearing Officers for violations of the Ordinance, the appointment procedures for Hearing Officers and the jurisdiction and powers of Hearing Officers. The Resolution also provides that Hearing Officers may be reasonably compensated as authorized by the County Administrator in an Administrative Directive.

List Attachments:

Proposed Ordinance and Resolution

ORDINANCE NO. 11-23

AN ORDINANCE RELATING TO REFUELING ASSISTANCE FOR PERSONS WITH DISABILITIES; PROVIDING A TITLE; PROVIDING FOR DEFINITIONS; PROVIDING ACCESSIBILITY REQUIREMENTS; PROVIDING FOR PROHIBITED CONDUCT; PROVIDING FOR DUAL REMEDIES; PROVIDING FOR THE FILING OF COMPLAINTS; PROVIDING FOR THE DUTIES AND RESPONSIBILITIES OF THE EQUAL OPPORTUNITY ADMINISTRATOR'S OFFICE; PROVIDING FOR THE POWERS AND DUTIES OF THE AMERICANS WITH DISABILITIES ACT COORDINATOR INCLUDING ENFORCEMENT POWERS; PROVIDING FOR AN ASSURANCE OF VOLUNTARY COMPLIANCE; PROVIDING FOR A NOTICE OF VIOLATION AND REQUEST FOR HEARING; PROVIDING FOR APPOINTMENT OF HEARING OFFICERS; PROVIDING FOR HEARINGS; PROVIDING FOR APPEALS; PROVIDING FOR SERVICE OF NOTICE; PROVIDING FOR ADDITIONAL ENFORCEMENT AGENCIES; PROVIDING FOR CRIMINAL VIOLATIONS AND PENALTIES; PROVIDING FOR OTHER RIGHTS AND REMEDIES; PROVIDING FOR APPLICABILITY; PROVIDING FOR COMPLIANCE WITH STATE AND FEDERAL LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR RESOLUTION OF CONFLICT OF LAWS; PROVIDING FOR INCLUSION IN THE HILLSBOROUGH COUNTY CODE; PROVIDING FOR FILING OF ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Americans with Disabilities Act (ADA) requires gas stations, including those offering self-service, to provide equal access for their customers with disabilities; and

WHEREAS, for self-service gas stations, the ADA requires the station to provide refueling assistance upon the request of a person with a disability if there is more than one attendant on duty at the station, to advise customers with disabilities that they can obtain this refueling assistance by honking or otherwise signaling the attendant and that such refueling assistance is provided without any charge beyond the self-service price; and

WHEREAS, Section 526 141, Florida Statutes, mandates every full-service gas station offering self-service at a lesser cost to require an attendant employed by the station to dispense gasoline from the self-service portion of the station to any motor vehicle properly displaying a parking permit or license plate issued to a person with disabilities and to prominently display a decal on all self-service pumps indicating this requirement and applicable penalties for violating this requirement; and

WHEREAS, the Hillsborough County Board of County Commissioners has become aware that persons with disabilities are still finding it difficult to obtain the gas refueling assistance they need; and

WHEREAS, the Hillsborough County Board of County Commissioners recognizes the need to ensure that persons with disabilities are provided equal access in refueling their vehicles and finds that imposing local regulations on gas station retailers is the best means of ensuring this equal access; and

WHEREAS, Chapter 125, Florida Statutes authorizes the Hillsborough County Board of County Commissioners to provide for the citizens of said County, standards which insure their health, safety and welfare; and

WHEREAS, the Hillsborough County Board of County Commissioners recognizes that the public health, safety and welfare of the residents of Hillsborough County will best be served by enacting a Gas Pumping Assistance For Persons With Disabilities Ordinance that provides for the regulation of gas station retailers to ensure that persons with disabilities are provided equal access in refueling their vehicles.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH COUNTY, FLORIDA:

SECTION 1. TITLE.

This Ordinance shall be known and may be cited as the "Gas Pumping Assistance For Persons With Disabilities Ordinance".

SECTION 2. DEFINITIONS.

For purposes of this Ordinance, the following terms shall have the meanings given to them below. No attempt is made to define any words which are used in accordance with their established dictionary meaning, except when necessary to avoid misunderstanding. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include words in the plural number, and the use of any gender shall be applicable to all genders whenever the sense requires. The words "shall", "will", and "must" are mandatory and the word "may" is permissive

(A) AMERICANS WITH DISABILITY ACT COORDINATOR OR ADA COORDINATOR – Shall mean the individual that is responsible for enforcing and implementing the provisions of this Ordinance, or any successive or replacement County agency, department, or division that may be tasked with the same responsibilities by the County Administrator.

(B) ASSURANCE OF VOLUNTARY COMPLIANCE (AVC) – shall mean a written agreement between the ADA Coordinator and a Respondent, entered into willingly by each party with the assistance, supervision or oversight of the ADA Coordinator, as provided for in Section 9 of this Ordinance.

(C) BOCC – shall mean the Hillsborough County Board of County Commissioners.

