

**FILE NUMBER:** DCA212-003(LL)

**DATE FILED:** Fall 2022

**LOCATION:** Citywide

**COUNCIL DISTRICT:** All

**MAPSCO:** All

**SIZE OF REQUEST:** Citywide

**CENSUS TRACT:** All

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**REQUEST:** Consideration of amending permanent and temporary concrete or asphalt batching plant uses, including but not limited to amending potentially incompatible industrial uses, in the Dallas Development Code.

**SUMMARY:** The proposed code amendments will align the Dallas Development Code Chapter 51A, Article IV Zoning Regulations to support and align with the Comprehensive Environmental & Climate Action Plan (CECAP) goal of ensuring new industries are an appropriate distance away from neighborhoods.

**CPC RECOMMENDATION:** Approval

**STAFF RECOMMENDATION:** Approval

**ZONING ORDINANCE ADVISORY COMMITTEE WEBPAGE:**

[Planning & Urban Design Code Amendments \(dallascityhall.com\)](https://dallascityhall.com/planning-urban-design/code-amendments)

**CODE AMENDMENT PROJECT WEBPAGE:**

[Planning & Urban Design CABatchPlants \(dallascityhall.com\)](https://dallascityhall.com/planning-urban-design/cabatchplants)

### **BACKGROUND INFORMATION AND PROCESS:**

- On November 12, 2021, staff prepared a memo at the request of Councilmember Blackmon, Chair of the Environment & Sustainability Committee on strategies to effectively address batch plants.
- On January 28, 2022, staff prepared a memo on a phasing approach to address batching plant zoning regulations.
- On February 2, 2022, staff cancelled the February 3, 2022 scheduled Zoning Ordinance Advisory Committee (ZOAC) meeting due to inclement weather.
- On February 10, 2022, at the rescheduled special meeting, staff presented recommendations for temporary concrete and asphalt batching plants as part of Phase I of a two-phased approach to the Zoning Ordinance Advisory Committee (ZOAC).
- On March 3, 2022, staff presented recommendations for permanent concrete and asphalt batching plants as part of Phase I of a two-phased approach to the Zoning Ordinance Advisory Committee (ZOAC). Staff also provided feedback regarding direction from ZOAC for staff to consider as part of the future Phase II recommendations regarding: (1) Consider buffering and spacing of concrete or asphalt batching plants from sensitive land uses, such as residential, schools and parks, and using the Dallas Oil and Gas Drilling ordinance as a resource; (2) Consider requiring an environmental study to determine if the site is suitable for uses other than industrial after the concrete or asphalt batching plant operation ceases and is removed from the site; (3) Clarify and determine how SUP process would impact temporary batch plants not finished by 6-month time frame and how to limit extensions; and (4) Consider requirements for streets and other public infrastructure to be repaired or restored back to original condition from any damages.
- On March 24, 2022, CPC was briefed on the proposed amendments, held a public hearing, and voted to recommend approval, as briefed to City Council.

### **UPDATES FROM 3/3/2022 ZONING ORDINANCE ADVISORY COMMITTEE (ZOAC) BRIEFING AND PUBLIC HEARING**

The following information is intended to provide clarity and additional information in response to direction from ZOAC at the 3/3/2022 Briefing and Public Hearing:

1. Buffering and spacing of concrete or asphalt batching plants from sensitive land uses, such as residential, schools and parks. The Dallas Oil and Gas Drilling ordinance was also suggested as a resource.

Staff will review the Dallas Oil and Gas Drilling Ordinance and continue to review other cities regulations, best management practices, health industry standards and seek public input to determine the appropriate buffer and spacing for Dallas and bring recommendations back to ZOAC as part of Phase II recommendations.

2. Consider requiring an environmental study to determine if the site is suitable for uses other than industrial after the concrete or asphalt batching plant operation ceases and is removed from the site.

Environmental assessments and studies are performed by trained environmental scientists or specialists and are often part of a lengthy and rigorous process required in certain states, such as California and Washington. Staff will review options that may be appropriate for Dallas to consider for language that can be included as part of the conditions for concrete or asphalt batching plants to ensure the site is restored back to its original condition when the operation ceases.

3. How would the Specific Use Permit (SUP) process impact those current temporary concrete or asphalt batching plants that are not finished work on the site by the 6 month temporary time frame and request an extension?

