

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director  
Metropolitan Council Office

DATE: **Tuesday, March 4, 2008**

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

**ORDINANCE NO. BL2008-115** (TYGARD) – This zoning text change amends the definition of “two-family structure” to allow two-family dwelling units to be separate structures. The zoning code currently defines a two-family structure as two attached dwelling units forming a single structure connected by not less than eight feet of continuous floor, roof and walls. A common practice in recent years has been for developers to build two separate single-family structures, but construct a connecting wall between the two to allow both structures to be on a single lot. This ordinance would essentially remove the requirement that a connector wall be constructed between the units. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2008-150** (TOLER) – This zoning text change would designate “vehicular rental/leasing” as a use permitted with conditions 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 is defined in the zoning code as the rental of cars, motorcycles, recreational vehicles, boats, recreational equipment, and light trucks and vans. This ordinance would allow certain limited vehicular rental/leasing in the SCR district, as well as an adopted SP district. The SCR district is intended for high intensity retail, office and consumer service uses, and includes areas around the major malls and shopping centers in Davidson County, such as Rivergate, Hickory Hollow, Green Hills, and Nashville West. Pursuant to this ordinance, vehicular rental/leasing would be limited in the SCR district to the rental or leasing of passenger automobiles, sport utility vehicles, pick-up trucks, and small cargo vans less than 8,500 pounds in gross weight. The leasing or rental of motorcycles, recreational vehicles, boats, and moving vans would still be prohibited in the SCR district.

Although vehicular rental facilities would be permitted with conditions 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 may require the individual PUD to be amended by the council before the facility could obtain a use and occupancy permit.

This ordinance has been approved the planning commission.

There will likely be an amendment offered for this ordinance that increases the weight of passenger vans that could be rented in the SCR district.

**ORDINANCE NO. BL2008-151** (WILHOITE) – This zoning text change amends the definition of “family” under the zoning code to include a group of not more than eight unrelated elderly persons. In addition to the traditional definition of family, meaning persons related by blood, marriage or law, the zoning code allows up to three unrelated persons to live in a single dwelling unit, as well as group homes for the disabled of not more than eight individuals (including persons being treated for drug and/or alcohol dependency). Under the Fair Housing Amendments Act of 1988 (FHAA), local governments must make reasonable accommodations in rules that would afford disabled persons an equal opportunity to use a dwelling. The courts have determined that drug/alcohol dependent persons are considered disabled under the FHAA, but this protection obviously would not apply to all elderly persons.

This ordinance would expand the definition of family to allow group homes for up to eight unrelated persons over the age of 65, plus two house parents, to live together in a single dwelling unit. Assisted living facilities and nursing homes are already permitted in residential zoning districts. This zoning text change would allow small elderly care facilities to be permitted anywhere one family is allowed to live, including single-family and two-family residential districts. These type group homes that would be considered a “home for the aged” under state law would be required to obtain a license from the Tennessee Department of Health in order to operate.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2008-152** (TYGARD, BAKER & OTHERS) - This zoning text change amends the code provisions pertaining to digital and LED display signs. Metro’s current sign ordinance was approved in 1992 and has not been significantly modified since its adoption. The sign industry has evolved in recent years to include more and more electronic and digital technology, and Metro’s sign ordinance does not adequately address some of this technology. Further, Metro’s sign ordinance is not consistent with a recent change in state law pertaining to changeable message signs.

It is important to note that this ordinance consists of two separate, distinct parts. The first part deals with digital signs that change messages by electronic means, including digital billboards. The code currently prohibits signs with graphics or displays that do not remain static for at least two seconds, except in the commercial attraction zoning district (Opryland area). A separate code provision prohibits billboards or signs in certain commercial districts “with lights or illuminations that flash, move, rotate, scintillate, blink, flicker or vary in intensity or color except for time/temperature/date signs.” The existing code language has caused some confusion regarding digital billboards, as these are not prohibited video signs, but may be considered signs with lights or illuminations that move.

This ordinance deletes the rather antiquated language pertaining to signs with lights that “flash, move, scintillate, blink, and flicker”. In its place, this ordinance would provide that video, continuous scrolling image, and animation signs are prohibited in all but the commercial attraction district. The ordinance would also increase the amount of time that digital or electronic signs must remain motionless from two seconds to eight seconds. Further, the ordinance provides that digital display billboards must be at least 2,000 feet apart. This ordinance would make the code consistent with the recent state law which requires images on billboards to remain motionless for eight seconds and requires that there be at least 2,000 feet of separation between digital billboards.

The second aspect of this ordinance pertains to the use of LED signs in residential areas along collector and arterial streets. LED signs allow for scrolling messages in red or amber lights, and are frequently used at commercial establishments such as drug stores to advertise weekly specials, etc. This ordinance would allow these type signs in residential zoning districts for property located on collector and arterial streets. A list of the arterial and collector streets in Davidson County is attached to this analysis. It is important to point out that individual sections of the same road may be classified differently. A complete list of all sections of roadway in Excel format can be emailed by the council office to members of council upon request. The full list is approximately 290 pages.

There is a proposed amendment for this ordinance that would limit the LED sign provision to schools, cultural centers, recreational centers, and religious institutions located on collector or arterial streets in residential zoning districts. The amendment would also clarify that digital billboards would be required to comply with the general billboard provisions in the zoning code.

This ordinance was disapproved by the planning commission, but the planning commission recommended approval with the amendment.