



## METROPOLITAN COUNCIL

Metro Council Office

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director  
Metropolitan Council Office

DATE: September 2, 2008

RE: **Analysis for Bills Amending the Zoning Code on the  
September 2, 2008 Council Public Hearing Agenda**

**ORDINANCE NO. BL2008-282** (GILMORE) – This zoning text change amends the zoning code to allow microbreweries as a permitted use in the core frame (CF) and industrial zoning districts. The zoning code currently considers the manufacturing of alcoholic beverages as a “medium manufacturing” use, which is only permitted in the industrial zoning districts. Prior to the adoption of the current zoning code in 1997, alcoholic beverages could be manufactured in the CF district, provided less than 5,000 barrels per month were produced. The CF district is basically the area surrounding the immediate downtown area, which only encompasses part of four council districts (6, 17, 19 and 21) and includes 3,405 parcels.

This ordinance would create a new use called “microbrewery”, which would be permitted by right in the CF, IR (industrial restrictive) and IG (industrial general) zoning districts. The ordinance defines “microbrewery” as the production of alcoholic beverages in quantities not to exceed 5,000 barrels per month.

This ordinance has been referred to the planning commission, and is on the commission’s August 28, 2008 agenda. The planning commission staff is recommending approval of this ordinance with an amendment. The planning commission staff recommends that the ordinance be amended to either restrict microbreweries to the production of beer only, or clarify the maximum quantities of alcoholic beverages that can be produced, as barrel sizes differ depending on the type of alcoholic beverage produced. Since the definition of “beer” in the Metro code is dependant upon the concentration of alcohol in the beverage (5% or less), the definition of microbrewery should be tailored to address the various types of beer these businesses produce.

**ORDINANCE NO. BL2008-283** (TYGARD & JAMESON) – This zoning text change creates a new land use for small wind energy systems (windmills), which would be an accessory use in all zoning districts. This ordinance is modeled after the small wind energy system ordinance recently adopted in Carroll County, Maryland. According to the definitions in the ordinance, small wind energy systems are equipment used to convert or transfer wind energy into electricity. The zoning code currently does not allow small wind energy systems as a permitted use.

This ordinance would allow small wind energy systems with a total height not to exceed 150 feet, and a total energy capacity of 50 kilowatts or less. These systems would only be an accessory use, meaning the windmill could not be the principal or only use on the property. The ordinance includes various setback requirements and location standards. All windmills would be required to be setback a distance equal to its height plus 20 feet from (1) any right-of-way, (2) any driveway; (3) any overhead utility lines; and (4) all property boundary lines. The windmill could not be attached to any building. Further, all electrical wires to the wind tower would have to be underground, and no lighting would be permitted unless required by the federal aviation administration. The ordinance expressly prohibits any variances from being granted from the distance requirements and locations standards.

A small wind energy system that is out of service for a continuous twelve-month period would be deemed abandoned under the ordinance. Once abandoned, the owner would have three months to remove the windmill upon being notified by the zoning administrator.

This ordinance has been referred to the planning commission, and is on the commission's August 28, 2008 agenda. The planning commission staff has recommended disapproval of the ordinance as drafted, but is recommending that it be re-referred to the planning commission after second reading to allow the planning staff to work with the sponsors to craft a substitute ordinance. The planning staff is concerned that few properties in Davidson County could meet the setback requirements contained in the ordinance. Further, since the ordinance prohibits attaching windmills to buildings, it would greatly limit the ability to install windmills in urban areas.