(D) COMPLAINANT – shall mean any individual, regardless of whether such individual is a person with a disability, who witnesses or who is subjected to conduct in violation of this Ordinance and who files a written complaint with the Equal Opportunity Administrator's Office stating the information required by Section 6.

(E) COUNTY – shall mean Hillsborough County, Florida, a political subdivision of the State of Florida.

(F) COUNTY ATTORNEY'S OFFICE – shall mean the Office of the County Attorney of Hillsborough County, Florida.

(G) DAY(S) – shall mean calendar day(s).

(H) EQUAL OPPORTUNITY ADMINISTRATOR'S OFFICE OR EOA OFFICE – shall mean Hillsborough County's Equal Opportunity Administrator that is responsible for receiving and administratively tracking complaints of violations of this Ordinance until closure of the complaint, or any successive or replacement County agency, department, or division that may be tasked with the same responsibilities by the County Administrator.

(I) GASOLINE STATION – shall mean that portion of property where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from fixed, approved dispensing equipment into the fuel tanks of motor vehicles by any person.

(J) GAS STATION RETAILER – shall mean:

(1) Any full service Gasoline Station; or

(2) Any self-service Gasoline Station that has two or more attendants on duty at any given time during the hours the station is open for business to the public.

(K) HEARING OFFICER – shall mean the individual or individuals appointed pursuant to the Resolution to fulfill the duties of Hearing Officer under this Ordinance.

(L) HEARING PROCEDURES – shall mean the procedures adopted by the County Administrator governing noticing, scheduling, and conducting hearings of violations of this Ordinance before a Hearing Officer, such as may be amended from time to time.

(M) INVESTIGATOR – shall mean a person performing services in an official capacity for the ADA Coordinator.

(N) NOTICE OF VIOLATION – shall mean a written notice of an alleged violation of this Ordinance issued to a Respondent by the ADA Coordinator or an Investigator, as more particularly described in Section 10 of this Ordinance.

(O) ORDINANCE – shall mean this Hillsborough County Gas Pumping Assistance For Persons With Disabilities Ordinance, as such may be amended from time to time.

(P) PERSON OR PERSONS – shall mean any individual (including a minor child), firm association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, and any other groups or combination.

(Q) PERSON(S) WITH DISABILITY(IES) – Any person(s) who:

- (1) Has a physical or mental impairment which substantially limits one or more of such person's major life activities; or
- (2) Has a record of such impairment; or
- (3) Is regarded as having such an impairment.

(R) REASONABLE CAUSE – shall mean, if given the same set of facts or actions, a reasonable person would conclude that a violation of this Ordinance has occurred.

(S) REPEAT VIOLATION - shall mean any violation of the Ordinance by a Respondent committed within five (5) years after (i) such Respondent has entered into an Assurance of Voluntary Compliance with respect to a violation of the same or a different provision of the Ordinance; or (ii) such Respondent been found by a Hearing Officer to have violated the same or a different provision of the Ordinance; or (iii) such Respondent

has been convicted, pled nolo contendere or guilty of a violation of the same or different provision of the Ordinance in a criminal court; or (iv) such Respondent has admitted violating the same or a different provision of this Ordinance; or (v) a failure by a Respondent to abide by any provision of an Assurance of Voluntary Compliance entered into by the Respondent.

(T) RESOLUTION – shall mean a resolution adopted by the Board of County Commissioners with respect to this Ordinance which sets forth procedures applicable to the appointment of Hearing Officers and the establishment of civil penalties which may be imposed for violations of this Ordinance by the ADA Coordinator or by a Hearing Officer, as such resolution may be amended from time to time.

(U) RESPONDENT – shall mean any person the ADA Coordinator reasonably believes upon investigation to have violated this Ordinance.

SECTION 3. ACCESSIBILITY REQUIREMENTS.

(A) Within ninety (90) days of enactment of this Ordinance, all Gas Station Retailers shall be required to prominently display a sign, decal or sticker, no smaller than fifteen (15) square inches, on the front of all gasoline pumps clearly stating the telephone number for that Gas Station Retailer, the international symbol of accessibility (ISA), and wording such as “Call for Assistance” or “Assistance Available upon Request” The sign, decal or sticker must also be on a blue background The telephone number indicated on the sign, decal or sticker shall be operational and answered directly by an employee of the Gas Station Retailer during the hours the Gas Station Retailer is open for business to the public.

(B) The Gas Station Retailer shall require an attendant to provide refueling assistance to any motor vehicle properly displaying an exemption parking permit as provided in Sections 316.1958 or 320.0848, Florida Statutes, as may be amended, or a license plate issued pursuant to Sections 320.084, 320.0842, 320.0843 or 320.0845, Florida Statutes, as may be amended, when the person to whom such permit has been issued is the operator of the vehicle and such service is requested during the hours the Gas Station Retailer is open for business to the public.

