

Counties, responsibility for maintaining fire hydrants

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Subject:

Counties, responsibility for maintaining fire hydrants

Mr. Stephen P. Lee
Deputy Seminole County Attorney
1101 East First Street
Sanford, Florida 32771-1468

RE: COUNTIES–FIRE PROTECTION–HYDRANTS–responsibility of maintaining fire hydrants; enforcing requirements.

Dear Mr. Lee:

On behalf of Seminole County, you ask substantially the following questions:

- 1) May the county require the annual inspection of fire hydrants located within the county?
- 2) Who is responsible for the annual inspection of the fire hydrants?

As your questions are interrelated, they will be answered together.

Section 633.025(1), Florida Statutes, provides that the Florida Fire Prevention Code and the Life Safety Code adopted by the State Fire Marshall "shall be deemed adopted by each municipality, county, and special district with firesafety responsibilities." Subsection (2) of the statute states that each such municipality, county, and special district "shall enforce the Florida Fire Prevention Code and the Life Safety Code as the minimum firesafety code required by this section." Since 1974, the Seminole County Fire Department has provided fire protection services to the unincorporated areas of Seminole County.[1]

Section 633.025(4), Florida Statutes, further provides that the codes shall be the minimum codes and a unicipality, county, or special district with firesafety responsibilities may adopt more stringent firesafety standards, subject to the requirements of the subsection. A county may establish alternative requirements to those prescribed under the minimum firesafety standards on a case-by-case basis, in order to meet special situations arising from historic, geographic, or unusual conditions, if the alternative requirements result in a level of protection to life, safety, or property equal to or greater than the applicable minimum firesafety standards.[2]

The base documents for the Code are two national codes developed by the National Fire Protection Association.[3] NFPA Standard 24 addresses the installation of private fire service mains and their appurtenances and NFPA Standard 25 provides standards for the inspection, testing and maintenance of water-based fire protection systems. NFPA Standard 24 section 4-

3.6 states that "[t]o ensure proper functioning, wet barrel hydrants shall be tested at least annually, and dry barrel hydrants tested semiannually in the early spring and fall, in accordance with the requirements of the authority having jurisdiction." [4]

As noted above, section 633.025 (2), Florida Statutes, provides that a county with firesafety responsibilities "shall enforce the Florida Fire Prevention Code." Since the code incorporates the National Fire Prevention Association annual inspection requirements for fire hydrants, the county may enforce the provisions of the code, including the annual inspection of fire hydrants. Pursuant to section 633.052(2), Florida Statutes, a county that has created a code enforcement board or special magistrate system pursuant to chapter 162 may enforce firesafety code violations as provided in chapter 162. If the county has not created a code enforcement board or special magistrate system for firesafety under chapter 162, it may enact ordinances relating to firesafety codes that provide a civil penalty not to exceed \$500.

Section 4.1.2, NFPA Standard 25-10, states that "[t]he responsibility for properly maintaining a water-based fire protection system shall be that of the owner of the property." A question has been raised as to whether the term "property" refers to the real property on which the fire hydrant is located or to the fire hydrant itself. You have not advised this office of any provision in either the Florida Fire Prevention Code or NFPA code defining the term "owner of the property." A common sense reading would lead to the conclusion that the owner of the hydrant would be responsible for its inspection and maintenance and therefore the term "property" would refer to the hydrant. The Division of State Fire Marshal has advised this office that it is the position of the division that the owner of the hydrant is responsible for its inspection and maintenance. [5] However, a review of the context in which the term is used in NFPA Standard 25-10 would indicate that the term refers to the owner of the real property rather than the fire hydrant owner. [6] Thus, the reference to "property" is not clear, and this office would therefore suggest that the Legislature clarify its intent on this issue. [7]

Sincerely,

Charlie Crist
Attorney General

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[1] See the Seminole County website at: <http://www.seminolecountyfl.gov/dps/ems/>

[2] *Id.* The subsection sets forth the procedures for adopting more stringent standards.

[3] See Rule 69A-3.012(1) and Rule 69A-60.005(2), Fla. Admin. C. See generally s. 633.025(3), Fla. Stat., and Ch. 69A-60, Fla. Admin. C.

[4] *And see* NFPA 25-19 section 7.3.2. ("Hydrants shall be tested annually to ensure proper functioning.").

[5] See House of Representatives Staff Analysis for CS/HB 267, March 4, 2005.

[6] See *generally* NFPA Standard 25-10 section 4.1.2.4 (authorizing the owner of the property to pass to the occupant of the property the authority to inspect, test, and maintain the fire protection system through a lease, written use agreement or management contract).

[7] This office has been advised that the Legislature is currently considering amendatory legislation which would clarify the meaning of the term "owner of the property."