

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: May 3, 2011

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

ORDINANCE NO. BL2011-858 (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. The code prohibits clients/customers from being served on the property, and only allows one employee that is not a resident 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 code. Home occupations would still be an accessory use with a maximum of one non-resident employee. The maximum floor area provisions would stay the same. The ordinance would allow up to two visitors, customers, or deliveries every hour, not to exceed a total of eight per day. Sufficient parking must be provided to accommodate customers not to exceed 25 percent of the lot area. One non-illuminated sign would be allowed to be attached to the residence with a maximum size of six square feet and a maximum height of five feet.

There is a substitute for this ordinance that has been recommended by the planning commission that is basically a complete rewrite of the bill. This rather complex substitute creates two categories of home businesses (Tier 1 and Tier 2), though most of the new standards in the bill would be applicable to both tiers. These standards include:

- A maximum of 25% of the floor area may be designated for the home business.
- No physical alteration of the home can change its residential character or appearance.
- Permitted uses include general office and what is referred to as a “cottage industry”, which includes art studios, licensed massage therapists, barber shops, and personal counseling.

- Prohibited uses under both categories include tattoo studios, automotive repair, wrecker services, restaurants, animal boarding, recording studios, and the leasing of homes for special events.
- The business owner/operator must be a resident of the home. Written permission of the landlord would be required for tenants to operate a home business.
- Large commercial vehicles associated with the business would be prohibited on the property.
- One non-illuminated “plaque” not exceeding one square foot in size may be mounted beside the door identifying the home business. No other signage would be permitted.
- All home businesses must obtain a special permit from the zoning administrator and must have a valid business license (if a business license is required under state law for that particular type of business).

There are essentially three key distinctions between the Tier 1 and Tier 2 businesses. First, customers and clients would be prohibited from coming onto the property of Tier 1 home businesses. Tier 2 home businesses could have two customers per hour, not to exceed twelve per day. Second, Tier 2 would allow personal instruction as a permitted use, i.e., piano lessons. Finally, Tier 2 home businesses must obtain the approval of the board of zoning appeals as a special exception use after notifying the adjacent property owners and the district councilmember, whereas Tier 1 home businesses would be permitted by right if the above conditions are satisfied.

ORDINANCE NO. BL2011-896 (JAMESON & GILMORE) – This ordinance amends the Metro zoning code to extend the date for compliance with the signage provisions within the downtown code (DTC) district. 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 recently hired a consultant to conduct a study of the downtown sign regulations, but the consultant’s work will not be complete by June 30, 2011. This ordinance simply extends the compliance date to January 1, 2012.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-897 (GOTTO) – This ordinance amends the street designations in the zoning code to be consistent with the terminology used in the new Major Street and Collector Plan approved by the planning commission on April 14, 2011. The new plan will implement the “Complete Streets” approach to street design, which is intended to facilitate and accommodate multiple modes of transportation. The zoning code currently uses the terms “arterial” and “collector” to classify streets. However, the new street plan classifies such roads

as “arterial-boulevard”, “arterial-parkway”, or “collector-avenue”. This ordinance amends the definitions in the zoning code to coincide with the new street plan.

This ordinance also modifies the method of measuring street setbacks. The code currently provides that these setbacks, which vary based on the zoning district, are measured from the center of the street. This ordinance provides that street setbacks will be measured from the standard right-of-way line. The planning department staff report states that this change in measurement method will not change the actual setback measurements as they currently exist.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-898 (GOTTO & COLE) – This zoning text change creates a number of alternative zoning districts in the higher intensity residential and mixed-use districts that will facilitate a more pedestrian-friendly environment without requiring a specific plan. Specifically, this ordinance creates a new corresponding alternative district to the MUN, MUL, MUG, MUI, RM9, RM15, RM20, OR20, RM40, OR40, RM60, and ORI districts. The permitted uses, minimum lot sizes, and floor area ratios in the alternative districts will be identical to the companion districts. This ordinance also creates the RM80-A (multi-family 80 units per acre) and RM100-A (multi-family 100 units per acre) districts with no corresponding companion districts to allow higher density development in urban areas.