However, should such assistance be requested during times when a second attendant is not present at a self-service Gasoline Station, the Gas Station Retailer is not required to provide the requested assistance. In such case, if a remote or electronic means of communication with the requester exists, the one attendant on duty shall inform the person that he or she is unable to provide such assistance as a result of having only one attendant on duty.

SECTION 4. PROHIBITED CONDUCT.

It shall be a violation of this Ordinance for a Gas Station Retailer to:

- (A) Fail or refuse to prominently display a sign, decal or sticker, as described in Section 3(A) above; or
- (B) Fail to ensure the telephone number indicated on the sign, decal or sticker is operational and answered by an employee of the Gas Station Retailer during hours the Gas Station Retailer is open for business to the public; or
- (C) Fail to provide refueling assistance to any motor vehicle properly displaying an exemption parking permit as provided in Sections 316.1958 or 320.0848, Florida Statutes, as may be amended, or a license plate issued pursuant to Sections 320.084, 320.0842, 320.0843 or 320.0845, Florida Statutes, as may be amended, when the person to whom such permit has been issued is the operator of the vehicle and such service is requested during the hours the Gas Station Retailer is open to the public unless there is only one attendant on duty at the time of the request; or
- (D) Failure of a Respondent to abide by any provision of an Assurance of Voluntary Compliance entered into by such Respondent. If a Respondent fails to abide by more than one provision of an Assurance of Voluntary Compliance, each such failure shall be a separate violation of this Ordinance.

SECTION 5. DUAL REMEDIES.

A violation of this Ordinance may also constitute grounds for a violation of Section 5, Discrimination in Public Accommodations, of Hillsborough County's Human Rights Ordinance 00-37, as may be amended (Ordinance 00-37). Nothing herein shall prevent any person from exercising any right or seeking any remedy or redress to which one might be entitled to under Ordinance 00-37.

SECTION 6. FILING OF COMPLAINTS.

(A) Any person who witnesses or who is subjected to an unlawful practice or conduct in violation of this Ordinance may file a written complaint with the Equal Opportunity Administrator's Office (EOA Office)

(B) The complaint must be in writing and shall contain the following information:

- (1) Name and address of the Gas Station Retailer alleged to have committed the offense.

- (2) Date of the alleged offense.
- (3) General statement of the facts of the alleged offense.
- (4) Name and signature of the Complainant
- (5) Such other information as required by the EOA Office.

SECTION 7. DUTIES AND RESPONSIBILITIES OF THE EQUAL OPPORTUNITY ADMINISTRATOR'S OFFICE (EOA OFFICE) UNDER THIS ORDINANCE.

(A) The EOA Office shall receive and review complaints of violations of this Ordinance to ensure the complaint is in compliance with Section 6 above.

(B) The EOA Office may request additional information from the Complainant for purposes of processing the complaint

(C) The EOA Office shall then forward the complaint to the Americans with Disabilities Act Coordinator (ADA Coordinator) within ten (10) days of receipt for further processing.

(D) The EOA Office shall administratively track the complaint through the enforcement process until closure of the complaint.

SECTION 8. POWERS AND DUTIES OF THE AMERICANS WITH DISABILITIES ACT COORDINATOR (ADA COORDINATOR) UNDER THIS ORDINANCE INCLUDING ENFORCEMENT POWERS.

(A) The ADA Coordinator shall evaluate received complaints of violations of this Ordinance, investigate such complaints, and take such action it deems appropriate with respect thereto, as provided for in this Ordinance.

(B) The ADA Coordinator may also initiate an investigation into any suspected violation of this Ordinance and, when warranted, take such action it deems appropriate with respect thereto, as set forth in this Ordinance.

(C) If upon investigation the ADA Coordinator determines that there is Reasonable Cause to believe that a Gas Station Retailer has violated this Ordinance, then the ADA Coordinator may take one or more of the following actions in accordance with the provisions of this Ordinance:

- (1) Notify the Respondent of the finding of Reasonable Cause to believe that a violation occurred and allow the Respondent a specified period of time to correct the violation, not to exceed fifteen (15) days;
- (2) Issue a Notice of Violation to the Respondent;
- (3) Attempt to conciliate the matter through conference(s) with all interested parties and such representatives as the parties may choose to assist;
- (4) Negotiate and enter into an Assurance of Voluntary Compliance with Respondent in accordance with Section 9 of this Ordinance;
- (5) Utilize county, state and federal agencies in an effort to resolve complaints filed under this Ordinance;
- (6) Request a hearing before a Hearing Officer for purposes of imposing a civil penalty as provided for in the Resolution, if applicable;
- (7) Prepare and present cases involving violations of this Ordinance to a Hearing Officer. The County Attorney's Office shall provide legal representation to the ADA Coordinator in preparing and presenting such cases before the Hearing Officer;
- (8) Request a Hearing Officer to issue subpoenas in accordance with the Hearing Procedures;
- (9) Seek injunctive relief or other relief, upon approval of the BOCC, as a means of enforcing this Ordinance, which may include, but is not limited to, a cease and desist order prohibiting the Respondent from engaging in conduct in violation of this Ordinance, an order requiring compliance with the order of the Hearing Officer, investigative costs, attorney's fees, and restitution on behalf of the aggrieved Complainant;
- (10) Refer the matter to appropriate federal and state agencies for criminal prosecution and/or administrative action and file such criminal or administrative complaints with state or federal agencies as may be required.

