



# AGENDA ITEM REQUEST FORM

Item No. 28

**Development Services**

Department Submitting Request

**Jeff Bowman**

Department Director

**REGULAR**  
**COMMISSION MTG**  
**Meeting Dates - 7:00 PM**

**DEADLINE TO**  
**Town Clerk**

**ROUNDTABLE**  
**MEETING**  
**Meeting Dates - 7:00 PM**

**DEADLINE TO**  
**Town Clerk**

- Jan 25, 2011
- Feb 22, 2011
- Mar 22, 2011

- Jan 14 (5:00 pm)
- Feb 11 (5:00 pm)
- Mar 11 (5:00 pm)

- Jan 11, 2011**
- Feb 8, 2011
- Mar 8, 2011

- Dec 30 (5:00 pm)
- Jan 28 (5:00 pm)
- Feb 25 (5:00 pm)

\*Subject to Change

- |                                       |   |                                       |   |
|---------------------------------------|---|---------------------------------------|---|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Reports        | <input type="checkbox"/> Consent      | <input type="checkbox"/> Ordinance                      |
| <input type="checkbox"/> Resolution   | <input type="checkbox"/> Quasi Judicial | <input type="checkbox"/> Old Business | <input checked="" type="checkbox"/> <b>New Business</b> |

**SUBJECT TITLE: Proposed Amendments to the Land Development Code Regarding Conditional Uses, Development Review Procedures, Generator Regulations, Notice of Intent (NOI) Process, Regulations of Walls and Fences, and Architectural Standards and Review Criteria.**

**EXPLANATION:** Staff would like to prepare a Notice of Intent (NOI) Resolution for the next regular Town Commission meeting, addressing: 1) Conditional Uses; 2) Development Review Procedures; 3) Generator Regulations; 4) Notice of Intent Process; 5) Regulations of Walls and Fences; and 6) Architectural Standards and Review Criteria. These subjects are intentionally stated in a general manner, based on past experiences where a more precise statement of the proposed changes in NOIs prevented us from addressing additional needed revisions to the Code that emerged through the ordinance drafting, Commission review and public hearing process.

At this time, the specific changes being contemplated to these regulations include the following, and any inter-related sections of the Land Development Code:

**1. Amend Chapter 30-261 and 30-271 to include Conditional Uses within the Business Districts.**

**Explanation:** While amending the Code to expand uses within the Business Districts (Ordinance 2010-15), and through additional research and analysis, several uses have been identified for possible inclusion in the Business Districts as "Conditional Uses." "Conditional Uses" were outside the scope of the Permitted Business Uses Notice of Intent which governed Ordinance 2010-15, and staff was directed to bring back the changes at a later time under a new Notice of Intent.

**2. Amend Chapter 30, Unified Land Development Code to address Conditional Use procedures, and possibly to revise other development review procedures.**

**Explanation:** There is no uniform approach to Conditional Use approvals and the concept is described in different ways in different parts of the Code. Staff and the Town Attorney recommend creating conditional use procedures in one section of the code that would apply to all conditional use approvals, with clear processes and criteria. This will eliminate redundancy and provide clarity. The scope of the change may include synthesizing conditional use procedures referenced in various sections of Chapter 30 (i.e. passive recreational rooftops, sidewalk cafés, and drive-through), and ideally providing one set of procedures in a centralized location. (Staff and the Town Attorney intend to examine whether variations



on the process and criteria for different uses would be advisable.) If changes are recommended, they would be proposed as part of this NOI.

3. **Amend Chapter 30-313 to increase the allowable size of fuel storage tanks for generators within the Multi-family and Business Districts.**

**Explanation:** The current code limits the size of generator fuel tanks to 250 gallons. Florida Statute 553.509 (Exhibit 1) requires multi-family dwellings 75 ft or taller and containing a public elevator to provide an alternate power source for emergency lighting, fire alarms and elevator service over a five day period following a natural disaster. Staff has received information indicating that a 250 gallon tank is not sufficient for large multi-family or commercial buildings to be able to meet the requirements of the statute. Therefore, the Town's code needs to be amended to reflect the statutory requirements for larger buildings.

