

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 21653, AS AMENDED, CODIFIED AS APPENDIX "A" OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING CHAPTER 4, "DISTRICT REGULATIONS," ARTICLE 8, "NONRESIDENTIAL DISTRICT USE TABLE," SECTION 4.803, "NONRESIDENTIAL DISTRICT USE TABLE," TO REMOVE PERMANENT AND TEMPORARY BATCH PLANT, ASPHALT OR CONCRETE, AS A USE ALLOWED BY RIGHT AND REQUIRE A CONDITIONAL USE PERMIT AND ADD A REFERENCE TO A SUPPLEMENTAL USE STANDARD; AMENDING CHAPTER 4, "DISTRICT REGULATIONS," ARTICLE 12, "FORM-BASED CODE DISTRICT USE TABLE, "SECTION 4.1203, "DISTRICT USE TABLE," TO REQUIRE A CONDITIONAL USE PERMIT FOR BATCH PLANT, ASPHALT OR CONCRETE (TEMPORARY), IN LOW AND HIGH INTENSITY MIXED-USE DISTRICTS AND ADD A REFERENCE TO A SUPPLEMENTAL USE STANDARD; AMENDING CHAPTER 5 "SUPPLEMENTAL USE STANDARDS", ARTICLE 4 "TEMPORARY USES", SECTION 5.401 "BATCH PLANT, ASPHALT OR CONCRETE (TEMPORARY)" TO CLARIFY WHEN A CONDITIONAL USE PERMIT IS REQUIRED AND TO CLARIFY WHERE TEMPORARY BATCH PLANTS ARE PERMITTED; AMENDING CHAPTER 5, "SUPPLEMENTAL USE STANDARDS," ARTICLE I, "STANDARDS FOR SELECTED USES," TO ADD SECTION 5.156 "BATCH PLANT, ASPHALT OR CONCRETE (PERMANENT)" TO CLARIFY WHERE PERMANENT BATCH PLANTS ARE PERMITTED; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Chapter 211 of the Texas Local Government Code ("TLGC") authorizes the governing body of a municipality to adopt zoning regulations to promote the public health, safety, morals, or general welfare and protect and preserve places and areas of historical, cultural, or architectural importance and significance; and

WHEREAS, Section 211.005 of the TLGC authorizes the governing body of a municipality to divide the municipality into districts of a number, shape, and size that the governing body considers best for carrying out the provisions of Chapter 211, General Zoning Regulations, within which districts the governing body may regulate the erection, construction, reconstruction, alteration, repair or use of buildings, other structures or land; and

WEHREAS, a permanent batch plant, concrete or asphalt, is not allowed by right in any nonresidential district except for “K” heavy industrial and to operate a permanent batch plant, concrete or asphalt, in any nonresidential district, except for “K” heavy industrial, requires a conditional use permit; and

~~**WHEREAS**, a temporary batch plant, concrete or asphalt, is allowed by right in all industrial districts; and~~

~~**WHEREAS**, a temporary batch plant, concrete or asphalt, is allowed by special exception in “MU 1” Low Intensity Mixed Use and “MU 2” High Intensity Mixed Use; and~~

WHEREAS, City staff recommends limiting ~~temporary and~~ permanent batch plants, concrete or asphalt, to districts where ~~there are permitted by right or~~ a conditional use permit overlay is designated in the City’s use tables in Chapter 4, Articles 8 and 12 of the Zoning Ordinance; and

~~**WHEREAS**, it is the desire of this City Council to require a conditional use permit overlay for temporary batch plants, concrete or asphalt, in the low and high intensity mixed use districts where such use is allowed by special exception; and~~

WHEREAS, it is the desire of this City Council to require conditional use permit overlay for permanent ~~and temporary~~ batch plants, concrete or asphalt, only in “I” Light Industrial, “J” Medium Industrial, and “K” Heavy Industrial; certain nonresidential districts; and

WHEREAS, this City Council ~~agrees with staff’s recommendation and~~ desires to limit permanent ~~and temporary~~ batch plants, concrete or asphalt, to districts where they are permitted or a conditional use permit overlay is designated in the use tables in Chapter 4, Articles 8 and 12 of the Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS

SECTION 1.