SECTION 9. ASSURANCE OF VOLUNTARY COMPLIANCE.

After receiving and investigating a complaint as set forth in Section 8 above, if the ADA Coordinator determines that a violation of this Ordinance has occurred, that is not a Repeat Violation, the ADA Coordinator may accept an Assurance of Voluntary Compliance as an alternative to initiating other enforcement action delineated in Section 8 above. The Assurance of Voluntary Compliance shall be executed by the authorized agent of the Gas Station Retailer responsible for ensuring that no future violations shall occur. Pursuant to the terms of the Assurance of Voluntary Compliance, the responsible Gas Station Retailer shall agree to refrain from and prevent any future violations of this Ordinance. If the Gas Station Retailer fails to adhere to the term of the Assurance of Voluntary Compliance, said failure shall constitute a violation of this Ordinance in its own right, as indicated in Section 4(D). A Notice of Violation may be issued for the underlying violation as well as the violation of the Assurance of Voluntary Compliance.

SECTION 10. NOTICE OF VIOLATION AND REQUEST FOR HEARING.

(A) The ADA Coordinator or an Investigator who has Reasonable Cause to believe that a Respondent has violated this Ordinance may issue the Respondent a Notice of Violation if, and as permitted by, Section 8 above.

(B) The Notice of Violation may include a reasonable time, not to exceed fifteen (15) days for Respondent to enter into an Assurance of Voluntary Compliance as provided in Section 9 above.

(C) The Notice of Violation shall include a statement that the ADA Coordinator is seeking a hearing before a Hearing Officer on the violations cited in the Notice of Violation.

(D) Each Notice of Violation issued shall also state the following:

- (1) The name and business address of the Respondent.
- (2) The location of the offense.
- (3) The date and approximate time the violation was committed.
- (4) The date of issuance.
- (5) The facts constituting Reasonable Cause for the violation.
- (6) Citation to the specific section or sections of the Ordinance violated

- (7) The name and title of the Investigator issuing the Notice of Violation.
- (8) The period of time available to Respondent to enter into an Assurance of Voluntary Compliance, if applicable.
- (9) A statement, if applicable, that if the Respondent fails to enter into an Assurance of Voluntary Compliance, the ADA Coordinator may request a hearing before a Hearing Officer on the violation cited in the Notice of Violation.
- (10) The maximum amount of the civil penalty as provided for Resolution which may be imposed by the Hearing Officer, if the ADA Coordinator or the Respondent seeks a hearing on the matter before a Hearing Officer and the ADA Coordinator prevails at the hearing.

(E) Each Notice of Violation shall also include a statement that the Respondent may request a hearing before a Hearing Officer to contest the violation cited therein and any penalties imposed by the Notice of Violation, by filing a written request for such hearing with the ADA Coordinator within fifteen (15) days from the date of delivery of the Notice of Violation.

(F) Each Notice of Violation shall also contain a statement that if either the ADA Coordinator or the Respondent requests a hearing on the violation cited in the Notice of Violation and Respondent fails to timely appear before the Hearing Officer, the Respondent shall be deemed to have waived his or her right to contest the violation cited in the Notice of Violation and a judgment may be entered against the Respondent for up to the maximum amount of the civil penalty allowed.

(G) If a Respondent refuses to accept a Notice of Violation, the ADA Coordinator may take any action provided by and set forth in Section 8 above, including but not limited to proceeding to a hearing on the violations cited in the Notice of Violation. If the ADA Coordinator proceeds to a hearing on the matter, the following shall apply:

- (1) Respondent shall be deemed to have waived his or her right to contest the violation cited in the Notice of Violation; and
- (2) A judgment may be entered against Respondent by the Hearing Officer on the violation cited in the Notice of Violation up to the maximum amount of the civil penalty allowed by the Resolution.

(H) Multiple violations of this Ordinance may be cited on a single Notice of Violation form.

(I) Service of a Notice of Violation to a Respondent shall be in writing and sent in accordance with Section 14 of this Ordinance.

(J) Nothing in this Section 10 shall be deemed to require the ADA Coordinator to issue a Notice of Violation prior to referring the matter to the appropriate federal or state agency for criminal prosecution or administrative action or filing such criminal or administrative complaints with state or federal agencies as may be required.

SECTION 11. APPOINTMENT OF HEARING OFFICERS.

Hearing Officers referred to in this Ordinance shall be appointed in accordance with the Resolution. Such Hearing Officers shall have jurisdiction to conduct hearings on violations of this Ordinance and shall have all of the powers granted to them in the Resolution to include the power to issue subpoenas for production of documents or attendance of witnesses at a hearing.

