

# LAND DEVELOPMENT ORDINANCE TEXT AMENDMENTS

## Round 23F – Clothing Donation Drop-Off Stations

Town Council Meeting

October 11, 2012

### EXECUTIVE SUMMARY

The purpose of this item is to consider a proposed amendment to the Land Development Ordinance prepared in response to concerns raised by a clothing donation drop-off station business owner. The proposed amendment has been developed and evaluated for consistency with the Comprehensive Plan, and the opportunity for public review and comment has been provided in accordance with Section 3.4 of the Land Development Ordinance.

Town Council conducted a public hearing for the proposed amendment on June 28, 2012. The Planning and Zoning Board recommended denial by a vote of 8-1.

### OVERVIEW

#### SCHEDULE

Planning and Development Committee	May 17, 2012
Advertisements in <i>The Cary News</i>	June 13, 2012 June 20, 2012
Public Hearing	June 28, 2012
Planning and Zoning Board Work Session	August 20, 2012
Planning and Zoning Board Meeting	August 20, 2012
Final Action by Town Council	October 11, 2012
Effective	October 11, 2012

#### SUMMARY OF PROPOSED AMENDMENT

The proposed amendment would add new use classification and use-specific standards to address clothing donation drop-off bins.

#### FISCAL IMPACT

Although LDO amendments can have a cumulative impact on staff resources, staff believes that the overall impact of the proposed amendment will have a nominal impact and can be readily absorbed by existing staff.

#### STAFF RECOMMENDATION

1. Staff recommends denial of the proposed amendment.

It is important to note that the effect of denial would be to continue to allow clothing donation bins subject to the same standards that currently apply to dumpsters (requiring a masonry enclosure), or in the case of smaller bins or containers, in front of certain retail uses (similar to vending machines, ice machines, etc., and subject to standards applicable to outdoor display and sales of goods as an accessory use).

If the Town Council chooses to adopt regulations related to clothing donation drop-off stations, staff recommends approval of Option 2. Option 2 would address the use by creating a definition, specifying the districts within which the use would be allowed, and explicitly stating that the use would be subject to standards applicable to outdoor display and sales of goods as an accessory use. Option 2 also includes requirements for contact information and disclosure statements on the

bins, as required by the October 1, 2011 session law entitled "An Act to Amend the Charitable Solicitations Act to Ensure Public Disclosure on Collection Receptacles". (These disclosure requirements are applicable even in the absence of any changes to the LDO. Inclusion in the LDO would trigger enforcement by Town staff. Otherwise, the state law would be enforced by the NC Secretary of State or Attorney General Offices.

2. Staff recommends that the Town Council approve Option A or Option B related to consistency and reasonableness of the proposed amendment as stated below:

**Option A** (recommended if the proposed LDO amendment is approved):

**CONSISTENCY AND REASONABLENESS STATEMENT**

LDO Amendment Round 23, Item F (Clothing Donation Drop-off Station)

THE TOWN COUNCIL OF THE TOWN OF CARY HEREBY STATES:

Section 1: LDO Amendment Round 23, Item F, is consistent with the Comprehensive Plan.

Section 2: Based upon information presented at the public hearings, and based upon the recommendations and detailed information developed by staff and/or the Planning & Zoning Board contained in the staff report, and considering the criteria of Section 3.3.3 of the Town of Cary Land Development Ordinance, LDO Amendment Round 23, Item F, is reasonable and in the public interest.

Approved: October 11, 2012

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Harold Weinbrecht, Jr.  
Mayor

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Date

**Option B** (recommended if the proposed LDO amendment is denied):

**CONSISTENCY AND REASONABLENESS STATEMENT**

LDO Amendment Round 23, Item F (Clothing Donation Drop-off Station)

THE TOWN COUNCIL OF THE TOWN OF CARY HEREBY STATES:

Section 1: LDO Amendment Round 23, Item F is consistent with the Comprehensive Plan.

Section 2: Based upon information presented at the public hearings, and based upon the recommendations and detailed information developed by staff and/or the Planning & Zoning Board contained in the staff report, and considering the criteria of Section 3.3.3 of the Town of Cary Land Development Ordinance, denial of LDO Amendment Round 23, Item F is reasonable and in the public interest.

Approved: *DATE*

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Harold Weinbrecht, Jr.  
Mayor

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Date

## **SUMMARY OF PROCESS AND ACTIONS TO DATE**

### **INITIATION OF PROPOSED AMENDMENT**

Currently, the LDO does not explicitly address this land use. Therefore, such stations have historically been interpreted to be similar to dumpsters, and compliance with the same screening standards that are applicable to dumpsters have been required. Specifically, 8-foot-tall, opaque, masonry enclosures with gates have been required.

On May 8, 2012, staff received a written request from a drop-off station business owner to more specifically address clothing drop-off stations in the LDO and eliminate the screening requirements. Concern has been expressed by such business owners that the applicable screening requirements are costly, and effectively eliminate citizens' ability to find and use the drop-off stations.

