

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AMENDING CHAPTER 155, “ZONING,” OF THE CODE OF MANSFIELD, TEXAS, BY AMENDING SECTION 155.082(E) “AUTHORIZED SPECIAL EXCEPTIONS” TO REPEAL SUBSECTION (8) “TEMPORARY BATCH PLANTS”; BY AMENDING SECTION 155.099(B) “SPECIAL CONDITIONS BY USE” TO REVISE SUBSECTION (23) “TEMPORARY BATCH PLANT” AMENDING THE SPECIAL CONDITIONS FOR TEMPORARY BATCH PLANTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; DATE AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Mansfield, Texas, in compliance with the laws of the State of Texas with reference to the amendment of Chapter 155 the Code of Mansfield, Texas, “Zoning”, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing opportunity to all property owners generally and to all interested citizens, the governing body of the City is of the opinion and finds that the Code of Ordinances should be amended; and,

WHEREAS, the City of Mansfield, Texas is a home-rule municipality located in Tarrant County, created in accordance with the provisions of Chapter 9 of the Local Government Code and operating pursuant to its Charter; and,

WHEREAS, the City Council recognizes a need to add clarity to the Code of Ordinances through amendments that help define intent of administration; and,

WHEREAS, the City Council recognizes a need to provide standards related to temporary batch plants that protects and preserves the health, safety, and welfare of residents, businesses, and visitors to the City of Mansfield, Texas while simultaneously supporting development and growth in a manner that is consistent with the vision and values of the community.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS:

SECTION 1.

That Section 155.082(E), “Authorized Special Exceptions”, of the Code of Mansfield, Texas, is hereby amended to repeal and to delete subsection (8) “Temporary batch plants.” Subsection (8) of Section 155.082(E) shall be reserved for future use.

SECTION 2.

That subsection (B) “Special conditions by use” in Section 155.099 “Special Conditions” of the Code of Mansfield, Texas, is hereby amended by revising subsection (23) to read as follows:

“(23) *Temporary batch plant*. All temporary batch plants, whether allowed by permit or by special exception, shall conform to the following requirements:

- (a) Unless otherwise pre-empted by Federal or State laws, rules, or regulations, all temporary batch plants shall require issuance of two (2) permits: one (1) permit that is reviewed, approved, and issued by the Texas Commission on Environmental Quality (or its successor agency with permitting jurisdiction for temporary batch plants) and one (1) permit that is reviewed, approved, and issued by the City.
- (b) All applications requesting permit issuance by the City shall demonstrate compliance with the following:
 1. All applications for temporary batch plants must be submitted within five (5) business days of an application for the same submitted to the Texas Commission on Environmental Quality to the City Manager or his / her designee for review, approval, and authorization and may be submitted by hand-delivery, email, first-class mail with the postage pre-paid, or certified mail with return receipt requested.
 2. All applications for temporary batch plants must include the following information along with the completed application:
 - A. a copy of the complete application submitted to Texas Commission on Environmental Quality for the temporary batch plant;
 - B. the hours of operation proposed for the temporary batch plant;
 - C. the 24-hour contact information for the superintendent or construction manager on site at the temporary batch plant; and
 - D. written certification that the temporary batch plant will operate in compliance with all applicable federal, state, and local laws, regulations, and rules.
 3. All applications for temporary batch plants submitted must demonstrate compliance with applicable federal, state, and local laws, regulations, and rules, including those of the Texas Commission on Environmental Quality and the Environmental Protection Agency.
 4. All applications for temporary batch plants must demonstrate that the temporary batch plant will operate in compliance with all of the requirements of subsections (f) through (m) herein.
- (c) Within five (5) business days of the City receiving an application and the supporting information required under Section 155.099(B)(23)(b), the City Manager or his / her designee shall mail written notices advising of the operation of a temporary batch plant to all property owners within 250 feet of the proposed site on which the temporary batch plant is to be located. The notices shall include the contact information for an official at the City that the public may contact for more information and the link to the Texas Commission on Environmental Quality’s website to report issues related

to the operation of the temporary batch plant. The notices shall be sent via first-class mail with the postage pre-paid.

- (d) If it is determined that the application for a temporary batch plant meets the requirements of this section, the City shall approve the permit within five (5) days of the issuance of a permit for the temporary batch plant by the Texas Commission on Environmental Quality.
- (e) Within five (5) business days after a temporary batch plant permit is approved by the City, the following shall be furnished to the City Manager or his / her designee:
 - 1. Certification of scales calibration;
 - 2. National Ready Mix Concrete Association (NRMCA) inspection;
 - 3. Gradations of course aggregates (gravel) obtained from onsite stock piles;
 - 4. Gradations of fine aggregates (sand) obtained from onsite stock piles; and
 - 5. Mix design (although, the City Manager or his / her designee may not require test batches, they may be required for certain projects if requested by the City Manager or his / her designee)
- (f) The suction shroud baghouse for a temporary batch plant shall not be located closer than 100 feet to any property line as set forth by the Texas Commission on Environmental Quality.
- (g) Stationary equipment, stockpiles, or vehicles used for the operation of a temporary batch plant shall not be located closer than 50 feet from any property line as set forth by the Texas Commission on Environmental Quality.
- (h) The site on which the temporary batch plant is located shall be returned to its original condition within 30 calendar days following the termination of temporary batch plant operations to the extent required by the Texas Commission on Environmental Quality.
- (i) No more than one (1) temporary batch plant may be permitted on a piece of property at a time.
- (j) A temporary batch plant must be located on property within the construction site or project or on property that is contiguous to the construction site or project for which the plant was permitted by the Texas Commission on Environmental Quality.
- (k) A temporary batch plant shall not allow concrete or asphalt from a temporary batch plant shall not be removed or taken to any site other than the site of the construction or project for which the plant was permitted by the Texas Commission on Environmental Quality and the City.
- (l) A temporary batch plant shall comply with all standards and ordinances pertaining to stormwater, dust, or other environmental protection standards to the extent that those standards and ordinances are consistent with the applicable state law and rules or regulations.

- (m) A temporary batch plant shall comply with applicable federal, state, and local laws, regulations, and rules, including those of the Texas Commission on Environmental Quality and the Environmental Protection Agency.”

**SECTION 3.
CUMULATIVE**

That all Ordinances of the City in conflict with the provisions of this Ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provision of this Ordinance shall remain in full force and effect.

**SECTION 4.
SEVERABILITY**

Should any paragraph, sentence, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part of provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Mansfield, Texas, as a whole.

**SECTION 5.
PENALTY**

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 no more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 6.
SAVINGS**

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of the Code of Mansfield, Texas, as amended, or any other ordinances affecting temporary batch plants 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 7.
PUBLICATION**

The City Secretary of the City of Mansfield is hereby directed to publish this ordinance as required by law.

**SECTION 8.
EFFECTIVE DATE**

This Ordinance shall take effect as specified in the above sections after its passage on first and final reading and publication as required by law.

**DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL
OF THE CITY OF MANSFIELD, TEXAS, THIS 11TH DAY OF DECEMBER, 2023.**

Michael Evans, Mayor

ATTEST:

Susana Marin, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Bradley Anderle, City Attorney