

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director  
Metropolitan Council Office

DATE: **Tuesday, January 8, 2008**

**- BILLS INVOLVING AMENDMENTS TO THE ZONING ORDINANCE -**

**ORDINANCE NO. BL2007-44** (CRADDOCK & RYMAN) – This zoning text change amends the code provisions pertaining to mobile vendors. In January 2007, the council enacted Ordinance No. BL2006-1283, which was intended to prohibit mobile vendors from being located outdoors. The code defines a “mobile vendor” as a person who peddles, vends, sells, displays, or offers for sale goods, wares or merchandise at a temporary location and/or on a temporary or occasional basis. Vendors selling only food and/or beverages, vendors selling living plants and agricultural products, and licensed street vendors are expressly not to be considered “mobile vendors”. Under Ordinance No. BL2006-1283, mobile vendors within the commercial zoning districts are currently required to be located within a permanent, enclosed structure.

Since the enactment of Ordinance No. BL2006-1087, certain temporary establishments were able to find a way around the mobile vendor ordinance by maintaining a storefront location where merchandise is for sale, but conducting the vast majority of their sales outdoors. This ordinance is a further attempt to regulate mobile vendors operating on commercial property.

First, this ordinance deletes the term “mobile vendor” entirely. Instead, these type vendors would be referred to as “outdoor vendors”, which would include the sale, display or offering for sale of merchandise outside of a fully-enclosed structure. As with the prior ordinance, the sale of food and/or beverages, the sale of living plants and agricultural products, and street vendors licensed by the county clerk would not fall under the new regulations for outdoor vendors. Second, the ordinance designates outdoor vending as a use permitted with conditions in the mixed-use and commercial districts. Outdoor vending would be permitted by right in the industrial districts. The conditions that would be applicable to outdoor vendors in commercial districts are as follows:

1. No outdoor vending would be allowed except as part of a permanent, enclosed retail establishment on the same property and under the same name and ownership.
2. The outdoor vending area could not exceed fifteen percent of the total square footage of the ground level of the permanent enclosed structure.
3. No outdoor vending activity could take place within 300 feet of the public right-of-way.
4. All outdoor vending activity would be required to take place on the side or rear of the permanent enclosed structure, and could not be visible from the public right-of-way. Further, fencing or other screening material would be required to shield the outdoor vending area from any residential property.

This ordinance would essentially prohibit any outdoor vendors from selling goods on property where they do not maintain a permanent storefront location, and would prohibit merchants from selling or displaying items in front of the store.

There is a proposed amendment that would allow the outdoor sale of landscaping products, automobiles, and heavy equipment, and would permit outdoor vending by right in the commercial attraction (CA) district, which is essentially the Opryland area. The amendment would also allow outdoor tent sales, provided the tent sale is limited in duration to ten consecutive days and no more than two tent sales are held on a single parcel of property in any given calendar year.

This ordinance has been referred to the planning commission. Since more than thirty days have elapsed since the date of referral to the planning commission, the public hearing can be held and the ordinance can be adopted on second reading.

**ORDINANCE NO. BL2007-45** (HOLLEMAN, JAMESON & OTHERS) – This zoning text change amends the code provisions outlining the powers and duties of the Metro historic zoning commission (MHZC) to allow MHZC to determine the appropriate setbacks for property within historic zoning overlay districts. The MHZC is currently authorized to make certain determinations for property within historic overlay districts, including the appropriateness of exterior architectural design, exterior alterations, building relocations, and demolitions. However, MHZC does not have the authority to alter the setback requirements established for the base zoning district. Property owners wishing to change the setbacks must obtain a variance from the board of zoning appeals, which often delays the project and results in additional expense to the property owner.

This ordinance would expand MHZC's authority to determine whether it is appropriate in certain circumstances to vary from the base zoning district requirements regarding the setbacks of buildings within historic overlay districts to ensure that the construction matches the character of the neighborhood. MHZC already has the authority to regulate height and building massing within the historic overlays.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2007-64** (STANLEY) – This zoning text change amends the urban design overlay (UDO) provisions in the zoning code to require that the development of UDOS be divided into separate phases, and to require council approval of final UDO site plans. The purpose of the UDO zoning provisions is to allow for the implementation of special design standards for urban settings in a manner that varies from the conventional bulk standards. The zoning code requires a design plan for each UDO, which must be considered by the planning commission and approved by the council by ordinance. Once the preliminary site plan has been approved by the council, the planning commission is responsible for considering the final site plans to ensure that the design standards of the district have been satisfied and that the construction plans are consistent with the preliminary plan.

First, this ordinance would require all UDOS to be divided into separate phases, which must be approved by the council. Although the development of most UDOS are divided into separate phases anyway, there is no express requirement in the zoning code. Second, this ordinance would require all final site plans to be submitted to the council for approval upon being

approved by the planning commission. This would involve a separate zoning ordinance for each final UDO site plan to be approved by the council after holding a public hearing on the matter. This ordinance would result in increased costs to the developer, and would add an additional three to four months at the end of the development review process before construction could begin.

This ordinance has been disapproved by the planning commission.

**ORDINANCE NO. BL2007-100** (TOLER) – This zoning text change would designate “vehicular rental/leasing” as a use permitted by right in the shopping center regional (SCR) district, rather than requiring vehicle rental facilities to be a part of a specific plan (SP) district. In March 2006, the council enacted Ordinance No. BL2006-972 making most automotive uses no longer permitted in the commercial zoning districts. Rather, such uses have to be approved individually by the council as part of an SP district. The SP district was created by the council in September 2005 to give the council more control over how the property is developed than a straight zone change to another zoning district. The SP district is designed to be an alternative zoning process to address the unique characteristics of an individual property through a site specific plan. A detailed plan is to be created for each property, which must be followed by the developer.

Vehicular rental and leasing includes the rental of cars, motorcycles, recreational vehicles, boats, recreational equipment, and light trucks and vans. This ordinance simply would designate vehicular rental and leasing as a permitted use in the SCR district. The SCR district is intended for high intensity retail, office and consumer service uses.

Although vehicular rental facilities would be permitted by right in the SCR district under this ordinance, any SCR property subject to a planned unit development (PUD) overlay that does not allow this type of use would likely require the individual PUD to be amended by the council before the facility could obtain a use and occupancy permit.

This ordinance has been referred to the planning commission. Since more than thirty days have elapsed since the date of referral to the planning commission, the public hearing can be held and the ordinance can be adopted on second reading.