Potential issues to be considered include the following:

- Visibility of the stations from the public right-of-way;
- Visibility of the stations from internal drive aisles that function like a street;
- Locational standards to ensure safety for both vehicular and pedestrian traffic;
- Aesthetic considerations including color and signage;
- Availability and usage of parking spaces for this alternate purpose; and
- Impact on local non-profit organizations.

After reviewing this request and receiving Town Council input at the Planning and Development Committee meeting on May 17, 2012, staff believed that it would be appropriate to consider this activity as a new accessory land use that would include use-specific standards and require the approval of a Minor Alteration for the site on which the use is proposed to occur.

### **PUBLIC HEARING COMMENTS (June 28, 2012)**

Council members requested more information and input from existing charitable organizations that have drop-off stations to ensure that the amendment would not create negative impacts. Staff clarified that the amendment was requested by for-profit clothing bin owners who desire less restrictive requirements regarding the location and screening of clothing bins on retail sites. One member suggested that drop-off stations be permitted only for non-profit organizations.

### **CHANGES TO PROPOSED TEXT SINCE PUBLIC HEARING**

In response to comments at the public hearing, staff contacted several local profit and non-profit organizations that collect clothing or other materials for resale or recycling. There was some concern that citizens may not be aware that some collection bins are for for-profit businesses. This issue was the subject of session law entitled "*An Act to Amend the Charitable Solicitations Act to Ensure Public Disclosure on Collection Receptacles*" which became effective on October 1, 2011. The proposed amendment was modified to incorporate requirements of this legislation. Aesthetic issues and the potential for litter and bin overflow were cited as additional concerns.

Based on concerns expressed and additional information received related to recently-passed legislation regarding disclosure, staff prepared a second option for consideration. Like the original draft (Option 1), Option 2 would provide a definition for clothing donation drop-off stations, and specify the districts within which they are allowed.

The applicable standards would be those that currently apply to the outdoor display and sales of goods as a retail accessory use. It would thus be explicitly stated that collection containers could be located adjacent to a commercial building and customer entrance, with permission of the property owner (as

currently allowed, similar to common uses such as vending machines and ice machines). Staff believes that there would be sufficient oversight to minimize both aesthetic impacts and potential for illegal drop-offs and misuse, and is an option currently available to interested business owners as a lower-cost alternative to larger bins in parking lots that require screening.

An aspect of Option 2 that is not currently addressed in the LDO is the following disclosure requirement of the 2011 session law:

“A sign or label shall be affixed to each collection receptacle stating the name of the organization for whom the donation is made and the phone number or electronic mail address of a contact person. Except where the donation is made to a licensed charitable organization or sponsor, each label shall also include the following statement: *“This is not a charity. Donations made here support a for-profit business and are not tax deductible.”*: The sign or label shall be placed on all sides of the collection receptacle with the required information printed in letters that are no less than three inches in height and no less than one-half inch in width and in a color that contrasts with the color of the collection receptacle so that the sign or label is clearly visible.”

This law applies to all collection receptacles, even if not specifically required in the LDO, and is enforced by NC Secretary of State or Attorney General Offices.

#### **PLANNING AND ZONING BOARD WORK SESSION (August 20, 2012)**

Staff provided an overview of Option 1 and Option 2. Board members expressed concern regarding the risk of debris piling up next to the containers, as well as general safety and security. Board members also questioned how this use is aesthetically any different than a dumpster.

#### **PLANNING AND ZONING BOARD MEETING (August 20, 2012)**

The board questioned the need for the proposed amendment and recommended denial by a vote of 8-1.

### **PROPOSED LDO AMENDMENT TEXT**

#### **BACKGROUND**

Staff received several inquiries this spring regarding the placement of clothing donation drop-off stations in existing parking lots in retail areas. These stations are for the purpose of gathering clothing and other textile items for recycling, and are primarily geared towards such items that are too worn out to be used by thrift shops. These stations can take the form of donation bins, drop boxes or collection sheds.

#### **PROPOSED TEXT**

### **5.3.4 ACCESSORY USES AND STRUCTURES Accessory Uses and Structures Allowed**

#### **Option 1:**

#### **(O) Clothing Donation Drop-off Stations**

- (1)** Clothing donation drop-off station shall be located on a concrete or asphalt surface, and shall not be located in landscape areas;
- (2)** Stations shall not be located with two hundred (200) feet of a public right-of-way;
- (3)** Stations shall only be located in shopping centers that contain a minimum of 100,000 square feet of floor area;
- (4)** Clothing donation stations shall be screened on at least two (2) sides to a height of at least fifty (50) percent of the height of the containers and bins in the station. The screening may be fencing and/or plantings. If plantings are used, the plants

- must be a minimum of thirty-six (36) inches in height at installation, and shall reach the required screening height within three (3) years of planting;
- (5) The station shall be kept free of litter, debris, and residue;
  - (6) Signage shall be displayed on a maximum of two sides of the station, with a maximum of 12 square feet visible from any single vantage point;

A sign or label shall be affixed to each collection receptacle stating the name of the organization for whom the donation is made and the phone number or electronic mail address of a contact person. Except where the donation is made to a licensed charitable organization or sponsor, each label shall also include the following statement: "This is not a charity. Donations made here support a for-profit business and are not tax deductible.": The sign or label shall be placed on all sides of the collection receptacle with the required information printed in letters that are no less than three inches in height and no less than one-half inch in width and in a color that contrasts with the color of the collection receptacle so that the sign or label is clearly visible.