The required SUP process as proposed for Phase I would apply at the time of the effective date of ordinance approval, if approved by City Council for any new applications coming in on or after the effective date and would not be retroactive. The SUP process, including expirations and renewals would remain under the current SUP process. The length of time that the temporary concrete or asphalt batching plant would be allowed to operate would be determined at the time of and through the SUP process and within the parameters of the current temporary time frame of 6 months up to 3 yrs. In the event that the work to be performed is not completed and the applicant seeks an extension of time for the temporary concrete or asphalt batching plant, the applicant will be required to follow the current SUP process. Please see the attached 51A-4.219 Specific Use Permit (SUP) that has been added to the Appendix.

#### Auto Renewals (Current Process)

As part of an SUP ordinance or ordinance amendment, the City Council may declare that an SUP is eligible for automatic renewal. Under the current SUP process, if the applicant reapplies within 3 to 6 months prior to the expiration date as stated in the SUP for the use, the applicant becomes eligible for auto renewal, unless the SUP states otherwise, i.e. if the SUP states that it is not eligible for auto renewal.

Upon the filing of a complete application for automatic renewal, the director (of Planning & Urban Design – Current Planning) shall send written notice to all owners of real property lying within 200 feet of the area governed by the SUP. The notice must state that the SUP is eligible for automatic renewal and may be automatically renewed without further notice. If the owners of 20 percent or more of the land within 200 feet of the area governed by the SUP file a written protest against the automatic renewal in accordance with 51A-4.219, the director shall forward the application to the City Plan Commission and City Council for further action.

The City Plan Commission or City Council may also call a public hearing on its own motion for the purpose of passing an amending ordinance to repeal a SUP's eligibility

for automatic-renewal, or to supplement, remove, or amend any of the conditions or other provisions in an SUP ordinance.

Staff will review options and bring back recommendations for a specified limit on the number of renewals, perhaps conditioned on performance regarding pollution and operating best management practices, as part of Phase II.

4. Requirements for streets and other public infrastructure to be repaired or restored back to original condition from any damages.

Staff will review options, such as performance bonds and other best management practices and bring recommendations forward as part of Phase II.

### **GENERAL INFORMATION ON TEMPORARY AND PERMANENT CONCRETE OR ASPHALT BATCHING PLANTS:**

Currently, temporary concrete or asphalt batching plants are allowed in most of the zoning districts across the City, including residential districts with administrative approval by the Building Official and are approved if limited criteria such as screening and buffering can be met.

In response, Planning and Urban Design staff have initiated a zoning code amendment for concrete batch plants in support of the adopted Comprehensive Environmental & Climate Action Plan (CECAP) goal of ensuring new industries are an appropriate distance away from neighborhoods.

Due to the urgency and increasing concerns about concrete or asphalt batching plant applications within the City; particularly with respect to residential adjacency, equitable justice, air quality, water quality and other potentially hazardous pollutant emissions, staff is recommending a two phased approach. A short-term approach (Phase I) as recommended in this report, and a long-term approach (Phase II) that staff will present at a future meeting.

The intent of the short-term approach is to immediately address the issue of the lack of public process for these intensive industrial land uses by removing the administrative and by-right approval process allowed by Code and adding in the Specific Use Permit (SUP) process that will require public hearings and City Plan Commission (CPC) and City Council approval.

#### **Phase II – Long-term approach**

A review of concrete or asphalt batching plant and similar industrial land uses will be reassessed for appropriateness and may need further changes to land use categories with

respect to land use intensity, and potential for residential and business adjacency, and other factors contributing to potentially incompatible industrial uses.

This may also include possible additional land use categories for alternative paving materials that are anticipated and encouraged in the future toward achieving CECAP goals.

Phase II, or the longer- term approach will entail a more comprehensive and holistic strategy that staff anticipates will take approximately 4 to 6 months.

Longer- term strategies will include, but not be limited to departmental coordination, including our legal team for consideration of implications on existing land uses with respect to code land use changes, public outreach meetings, meetings with industry and professional organizations, research of local and national cities regulations and best management practices, and external meetings and coordination with state and federal jurisdictions, such as Texas Commission on Environmental Quality (TCEQ).

Longer- term, Zoning Code change strategies may include, but not be limited to:

- ❖ Definitions for categories of land uses.
- ❖ Distances from residential, schools, daycares, parks, and other public spaces, and/or zoning districts other than industrial, or other incompatible uses (measurement from property line, zoning districts and/or structures to be determined).
- ❖ Distances to other concrete batching plants and similar uses, and/or other limits to the number of applications on an annual basis.
- ❖ Time limits or revised time limits for temporary concrete or asphalt batching plants, including renewals.
- ❖ Performance standards or revised standards based on best management practices for stormwater run-off and noxious pollutants and emissions.
- ❖ Standardized signs posted on the property with pertinent information.
- ❖ Additional application information.
- ❖ Additional notification requirements.
- ❖ Curb cuts and other roadway access.
- ❖ Outdoor storage.