SECTION 12. HEARINGS.

(A) Hearings before a Hearing Officer shall be scheduled, noticed and conducted in accordance with the Hearing Procedures adopted by the County Administrator.

(B) The Notice of Violation shall serve as the ADA Coordinator's complaint in a hearing before a Hearing Officer on a violation of this Ordinance.

(C) The decision of the Hearing Officer shall be final and binding on both the ADA Coordinator and the Respondent.

(D) If a Respondent fails to abide by an order issued by a Hearing Officer, the ADA Coordinator may seek enforcement of such order in the circuit court.

(E) Hillsborough County's Citizen Boards Support Office, or any successive or replacement County agency, department, or division that may be tasked with the same responsibilities by the County Administrator, may provide administrative support in the scheduling and noticing of hearings.

(F) The County Attorney's Office shall provide legal representation to the ADA Coordinator in prosecuting a violation of this Ordinance before the Hearing Officer and on any appeals resulting from an order of the Hearing Officer.

SECTION 13. APPEALS.

Either the ADA Coordinator or a Respondent may appeal an order of the Hearing Officer to the circuit court within thirty (30) days following the issuance of the order.

The responsibility for, and the costs associate with, preserving a written record of the hearing for appeal and providing such written record to the circuit court shall rest with the party appealing the order

SECTION 14. SERVICE OF NOTICE.

Any notice required or permitted by this Ordinance shall be in writing and sent by certified mail, return receipt requested, or hand delivery with proof of delivery, to the last known address of the Respondent, except notices for code violations shall be provided in the manner prescribed by Hillsborough County Ordinance No. 10-27, as amended.

SECTION 15. ADDITIONAL ENFORCEMENT AGENCIES.

The County's code enforcement officers, law enforcement or any other person authorized to enforce county ordinances may enforce the provisions of this Ordinance

SECTION 16. CRIMINAL VIOLATIONS AND PENALTIES.

A violation of this Ordinance may also be criminally prosecuted in the same manner as a misdemeanor in accordance with the provisions of Section 125.69, Florida Statutes, as such may be amended from time to time, and is punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the Hillsborough County jail for a period not to exceed sixty (60) days or by both such fine and imprisonment.

SECTION 17. OTHER RIGHTS AND REMEDIES.

Nothing herein shall prevent any person from exercising any right or seeking any private remedy or redress to which one might otherwise be entitled, or from filing any complaint with any other agency.

SECTION 18. APPLICABILITY.

It is hereby intended that this Ordinance shall constitute a uniform law applicable in all of the unincorporated areas of Hillsborough County, Florida, and to all incorporated areas of Hillsborough County where there is no existing conflict of law or municipal ordinance.

SECTION 19. COMPLIANCE WITH STATE AND FEDERAL LAW.

Nothing in the Ordinance shall be construed to exempt or limit compliance by any person with State and Federal laws, rules and regulations related to persons with disabilities. Violation of such laws, rules, and regulations may be prosecuted as applicable.

SECTION 20. SEVERABILITY.

If any portion of this Ordinance is for any reason held invalid or declared to be unconstitutional, inoperative or void by any court of competent jurisdiction, such holdings shall not affect the validity of the remainder of this Ordinance.

SECTION 21. RESOLUTION OF CONFLICT OF LAWS.

In all instances where Florida law, as evidenced by the Florida Administrative Code, Florida Statutes, applicable case law or otherwise, mandates standards or requirements that are stricter than the provisions of this Ordinance, or where a matter is addressed by Florida law that is not addressed by this Ordinance, then said law shall govern. In situations where this Ordinance addresses a matter in a manner that is stricter than that of Florida law, the provisions of this Ordinance shall control.

SECTION 22. INCLUSION IN THE HILLSBOROUGH COUNTY CODE.

The provisions of this Ordinance shall be included and incorporated in the Hillsborough County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Hillsborough County Code, once established.

SECTION 23. FILING OF ORDINANCE.

In accordance with the provisions of Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Florida Department of State.

SECTION 24. EFFECTIVE DATE.

This Ordinance shall become effective January 1, 2012.

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FINAL
CSO
12/07/11

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, PAT FRANK, Clerk of the Circuit Court and Ex Officio Clerk of the Board of County Commissioners of Hillsborough County, Florida, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance adopted by the Board of County Commissioners at its meeting of December 7, 2011, as the same appears of record in Minute Book 427, of the Public Records of Hillsborough County Florida.

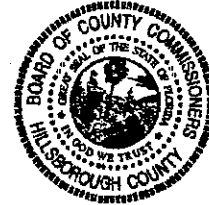
WITNESS my hand and official seal this 8th day of December, 2011.

