

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: July 5, 2011

RE: **Analysis of Proposed Amendments
to the Zoning Code**

ORDINANCE NO. BL2011-922 (HOLLEMAN & CLAIBORNE) – This zoning text change creates a procedure for the designation of landmark signs and provides a mechanism for their continued maintenance and reuse when otherwise prohibited by the zoning regulations. Over the past decade or so, the council has enacted a number of changes to the zoning code moving more toward design-based regulations as opposed to solely used-based, which has been the traditional method for land use regulation in Tennessee under state law. Such design-based zoning includes the urban design overlay (UDO) and specific plan (SP) districts. The majority of the UDO and SP districts include sign regulations that often restrict a business owner's ability to rehabilitate or replace an iconic sign, such as the Donut Den sign on Hillsboro Road in Green Hills. This ordinance is an attempt to allow such landmark signs to be preserved and reused as opposed to being torn down.

This ordinance creates a new definition for "landmark sign" to include a sign that exemplifies Nashville's character and is iconic in its location. The ordinance would create three new sign types under the general umbrella of landmark sign based upon the age of the sign: historic signs (at least 50 years old); vintage signs (25-50 years old); and replica signs (an exact reproduction of a historic sign). Landmark signs must be "representative of excellence in a particular construction period" or demonstrate "extraordinary aesthetic quality, creativity or innovation." The sign must also retain its character-defining features that have historical significance, must be structurally safe, and must somehow be tied to Nashville or the region.

Historic signs would be allowed to be repaired or reused to resemble any past appearance from at least 50 years ago. The ordinance also provides criteria for the relocation of a landmark sign. If a landmark sign is remaining on the premises but is not used to advertise the current business, the sign would not count toward the permitted maximum sign area or number of signs. If it does advertise the current business, only fifty percent of the sign area would count toward the maximum. Replica signs would not be entitled to such a sign area bonus.

Finally, this ordinance includes a provision requiring that a site plan be submitted to and approved by the planning commission in order to obtain a landmark sign designation. Requiring site plan approval would place the authority solely with the planning commission to determine whether a sign should be considered iconic.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-923 (COLE & TOLER) – This ordinance amends the definition of “cottage development, single family” in the zoning code. This ordinance is a companion to Ordinance No. BL2011-901, which will be on third reading on July 19, 2011. Ordinance No. BL2011-901 would amend the zoning code to add single-family cottage developments as a use permitted with conditions in all two-family (R) zoning districts within the urban services district. Cottage developments are defined in the zoning code as single family residential developments of four to ten dwelling units arranged on small lots toward a common open space on at least two sides. These cottage developments are currently only permitted in multifamily districts, not the R and RS districts.

This ordinance simply clarifies that the maximum number of cottage units that may surround an open space will be twelve as opposed to ten. A new ordinance was needed to accomplish this change due to the restrictions contained in the caption for Ordinance No. BL2011-901.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-924 (JAMESON) – This ordinance amends the Metro zoning code provisions applicable to home occupations. The zoning code currently allows a home occupation as an accessory use in the residential zoning districts not to exceed 25 percent of the floor area, with a maximum of 500 square feet. Since the adoption of Metro’s current zoning in 1998, home occupations have been prohibited from serving clients/customers on the property. Only one employee that is not a resident in the home may work in the home. Further, the code prohibits signage to advertise a home occupation, and only one vehicle associated with the home occupation is allowed to be on the property, although the code does not limit the number of deliveries that can be made to the property. The code also prohibits certain types of businesses, such as auto repair, and limits the materials that can be stored on the property.

This ordinance replaces the home occupation section in the zoning code. Home occupations would still be an accessory use, but would be divided into two categories depending on whether customers come to the home. “Home businesses” could have a limited number of customers but “home occupations” could not. The permitted uses for a home occupation/business would be general office and a new use designated as “cottage industry”, which would allow uses such as artists, photography and recording studios, single-chair cosmetologists, counseling, massage therapy, and group instruction. Prohibited uses would include automobile repair, storage, animal boarding, and tattoo/body piercing studios.

Home businesses would be allowed to occupy up to 500 square feet or 20% of the floor area, whichever is less. The owner of the property must permanently reside in the dwelling unit. Customers would be permitted by appointment between 8:00 a.m. and 6:00 p.m., Monday through Friday, with a maximum of two visits per hour and ten visits per day. No additional parking spaces would be allowed to be created on the property to accommodate the home business, and the business activity itself must not be visible from the street or adjacent residences. All home business applicants would be required to provide proof of a valid business license issued by the county clerk.

Before a home business application could be filed with the zoning administrator, the applicant would be required to send a letter by certified mail to the district councilmember, adjacent homeowners, and to the homeowner's association, if applicable. Once the zoning administrator grants a home business permit, any person could appeal the decision to the board of zoning appeals, though the code sets forth no criteria for the board to use in overturning such a decision as long as the proposed home business complies with the requirements of this ordinance. The zoning administrator would have the authority to revoke a permit after three complaints from neighbors, which decision would also be appealable to the board of zoning appeals.

The ordinance also grants the zoning administrator the authority to "establish reasonable conditions on the operation of any home business". The council has traditionally been careful in delegating its zoning authority to administrative officials. This would be the only accessory use in the zoning code for which the zoning administrator could impose additional conditions. The zoning code charges the zoning administrator with interpreting and administering the zoning code, not establishing conditions.

This ordinance has been approved by the planning commission.