Chapter 4, “District Regulations”, Article 8, “Non-Residential District Use Table,” Section 4.803, “Non-Residential District Use Table” of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise “Medium and Heavy Industrial” “Batch plant, concrete or asphalt (permanent)” to remove “P” under “K” column and add “CUP*”; add “CUP*” under the “I” and “J” columns; add a reference to section 5.156 under the Supplemental Use column;

SECTION 2.

~~Chapter 4, “District Regulations”, Article 8, “Non-Residential District Use Table,” Section 4.803, “Non-Residential District Use Table” of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise “Temporary Uses” “Batch plant, concrete or asphalt (temporary)” to replace “P” under “I”, “J”, and K” columns with “CUP*”.~~

SECTION 3.

Chapter 4, “District Regulations”, Article 12, “Form-Based Code District Use Table,” Section 4.1203, “District Use Table” of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise “Heavy Industrial Manufacturing”, Batch plant, concrete or asphalt (permanent)” to add a reference to section 5.156 under the Supplemental Use column.

SECTION 4.

Chapter 4, “District Regulations”, Article 12, “Form-Based Code District Use Table,” Section 4.1203, “District Use Table” of Ordinance No. 21653, the Stockyards Districts “SY-HSH”, “SY-HCO”, “SY-TMC”, “SY-TNF”, “SY-TNX”, “SY-TNE”, “SY-TSA”, “SY-ENX”, “SY-ECC”, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise “Other Uses”, “Temporary Uses”, “Batch plant, concrete or asphalt” to add a reference to section 5.401 under the Supplemental Use column.

SECTION 5.

~~Chapter 4, “District Regulations”, Article 12, “Form-Based Code District Use Table,” Section 4.1203, “District Use Table” of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise “Temporary Uses” “Batch plant, concrete or asphalt (temporary)” to remove the “SE*” under the “MU 1” and “MU 2” columns and replace with “CUP*”.~~

SECTION 6.

~~Chapter 5, “Supplemental Use Standards”, Article 4, “Temporary Uses,” Section 5.401, “Batch Plant, Asphalt or Concrete (Temporary)” of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby renamed and amended to read as follows:~~

~~§ 5.401 BATCH PLANT, ASPHALT OR CONCRETE (TEMPORARY).~~

~~—(a) A temporary batch plant (concrete or asphalt) for road and highway construction may be located in any zoning district shall be limited to districts designated “CUP*” or “P” in the use tables in Chapter 4, Articles 8 and 12, provided that:~~

~~—(1) The time period is no more than six months;~~

~~—(2) The site is located 600 feet or more from properties upon which dwellings are constructed; and~~

~~—(3) A site plan has been filed in the planning and development department, showing the location of the temporary batch plant, the distance from improved residential properties, and the streets to be paved.~~

~~—(b) A temporary batch plant may be permitted for a period exceeding six months by special exception approved by the board of adjustment upon approval of a conditional use permit.~~

SECTION 7.

Chapter 5 “Supplemental Use Standards” of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise Article 1, “Standards for Selected Uses”, to add Section 5.156 “Batch Plant, Asphalt or Concrete (Permanent)” to read as follows:

§ 5.156 BATCH PLANT, ASPHALT OR CONCRETE (PERMANENT).

(a) A permanent batch plant, asphalt or concrete, shall be limited to districts designated “CUP*” in the use tables in Chapter 4, Articles 8 and 12.

SECTION 8.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 9.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 10.

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation

exists shall constitute a separate offense.

SECTION 11.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinances No. 3011, 13896, 21653 and any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 12.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 13.

All other provisions of the Zoning Ordinance of the City of Fort Worth not herein amended shall remain in full force and effect.

SECTION 14.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: _____

Christopher Austria,
Senior Assistant City Attorney

Jannette S. Goodall,
City Secretary

ADOPTED: _____

EFFECTIVE: _____