4. **Amend Article IX, Notice of Intent of Land Development Regulations, Section 30-531.**

**Explanation:** The Notice of Intent (NOI) section provides an administrative procedure for notifying the public and the development community when the Town undertakes changes in the land development regulations. This ordinance was adopted in 2000, and requires the Town to pass a resolution stating the Town's intent to propose amendments to land development regulations, which is customarily opened for public comment. The Code also requires that a public hearing be held on the resolution at the Town Commission meeting following its adoption, that the Town posts the Notice of Intent at Town Hall and at Development Services, and that the Town then create, review, and adopt an ordinance within the prescribed time frames of the NOI. If there are additional recommendations beyond the scope of the NOI, then the Code requires a new NOI be drafted and the process repeated. If the timeframe for adoption is delayed or accelerated beyond the prescribed timeframe, then the NOI must be amended by the Town Commission.

Enacting a change to a land development regulation subject to this process can add two (2) months to the three (3) months it otherwise takes to follow minimum statutory procedures. Amending or repealing the land development regulations pursuant to state statute involves a minimum of a public hearing before and recommendation by the Planning and Zoning Board and two readings of an Ordinance by the Town Commission, at least one of which must involve a public hearing. Thus, the statutory process allows the public the opportunity to learn about the change and provide their input at three (3) public meetings. The NOI process allows for public input at an earlier point in the process than does the statutory procedure but, at the stage, the proposed change is not normally well-defined.

This item was discussed at the December 14<sup>th</sup> Commission meeting and the Town Commission directed that Staff and the Town Attorney look at options for modifying the NOI procedure. Because the NOI procedure is itself a land development regulation, this change is being taken through the NOI process. Revising or repealing the NOI procedures would provide greater flexibility in the timing of the adoption process and also allow the Town Commission or Planning and Zoning Board to table or continue discussion of an ordinance at a workshop, before it is passed, without violating or needing to modify the Notice of Intent. The Town could also consider altering the scope of the process, so that less significant changes are exempted from the process or can move through it more quickly.

At this point we have not formulated the changes the Commission might consider. We merely want to get the NOI process rolling to consider such changes.



**5. Amend Chapter 30-313 regarding fencing and cement or concrete walls.**

**Explanation:** The Code's requirements pertaining to concrete walls were discussed at the December 7<sup>th</sup> Commission meeting, with direction to send the subject to the Planning and Zoning Board to consider the types of finishes and decorative features that could enhance the attractiveness of such walls.

**Another issue in this section of the Code** requires that all fences have the finished side facing out. If a property owner's neighbor has an existing fence or hedge along their property, it is not possible to erect an abutting fence with the finished side out. This issue also needs to be addressed.

The Commission also raised the issue of required wall and fence heights for further examination.

**6. Amend Chapter 30-9 and Chapter 30-124 (15) Architectural Standards and Review Criteria.**

**Explanation:** The Town's Master Plan contains many recommendations regarding architectural design elements that are not referenced in the LDR.s and, in some cases, are contradictory to what is contained in the LDRs. In addition, there are provisions in the Code for an Architectural Review Board which does not exist. Over the next several months the Town is bringing in a series of speakers to talk to us, our residents and businesses owners about design considerations and from that process it is expected that a desire to rewrite the architectural standards and review criteria will emerge. We believe it advisable to have an NOI that authorizes us to proceed with such a review in place while the public interest is engaged. The intent of the NOI would be to revise and better define the Town's architectural design standards, and the manner in which they are reviewed and applied.

As noted, changes to related sections of Code that fall within the scope of the NOI may be proposed. These are just the initial thoughts on the details of the proposed changes. We propose that this NOI have a fairly lengthy enactment period, so that we are not constrained by short time limits for adoption. The enactment periods should be written so that the revisions can be adopted anytime within the time periods described and that multiple ordinances on a general topic could be brought forward for adoption.

**RECOMMENDATION:** Allow staff to work with the Town Attorney to prepare a Resolution authorizing the issuance of a NOI for the proposed amendments to the Land Development Code described in this memo, at the next regular Commission meeting.

**EXHIBITS: 1. HB 7121**

Reviewed by Town Attorney  
 Yes     No

Town Manager Initials CA  
BTB

ENROLLED  
 HB 7121, Engrossed 2

2006 Legislature

755 require an elevator to be installed in such building, structure,  
 756 or facility, except for:

757 (a) ~~(1)~~ Elevator pits, elevator penthouses, mechanical  
 758 rooms, piping or equipment catwalks, and automobile lubrication  
 759 and maintenance pits and platforms;

760 (b) ~~(2)~~ Unoccupiable spaces, such as rooms, enclosed  
 761 spaces, and storage spaces that are not designed for human  
 762 occupancy, for public accommodations, or for work areas; and

763 (c) ~~(3)~~ Occupiable spaces and rooms that are not open to  
 764 the public and that house no more than five persons, including,  
 765 but not limited to, equipment control rooms and projection  
 766 booths.