There are two primary differences between these new alternative districts and their existing companion districts: setbacks and height. The zoning code currently regulates minimum building setbacks, but does not set a maximum setback. Thus, buildings can be constructed at the rear of lots with parking in the front, but cannot be placed next to the street in certain districts. This alternative replaces the setback concept with a “build to” concept. Developers would be required to build 5-15 feet from the front property line. The side and rear setbacks would be the same as the companion districts. In addition, all parking must be to the side or rear of the building.

This ordinance uses a “step-back” depth in measuring permitted height as opposed to the height control plane used in the existing companion districts. While not altering the overall maximum height, it would allow taller structures to be closer to the front property line instead of using the tiered height control plane approach. A minimum front step-back of 15 feet would be required.

Finally, this ordinance provides an incentive to reduce impervious surface area by giving a bonus in floor area ratio, and allows area that is dedicated as right-of-way to be used in calculating permitted density.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-899 (GOTTO) – This zoning text change would allow signs to be located in alleys under certain circumstances. The zoning code currently prohibits signs along alleys. However, parking for downtown businesses is often located off of alleys. This ordinance would allow alley signs when parking is located at the rear of the property and is only accessible via an alley. The ordinance includes maximum size requirements for the alley signs and requires the sign to be at least 40 feet from a public street. Alley signs must be placed at a location that will not obstruct visibility.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-900 (LALONDE, GILMORE & MOORE) – This zoning text change would allow detached accessory dwelling units on properties that are within a historic zoning overlay district. The zoning code presently prohibits any detached dwelling from being located on the same parcel in the R and RS zoning districts. Accessory apartments are allowed as an accessory use in the residential districts, provided they are attached to the primary residence.

This ordinance would allow detached accessory residential units in the R, RM, and OR districts as long as the property is located within a historic zoning overlay. The detached accessory unit cannot exceed 700 square feet and must be clearly subordinate in size and height to the principal structure. The detached accessory unit must also be located at the rear of the lot and be separated at least 10 feet from the principal structure. The principal structure and the detached accessory unit must be owned by the same person, but may have separate utility connections.

The ordinance also includes some design standards governing color, building materials, and architectural characteristics. The council office is of the opinion that these design standards are not permitted by state law. While design and aesthetics can be regulated under state law as part of a historic overlay designation, this does not extend to zoning code provisions applicable to the base zoning districts. The design standards in this bill would be unenforceable to the extent they differ from the design guidelines for a particular historic zoning overlay district.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-901 (COLE & TOLER) – This ordinance amends the zoning code to add single-family cottage developments as a use permitted with conditions in all two-family (R) zoning districts. 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 use was added as part of the multi-family districts in 2006, but developers have not taken advantage of it due to the density restrictions created by the bulk standards.

Under this ordinance, single-family cottage developments would be allowed in the R zoning districts if certain conditions are satisfied. Buildings must be 1 or 1 ½ stories with a maximum height of 25 feet. The maximum building footprint would be 1,000 square feet. All units must either face the street or common open space. The development must designate at least 350 square feet of common open space per unit. Further, each unit must have at least 200 square feet of contiguous private open space next to the unit for use by the homeowner. All parking must be screened from the common open space, from all public streets, and from the properties adjacent to the cottage development. A covered front porch at least 60 square feet in size is required for all units. The ordinance also modifies the required rear setbacks under the base zoning districts to accommodate cottage development units abutting an alley.

As an incentive to developers to utilize the cottage development approach, this ordinance provides a density bonus of up to 1 ½ times the units allowed under the base zoning district, with no minimum lot size. This would allow substantially greater density on infill lots in established neighborhoods. However, the density bonus would not be available if an historic structure has been demolished on the site within the two years prior to site plan approval.

Like the specific plan (SP) district, cottage developments would be required to have a final site plan approved by the planning commission. The ordinance also includes a design requirement that the cottage units be constructed of materials that are "consistent with and complement the existing residential character of the area". Much like the provisions included in Ordinance No. BL2011-900 discussed above, the council office is of the opinion that this design requirement is inconsistent with state law.

This ordinance has been approved by the planning commission.