PAT FRANK
CLERK OF CIRCUIT COURT

By: Michael K. Dit
Deputy Clerk

Approved by County Attorney
as to Form and Legal Sufficiency

By: Cynthia S. Oster
Cynthia S. Oster
Sr. Assistant County Attorney





FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

DIVISION OF LIBRARY AND INFORMATION SERVICES

KURT S. BROWNING
Secretary of State

December 13, 2011

Honorable Pat Frank
Clerk of the Circuit Court
Hillsborough County
Post Office Box 1110
Tampa, Florida 33601-1110

Attention: Ms. Julia Poupart, Manager, BOCC Records/VAB

Dear Ms. Frank:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letters dated December 8, 2011 and certified copies of Hillsborough County Ordinance Nos. 11-22 and 11-23, which were filed in this office on December 9, 2011.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

RECEIVED
2011 DEC 15 PM 5:29
CLERK TO
THE BOARD (A)



R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
Telephone: 850.245.6600 • Facsimile: 850.245.6282 • <http://info.florida.gov>
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The Tampa Tribune

Published Daily

Tampa, Hillsborough County, Florida

NOTICE OF INTENT TO CONSIDER COUNTY ORDINANCE

NOTICE IS HEREBY GIVEN TO WHOM IT MAY CONCERN:

NOTICE is hereby given that the Board of County Commissioners of Hillsborough County, Florida, intends to consider for the purpose of enactment the following ordinance at a meeting on December 7, 2011 at 2:00 p.m. in the Board of County Commissioners Board Room, County Center, Second Floor, 601 E. Kennedy Boulevard, Tampa, Florida:

AN ORDINANCE RELATING TO REFUELING ASSISTANCE FOR PERSONS WITH DISABILITIES; PROVIDING A TITLE; PROVIDING FOR DEFINITIONS; PROVIDING ACCESSIBILITY REQUIREMENTS; PROVIDING FOR PROHIBITED CONDUCT; PROVIDING FOR DUAL REMEDIES; PROVIDING FOR THE FILING OF COMPLAINTS; PROVIDING FOR THE DUTIES AND RESPONSIBILITIES OF THE EQUAL OPPORTUNITY ADMINISTRATOR'S OFFICE; PROVIDING FOR THE POWERS AND DUTIES OF THE ASSISTANT WITH DISABILITIES ACT COORDINATOR INCLUDING ENFORCEMENT POWERS; PROVIDING FOR AN ASSURANCE OF VOLUNTARY COMPLIANCE; PROVIDING FOR A NOTICE OF VIOLATION AND REQUEST FOR HEARING; PROVIDING FOR APPOINTMENT OF HEARING OFFICERS; PROVIDING FOR HEARINGS; PROVIDING FOR APPEALS; PROVIDING FOR SERVICE OF NOTICE; PROVIDING FOR ADDITIONAL ENFORCEMENT AGENCIES; PROVIDING FOR CRIMINAL VIOLATIONS AND PENALTIES; PROVIDING FOR OTHER RIGHTS AND REMEDIES; PROVIDING FOR APPLICABILITY; PROVIDING FOR COMPLIANCE WITH STATE AND FEDERAL LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR RESOLUTION OF CONFLICT OF LAWS; PROVIDING FOR INCLUSION IN THE HILLSBOROUGH COUNTY CODE; PROVIDING FOR FILING OF ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

ANY PERSON WHO MIGHT WISH TO APPEAL ANY DECISION MADE BY THE HILLSBOROUGH COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING ANY MATTER CONSIDERED AT THE FORTHCOMING PUBLIC HEARING OR MEETING IS HEREBY ADVISED THAT THEY WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE THEY MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH WILL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH SUCH APPEAL IS TO BE BASED. ALL INTERESTED PARTIES MAY APPEAR AT THE ABOVE REFERENCED HEARING AND BE HEARD WITH RESPECT TO THE PROPOSED ORDINANCE. A COPY OF THE PROPOSED ORDINANCE MAY BE INSPECTED BY THE PUBLIC AT THE CLERK'S OFFICE ON THE 14TH FLOOR OF THE COUNTY CENTER AT 601 E. KENNEDY BLVD., TAMPA, FL 33602.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS NEEDING SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THESE PROCEEDINGS, AND ALSO THOSE SEEKING AN INTERPRETER, SHOULD CONTACT THE CITIZENS' ACTION CENTER AT TELEPHONE NUMBER (813) 272-2906 NOT LATER THAN 48 HOURS PRIOR TO THE PROCEEDINGS.

CHAIRMAN, BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY, FLORIDA
35990 11/23/11

State of Florida }
County of Hillsborough } SS.

Before the undersigned authority personally appeared C Pugh, who on oath says that she is the Advertising Billing Analyst of The Tampa Tribune, a daily newspaper published at Tampa in Hillsborough County, Florida; that the attached copy of the

Legal Ads IN THE Tampa Tribune

In the matter of Legal Notices

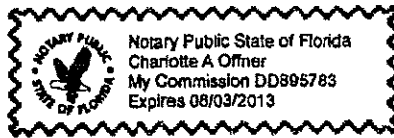
was published in said newspaper in the issues of

11/23/2011

Affiant further says that the said The Tampa Tribune is a newspaper published at Tampa in said Hillsborough County, Florida, and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each day and has been entered as second class mail matter at the post office in Tampa, in said Hillsborough County Florida for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, this advertisement for publication in the said newspaper.