767 (2) (a) Any person, firm, or corporation that owns,  
 768 manages, or operates a residential multifamily dwelling,  
 769 including a condominium, that is at least 75 feet high and  
 770 contains a public elevator, as described in s. 399.035(2) and  
 771 (3) and rules adopted by the Florida Building Commission, shall  
 772 have at least one public elevator that is capable of operating  
 773 on an alternate power source for emergency purposes. Alternate  
 774 power shall be available for the purpose of allowing all  
 775 residents access for a specified number of hours each day over a  
 776 5-day period following a natural disaster, manmade disaster,  
 777 emergency, or other civil disturbance that disrupts the normal  
 778 supply of electricity. The alternate power source that controls  
 779 elevator operations must also be capable of powering any  
 780 connected fire alarm system in the building.

ENROLLED

HB 7121, Engrossed 2

2006 Legislature

781        (b) At a minimum, the elevator must be appropriately pre-  
 782 wired and prepared to accept an alternate power source and must  
 783 have a connection on the line side of the main disconnect,  
 784 pursuant to National Electric Code Handbook, Article 700. In  
 785 addition to the required power source for the elevator and  
 786 connected fire alarm system in the building, the alternate power  
 787 supply must be sufficient to provide emergency lighting to the  
 788 interior lobbies, hallways, and other portions of the building  
 789 used by the public. Residential multifamily dwellings must have  
 790 an available generator and fuel source on the property or have  
 791 proof of a current contract posted in the elevator machine room  
 792 or other place conspicuous to the elevator inspector affirming a  
 793 current guaranteed service contract for such equipment and fuel  
 794 source to operate the elevator on an on-call basis within 24  
 795 hours after a request. By December 31, 2006, any person, firm or  
 796 corporation that owns, manages or operates a residential  
 797 multifamily dwelling as defined in paragraph (2)(a) ~~must~~ provide  
 798 to the local building inspection agency verification of  
 799 engineering plans for residential multifamily dwellings that  
 800 provide for the capability to generate power by alternate means.  
 801 Compliance with installation requirements and operational  
 802 capability requirements must be verified by local building  
 803 inspectors and reported to the county emergency management  
 804 agency by December 31, 2007.

805        (c) Each newly constructed residential multifamily  
 806 dwelling, including a condominium, that is at least 75 feet high  
 807 and contains a public elevator, as described in s. 399.035(2)

ENROLLED

HB 7121, Engrossed 2

2006 Legislature

808 and (3) and rules adopted by the Florida Building Commission,  
 809 must have at least one public elevator that is capable of  
 810 operating on an alternate power source for the purpose of  
 811 allowing all residents access for a specified number of hours  
 812 each day over a 5-day period following a natural disaster,  
 813 manmade disaster, emergency, or other civil disturbance that  
 814 disrupts the normal supply of electricity. The alternate power  
 815 source that controls elevator operations must be capable of  
 816 powering any connected fire alarm system in the building. In  
 817 addition to the required power source for the elevator and  
 818 connected fire alarm system, the alternate power supply must be  
 819 sufficient to provide emergency lighting to the interior  
 820 lobbies, hallways, and other portions of the building used by  
 821 the public. Engineering plans and verification of operational  
 822 capability must be provided by the local building inspector to  
 823 the county emergency management agency before occupancy of the  
 824 newly constructed building.

825 (d) Each person, firm, or corporation that is required to  
 826 maintain an alternate power source under this subsection shall  
 827 maintain a written emergency operations plan that details the  
 828 sequence of operations before, during, and after a natural or  
 829 manmade disaster or other emergency situation. The plan must  
 830 include, at a minimum, a life safety plan for evacuation,  
 831 maintenance of the electrical and lighting supply, and  
 832 provisions for the health, safety, and welfare of the residents.  
 833 In addition, the owner, manager, or operator of the residential  
 834 multifamily dwelling must keep written records of any contracts