- (7) The station may not utilize high-intensity colors for the container or signage.
- (8) Excluding screening, drop-off containers and storage bins shall occupy no more than five hundred (500) square feet of land area;
- (9) The station shall not occupy or block access to parking spaces required for the principal use;
- (10) All drop-off containers and storage bins shall be durable, waterproof, rustproof, covered, secure from unauthorized entry, and shall be clearly marked to indicate the type of material to be deposited therein;
- (11) A Minor Alteration shall be approved indicating the location and screening of the station and how the proposed station meets the requirements of this section. The application shall indicate how vehicles and pedestrians will safely access the station. The application shall also include signed authorization of the property owner.

**Option 2:**

**(O) Clothing Donation Drop-off Stations**

- (1) Such use shall comply with requirements applicable to Outdoor Display and Sales as provided in Section 5.3.4(D)(2) (a) through (g).
- (2) A sign or label shall be affixed to each collection receptacle stating the name of the organization for whom the donation is made and the phone number or electronic mail address of a contact person. Except where the donation is made to a licensed charitable organization or sponsor, each label shall also include the following statement: "This is not a charity. Donations made here support a for-profit business and are not tax deductible.": The sign or label shall be placed on all sides of the collection receptacle with the required information printed in letters that are no less than three inches in height and no less than one-half inch in width and in a color that contrasts with the color of the collection receptacle so that the sign or label is clearly visible.
- (3) A Minor Alteration shall be approved in accordance with Section 3.10 indicating the location of the station and how the proposed station meets the requirements of this section. The application shall also include signed authorization of the property owner.

Text below provided for reference purposes only.

**5.3.4 ACCESSORY USES AND STRUCTURES - Accessory Uses and Structures Allowed**

**(D) Outdoor Display and Sales**

**(2) Where Permitted**

- (a) All outdoor display and/or sale of goods shall be located immediately adjacent to the storefront and not in drive aisles, loading zones, fire lanes, or parking lots, except as otherwise provided in this Section 5.3.4(D)(2).
- (b) The area used for outdoor display and/or sales shall not occur on the sides and rear of buildings and shall be limited to no more than one-half (1/2) of the length of the store front. In the case of a shopping center, the "storefront" shall include the entire frontage of the shopping center, meaning that the total amount of display for all the in-line tenants combined shall not exceed fifty (50) percent of the aggregate store front of the overall shopping center.
- (c) The area of outdoor display and/or sales shall not encompass the width of the entrance doors to the facility as projected straight out from the facility. For example, if the width of the entrance doors is ten (10) feet, then there shall be at least a ten (10) foot clearance from the doors as projected straight out and away from the facility.
- (d) At least five (5) feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.
- (e) No goods shall be attached to a building's wall surface.
- (f) The height of the outdoor display shall not exceed six (6) feet, unless an exception to this provision has been granted by the Planning Director.
- (g) The outdoor display and/or sales area shall take place on an improved surface such as the sidewalk or pavement, and be clearly marked by a contrasting paint color.

TABLE 5.1-1: TABLE OF PERMITTED USES - GENERAL USE DISTRICTS (EXCEPT TC & CT)																		
P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use																		
Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2																		
Use Category	Use Type and [Use Class]	RESIDENTIAL						NON-RESIDENTIAL					MIXED USE OVERLAY DISTRICT			Use-Specific Stds		
		R80	R40	R20	R12	R8	TR	RMF	RR	OI	GC	ORD	I	NC	CC		RC	
<b>ACCESSORY USES</b>																		
Accessory Uses	Clothing Donation Drop-off Station											P			P	P	P	5.3.4(O)

**TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES**

**P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use**

Use Category	Use Type	HMXD	MXD	HDR Mid-Rise	MXDR	HDR Garden	MDR	LDR	LDR-12	CB&R	COM	CLI	OFC/INS	INS	OFC/IND	Use Specific Stds
<b>ACCESSORY USES</b>																
<u>Accessory Uses</u>	<u>Clothing Donation Drop-off Station</u>										P					<u>5.3.4(O)</u>

**12.4 OTHER KEY TERMS DEFINED**

**CLOTHING DONATION DROP-OFF STATION**

A center or collection point with bins, containers, sheds, or other facilities designed and intended for the depositing of clothing and textiles, for pick-up and transportation to another location for the purpose of resale or recycling. The center or collection point shall not have any mechanical facilities for the processing of such materials.