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## HONORABLE CITY COUNCIL

**RE: High/Medium-impact industrial uses on land zoned B2 and B4, Chapter 50, Zoning (DEPARTMENTAL REPORT)**

In the very near future, the City Planning Commission will be forwarding a proposed text amendment to Chapter 50, *Zoning*, to correct an error in the Zoning Ordinance that was embedded in Ordinance No. 2020=21. The error involves the permissibility of, and limitations upon, “High/Medium-impact industrial uses” on land zoned B2 (Local Business and Residential District) and B4 (General Business District).

The list of 30 High/Medium-impact industrial uses is found on Attachment A.

High/medium-impact industrial uses are listed as Conditional Uses on land zoned B2, B4, SD1, and SD2 subject to stringent limits. They are listed as By-right Uses only on land zoned M3, M4, M5, TM, and MKT. The intensity and likely or potential impact of these uses make them generally undesirable in close proximity to housing.

However, a 2020 text amendment, focused on Traditional Main Street Overlay (TMSO) areas, provided that one of these 30 uses, “furniture-making,” to be allowed as a “maker use.” Furniture manufacture was viewed by the City Planning Commission (CPC) in its recommendation to Council (*Journal of City Council 11/26/2019, Pgs. 2814-2816*) as the only High/Medium-impact industrial use that would be suitable on land zoned B2 and B4 and only if it was in a TMSO and only if it was small scale (not exceeding 4,000 square feet) and only if operating in combination with retail sales of the items made on site and only on a Conditional basis subject to a public hearing at the Buildings, Safety Engineering and Environmental Department.

However, the text that was ultimately passed in Sec. 50-12-362(a) is not faithful to the original intent, the zoning district use lists (Sec. 50-9-53, Sec. 50-9-113), or the Use Table (Sec. 50-12-82), which specify high/medium-impact uses in B2 and B4 as conditional. The flawed provision is highlighted in Subsection (a) of Sec. 50-12-362 below:

### **Sec. 50-12-362. High/medium-impact manufacturing or processing facilities.**

(a) In the B2 and B4 Districts, a high/medium-impact manufacturing or processing facility is permissible **by-right** only if limited to furniture manufacturing, located in a structure not exceeding 4,000 square feet of gross floor area with a minimum of ten percent of the gross floor area being used as a retail store for the sale of the goods

produced on the premises, and located in a Traditional Main Street Overlay Area. Otherwise, in the B2 and B4 Districts a high/medium-impact manufacturing or processing facility is prohibited. [emphasis added]

(b) In the SD1 and SD2 Districts, high/medium-impact manufacturing or processing facilities with a minimum of ten percent of the gross floor area being used as a retail store for the sale of the goods produced on the premises may be permitted as a conditional use and are limited to furniture making facilities.

(c) In the SD1 District, furniture making facilities shall not exceed 4,000 square feet in gross floor area.

(d) In the SD2 District, furniture making facilities shall not exceed 5,000 square feet in gross floor area.

(e) In the MKT District, high/medium impact manufacturing and processing uses are limited to the following:

- (1) Canning factories, excluding fish products;
- (2) Brewing or distilling of liquors; and
- (3) Brewing of 20,000 or more barrels of beer or malt beverage per year.

(f) The regulations set forth in this Section may not be modified or waived by the Board of Zoning Appeals.

Upon becoming aware of this error in September of this year, the Commission became immediately concerned with any errant conclusions or interpretations that may result, and took steps to rectify it. A text amendment was prepared, a public hearing was held on October 17<sup>th</sup> and the Commission took action the same day. Once the Law Department has rendered approval as to form the ordinance correcting this error will be on Your Honorable Body's agenda soon so that no further applications of this provision will be allowed, contrary to the original intent of Ordinance No. 2020-21.

Respectfully submitted,



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M. Rory Bolger, City Planner

cc: David Bell, Director, BSEED  
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Antoine Bryant, Director, PDD  
Greg Moots, PDD  
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# ATTACHMENT A

“High/Medium-Impact” uses include the following per Sec. 50-16-242:

- Automobile accessory manufacture, not including tires heat treating or foundry work;
- Automotive, agricultural or other heavy machinery manufacturing, not including heat treating;
- Bolt or nut manufacture, not including heat treating;
- Book publishing, printing or engraving;
- Brake debonding;
- Brewing or distilling of liquors;
- Brewery;
- Buffing shop;
- Business machines or equipment manufacture;
- Can, barrel, drum or pail manufacture;
- Canning factories, excluding fish products;
- Die casting;
- Disinfectant or insecticide manufacture;
- Distilling of alcoholic products not including small distillery or small winery, which are defined in Section 50-16-384 of this Code;
- Automatic screw machine operations;
- Electric fixtures, batteries, or other electrical apparatus manufacture but excluding battery rebuilding;
- Emery cloth or sandpaper manufacture;
- Furniture manufacture;
- Heating or ventilating apparatus manufacture or assembly;
- Mattress manufacture;
- Millwork, lumber or planing mills;
- Monument works;
- Painting or varnishing shops;
- Paper box or cardboard products manufacture;
- Plastic products manufacture;
- Plating or anodizing;
- Replating;
- Sheet metal works;
- Tire recapping; and
- Wrought iron, custom decorative shops.