Sworn to and subscribed by me this 23 day
of NOV, A.D. 2011

Personally Known or Produced Identification
Type of Identification Produced _____



RECEIVED
2011 NOV 28 PM 4:24
CLERK TO
THE BOARD (A)

**NOTICE OF INTENT TO
CONSIDER COUNTY ORDINANCE**

NOTICE IS HEREBY GIVEN TO WHOM IT MAY CONCERN:

NOTICE is hereby given that the Board of County Commissioners of Hillsborough County, Florida, intends to consider for the purpose of enactment, the following ordinance at a meeting on **December 7, 2011 at 2:00 p.m.** in the Board of County Commissioners Board Room, County Center Second Floor, 601 East Kennedy Boulevard, Tampa, Florida:

AN ORDINANCE RELATING TO REFUELING ASSISTANCE FOR PERSONS WITH DISABILITIES; PROVIDING A TITLE; PROVIDING FOR DEFINITIONS; PROVIDING ACCESSIBILITY REQUIREMENTS; PROVIDING FOR PROHIBITED CONDUCT; PROVIDING FOR DUAL REMEDIES; PROVIDING FOR THE FILING OF COMPLAINTS; PROVIDING FOR THE DUTIES AND RESPONSIBILITIES OF THE EQUAL OPPORTUNITY ADMINISTRATOR'S OFFICE; PROVIDING FOR THE POWERS AND DUTIES OF THE AMERICANS WITH DISABILITIES ACT COORDINATOR INCLUDING ENFORCEMENT POWERS; PROVIDING FOR AN ASSURANCE OF VOLUNTARY COMPLIANCE; PROVIDING FOR A NOTICE OF VIOLATION AND REQUEST FOR HEARING; PROVIDING FOR APPOINTMENT OF HEARING OFFICERS; PROVIDING FOR HEARINGS; PROVIDING FOR APPEALS; PROVIDING FOR SERVICE OF NOTICE; PROVIDING FOR ADDITIONAL ENFORCEMENT AGENCIES; PROVIDING FOR CRIMINAL VIOLATIONS AND PENALTIES; PROVIDING FOR OTHER RIGHTS AND REMEDIES; PROVIDING FOR APPLICABILITY; PROVIDING FOR COMPLIANCE WITH STATE AND FEDERAL LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR RESOLUTION OF CONFLICT OF LAWS; PROVIDING FOR INCLUSION IN THE HILLSBOROUGH COUNTY CODE; PROVIDING FOR FILING OF ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

ANY PERSON WHO MIGHT WISH TO APPEAL ANY DECISION MADE BY THE HILLSBOROUGH COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING ANY MATTER CONSIDERED AT THE FORTHCOMING PUBLIC HEARING OR MEETING IS HEREBY ADVISED THAT THEY WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE THEY MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH WILL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH SUCH APPEAL IS TO BE BASED. ALL INTERESTED PARTIES MAY APPEAR AT THE ABOVE REFERENCED HEARING AND BE HEARD WITH RESPECT TO THE PROPOSED ORDINANCE. A COPY OF THE PROPOSED ORDINANCE MAY BE INSPECTED BY THE PUBLIC AT THE CLERK'S OFFICE ON THE 12TH FLOOR OF THE COUNTY CENTER AT 601 E. KENNEDY BLVD , TAMPA, FL. 33602.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS NEEDING SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THESE PROCEEDINGS, AND ALSO THOSE SEEKING AN INTERPRETER, SHOULD CONTACT THE CITIZENS' ACTION CENTER AT TELEPHONE NUMBER (813) 272-5900 NOT LATER THAN 48 HOURS PRIOR TO THE PROCEEDINGS.

CHAIRMAN, BOARD OF COUNTY COMMISSIONERS
Hillsborough County, Florida
Date to Run: on or before November 27, 2011

FedEx® US Airbill

Express

8744 5634 4152

1 From Please print and press hard. Sender's FedEx Account Number: 12-8-11

Sender's Name: BOCC RECORDS PROCESSING
 Company: CLERK CIRCUIT COURT 12TH FL
 Address: 601 EAST KENNEDY BLVD
 TAMPA FL 33602

City: TAMPA State: FL ZIP: 33602-3503
 Ord # 11-22 + 11-23

2 Your Internal Billing Reference: 180

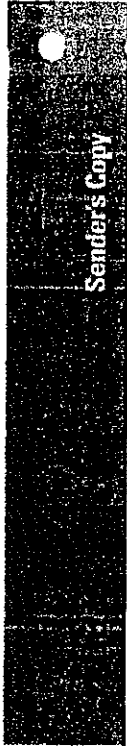
3 To Recipient's Name: _____ Phone: _____

Company: LIZ CLOUD PROGRAM ADMIN
 Address: FLORIDA DEPARTMENT OF STATE
 R A GRAY BLDG
 500 S BRONOUGH STREET ROOM 101
 TALLAHASSEE FL 32399-0250

City: _____ State: _____ ZIP: 0430174825



PULL AND RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO POUCH NEEDED.



