

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: May 1, 2012

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

ORDINANCE NO. BL2012-107 (JOHNSON) – This ordinance amends the Metropolitan zoning code to require replacement panels in multi-tenant signs to be consistent with the other signage on the property. The zoning code currently provides that on-premises signs on a lot with more than one business (i.e., a strip mall) must be in accordance with the overall signage plan for the development. All signs must be consistent with at least four of the following: material; location on the building; sign proportions; color scheme; lighting; and letter/graphic style. The signage plan is supposed to be approved by the zoning administrator before permits are issued. The sign plan may be amended from time to time, but all signs must be brought into compliance with the amended plan within six months.

This ordinance would specify that modifications to multi-tenant signs, including the replacement of individual sign panels for new tenants, be consistent with the other existing sign panels as to materials, lighting, lettering, and graphic style. This would prohibit the insertion of a sign panel made out of plywood or some other material that is not consistent with the rest of the panels.

Subsequent to the filing of this ordinance, the council office was made aware that the intent of the ordinance was to address the building signs in strip malls, as opposed to the multi-tenant ground signs. As noted above, the zoning code already requires building signs within a multi-tenant development to be consistent with the other signs, and requires signs that are made nonconforming by a subsequent amendment to the signage plan to be brought into compliance within six months. However, the council office has been advised by the department of codes administration that these provisions have historically not been enforced.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2012-109 (JOHNSON) – This ordinance amends the Metropolitan zoning code to require applications for the conversion of a nonconforming billboard to a tri-face billboard to be submitted to the board of zoning appeals (BZA) for a determination as to whether the conversion would result in a greater negative impact to adjacent property owners.

The state nonconforming use grandfather statute allows certain existing nonconforming businesses to remain when a change in local zoning regulations makes the business no longer technically in compliance with the law. The state grandfather law expressly applies to billboards, which allows the destruction and reconstruction of the sign without losing its protected nonconforming status.

Tri-face billboards consist of triangular louvers that automatically rotate to allow three different sign messages to be shown on the same sign. In January 2011, the council enacted Ordinance No. BL2010-798 to exempt tri-face billboards from the distance requirements applicable to electronic signs, which essentially resulted in tri-face billboards being treated the same as static billboards. This ordinance would simply require consideration by the BZA before converting a nonconforming static billboard to a tri-face one.

Issues have been raised by the billboard industry as to whether this bill violates the state grandfather statute. The council office is of the opinion that the bill in and of itself does not violate state law. While local governments have no authority to prevent nonconforming billboards from being reconstructed, there is nothing in the grandfather statute that would prohibit the council from requiring a recommendation from the BZA regarding the conversion of a static billboard to a tri-face billboard to be sent to the BZA. Although the language of the bill seems to infer that the BZA would have the authority to deny such a conversion if the billboard for some reason would result in a greater negative impact to adjacent property owners, the BZA would likely have no legal basis to deny the conversion. This bill would simply provide some transparency to the process and would allow neighbors to be notified before the conversion takes place.

This ordinance was disapproved by the planning commission.

ORDINANCE NO. BL2012-113 (JOHNSON) – This ordinance amends the Metro zoning code to require private roads and drives within certain multi-family developments to be constructed in accordance with the Metro standards for public streets. The Metro code requires streets that are intended for public dedication to be built to certain standards. Private drives, which are neither dedicated to nor maintained by Metro, do not have to be built to such a high standard.

This ordinance would provide that all streets, roads, and drives within multi-family developments approved as part of a planned unit development (PUD) district or a specific plan (SP) district be constructed in accordance with the Metropolitan Government department of public works standards for public streets and roads if the development meets all of the following criteria:

- The multi-family development abuts a single-family development or is part of a larger development containing single family homes.
- The single family homes are located on, or are planned to be located on, a public street or streets.
- One or more of the multi-family structures directly abuts, or is planned to abut, single family homes.

The planning commission deferred this text change indefinitely at the request of the sponsor.

ORDINANCE NO. BL2012-117 (TYGARD) – This zoning text change amends the zoning code to allow microbreweries to be located in the industrial warehousing/distribution (IWD) zoning district. Prior to 2008, the zoning code considered the manufacturing of alcoholic beverages as a “medium manufacturing” use, which is only permitted in the industrial zoning districts. In September 2008, the zoning code was amended to create a new use called “microbrewery” to be permitted by right in the downtown, IR (industrial restrictive) and IG (industrial general) zoning districts. The code defines “microbrewery” as the production of beer in quantities not to exceed 5,000 barrels per month. This definition does not extend to the production of other alcoholic beverages such as wine and whiskey. To address this issue, the council amended the zoning code to create “artisan distillery” as a new use to be permitted in the downtown and industrial zoning districts. The purpose of the artisan distillery ordinance was to allow smaller-scale distilleries in the downtown area to serve as tourist attractions.

This ordinance further amends the zoning code to allow microbreweries by right in the IWD zoning district. The zoning code provides that the IWD district is intended to implement those industrial policies of the general plan that provide opportunities for wholesaling, warehousing and bulk distribution uses.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-142 (CLAIBORNE) – This ordinance amends the Metro zoning code to extend the date for compliance with the signage provisions within the downtown code (DTC) district until June 30, 2013. The ordinance creating the DTC district, which was approved with amendments by the council in February 2010, provided that downtown properties would not have to comply with the new signage standards until July 1, 2011. The idea behind the delayed compliance date was to allow for a study of signage within the downtown area and to recommend new standards. The planning commission hired a consultant to conduct a study of the downtown sign regulations and to recommend a new downtown sign code. The consultant’s work was not completed by June 30, 2011, so the council approved an extension of the compliance date to June 30, 2012.

The draft sign code was completed by the consultant in 2011 and was circulated to the downtown business and property owners for comment. The downtown community stakeholders have requested additional time to work with the Metro planning department to revise the draft. The planning commission has approved an additional extension through June 30, 2013 to give the community time to come to a consensus on the new sign regulations, which will be submitted to the council for approval.