4a Express Package Services *To meet location. Packages up to 150 lbs.

FedEx Priority Overnight
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4b Express Freight Service **To meet location. Packages over 150 lbs.

FedEx 1Day Freight
 FedEx 2Day Freight
 FedEx 3Day Freight

5 Packaging
 FedEx Envelope
 FedEx Pak
 FedEx Tube
 FedEx Box
 Other

6 Special Handling and Delivery Signature Options

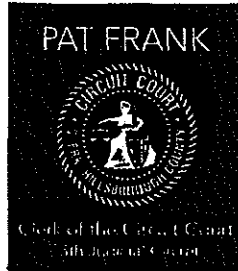
SATURDAY Delivery
 No Signature Required
 Direct Signature
 Indirect Signature

7 Payment Billed
 Sender/Origin
 Recipient
 Third Party
 Credit Card
 Cash/Check

Total Packages: _____ Total Weight: _____ Total Declared Value: _____

605

Form 270 • Part 1 (2013) • © 1996-2013 FedEx • PRINTED IN U.S.A. 383



December 8, 2011

MS LIZ CLOUD CHIEF
BUREAU OF ADMINISTRATIVE CODE
DEPARTMENT OF STATE
500 SOUTH BRONOUGH ST RA GRAY BLDG RM 101
TALLAHASSEE FL 32399-0250

Re: Ordinance #11-23
Gas Pumping Assistance For Persons With Disabilities Ordinance

Dear Ms. Cloud:

Pursuant to the filing requirements of Florida Statutes 125.66, we are forwarding (by Federal Express) an executed original of Hillsborough County Ordinance #11-23, adopted by the Board of County Commissioners on December 7, 2011. It is respectfully requested that you provide this office with the required official acknowledgment of your receipt and filing of said ordinance.

Sincerely,



Julia Poupart, Director
BOCC Records/VAB

bam
Attachment
Federal Express AB# 8744 5634 4152

Office of the County Attorney

BOARD OF COUNTY COMMISSIONERS

Kevin Beckner
Victor D. Crist
Ken Hagan
Al Higginbotham
Lesley "Les" Miller, Jr.
Sandra I. Murman
Mark Sharpe




Donald R. Odom, Interim County Attorney

Managing Attorneys

Christine M. Beck
Robert E. Brazel
Hank Ennis
Mary Helen Farris
Susan J. Fernandez
Sheree C. Fish
Adam J. Gormly
Jennie Granahan Tarr

MEMORANDUM

TO: Midge Dixon, BOCC Records

FROM: Cynthia S. Oster, Sr. Assistant County Attorney 

SUBJECT: Ordinance – Gas Pumping Assistance for Persons with Disabilities

DATE: December 8, 2011

Enclosed please find the above-referenced Ordinance as adopted by the Board of County Commissioners on December 7, 2011. Please number and certify the ordinance and file with the Florida Department of State in accordance with Section 125.66, Florida Statutes

Please provide this office with a date-stamped copy of the official acknowledgement from the Department of State that the ordinance has been filed, showing receipt by your office.

If you have any questions, please contact me at (813) 272-5673, ext. 30150.

CSO:icb

Enclosures

RECEIVED
2011 DEC -8 PM 4: 03
CLERK TO
THE BOARD (A)

601 E. Kennedy Boulevard, 27th Floor
Post Office Box 1110 • Tampa, Florida 33601
(813) 272-5670 • Fax: (813) 272-5231

An Affirmative Action/Equal Opportunity Employer

Office of the County Attorney

BOARD OF COUNTY COMMISSIONERS

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Victor D. Crist
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Lesley "Les" Miller, Jr.
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Sheree C. Fish
Adam J. Gormly
Jennie Granahan Tarr

MEMORANDUM

To: Midge Dixon, BOCC Records

From: Cynthia S. Oster, Senior Assistant County Attorney 

Re: Draft Ordinance - Gas Pumping Assistance For Persons with Disabilities

Date: November 22, 2011

Attached is a draft copy of the above referenced Ordinance and related Resolution, and a copy of the Notice of Intent to Consider County Ordinance. The Notice will be advertised in the Tampa Tribune on or before November 27, 2011. The public hearing is schedule to be held on December 7, 2011 at 2:00 p.m. Please make the documents available for public inspection during regular business hours.

If you have any questions, please call Carol at 272-5673 x 30150.

Thank you for your assistance.

CSO:icb

Attachments

RECEIVED
2011 NOV 22 PM 4:01
CLERK TO
THE BOARD (A)

601 E. Kennedy Boulevard, 27th Floor
Post Office Box 1110 • Tampa, Florida 33601
(813) 272-5670 • Fax: (813) 272-5231

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