#### Current and Ongoing Status of Concrete or Asphalt Batching Plants in Dallas

There are multiple data sets across different departments for concrete and asphalt batching plants with different data, different time periods and some missing addresses. Staff is continuing to consolidate and clean-up the data. The following status regarding the number of concrete and asphalt batching plants is a current **estimate** of that effort.

An approximately total (record) of Concrete or Asphalt Batching Plants for all years (1978-2021) is 94 [includes temporary, permanent and approved by SUP (1972-2021)]. Of this approximately 94:

#### Permanent Batch Plants

- 17; 1 of which was cancelled

- 15 of which appear to be operational
- Majority of which are zoned IR and IM

#### Temporary Batch Plants

- 77
- 45 of which are in the last 10 yrs. (1 of which was cancelled)
- 6 of which are in residential districts [1 TH-3A, 1 MF-3A, 1 A(A), 2 R-7.5(A), 1 R-5(A)]
- Majority of which are zoned PD, IR and IM
- 26 of which appear to be operational
- 7 of which are within the last 3 years; (2 no CO yet – pending inspection)

#### Batch Plants Approved by SUP

- 27; 3 of which are Asphalt batch plants
- 9 of which are permanent
- 1 of which is expired; 1 of which was terminated; 1 of which was repealed
- 23 of which appear to be operational
- Majority of which are zoned IR and IM

#### Overview of the Current Status of Concrete or Asphalt Batching Plants in Dallas

- Approx. 94 applications for concrete or asphalt batch plants since 1978
- Approx. 45 applications for temporary batch plants within last 10 yrs.
- Approx. 24 permanent appear operational
- Approx. 27 are by SUP
- Approx. 3 are Asphalt batch plants and all appear operational
- Approx. 53 batch plants (temporary and permanent) appear operational
- Majority of batch plants are zoned PD, IR, and IM

The proposed amendments to Ph. I are expected to remove all new applications for concrete or asphalt batching plants permitted by right or by authorization of the Building Official and only be permitted upon approval of an SUP process with public notification and public input in the coming years.

#### Overview of Current Div. 51A-4.110-4.117 Residential District Regulations

Div. 51A-4.110-4.117 regulates the land uses for the residential zoning districts and other regulations for land uses. This division regulates and includes the following:

- Purpose of the residential zoning district.
- Main uses permitted in each residential zoning district.
- Uses permitted by-right, by Specific Use Permit (SUP), by special authorization of the Building Official, and other requirements, such as Residential Adjacency Review (RAR), or Development Impact Review (DIR).
- Accessory uses allowed in each residential zoning district.

- Area regulations, and other design standards, including requirements for parking, environmental performance standards, landscape, and additional provisions.

#### Overview of Current Div. 51A-4.120-4.127 Nonresidential District Regulations

Div. 51A-4.120-4.127 regulates the land uses for the non-residential zoning districts and other regulations for land uses. This division regulates and includes the following:

- Purpose of the non-residential zoning district.
- Main uses permitted in each residential zoning district.
- Uses permitted by-right, by Specific Use Permit (SUP), by special authorization of the building official, and other requirements, such as Residential Adjacency Review (RAR), or Development Impact Review (DIR).
- Accessory uses allowed in each zoning district.
- Area regulations, and other design standards, including requirements for parking, environmental performance standards, landscape, and additional provisions.
- Other regulations, such as residential proximity slope, visual intrusion, garbage collection and mechanical equipment areas, screening surface parking lots from street, and screening side and rear yards from residential districts.

#### Overview of Use Chart 4.203 Industrial Uses

The Use Charts in Ch. 51A have not been formally adopted by City Council and are meant to serve as a guide. It is necessary to see the text in Ch. 51A for the zoning regulations. Use Chart 51A-4.203 serves as a guide or chart showing the industrial land uses permitted for both the residential zoning districts and the non-residential zoning districts. The industrial use charts show the following:

- The industrial uses permitted for the residential districts and the non-residential districts.
- • - symbol indicates if each of the industrial uses listed in the charts are permitted.
- **S** - symbol indicates if each of the industrial uses listed in the charts are permitted with a Specific Use Permit (SUP).
- **L** - symbol indicates if the use permitted by right is a limited use.
- **D** - symbol indicates if the use permitted is subject to a Development Impact Review (DIR).
- **R** - symbol indicates if the use permitted is subject to Residential Adjacency Review (RAR).
- **Rc** - symbol indicates if the use is permitted as a restricted component in the GO(A) district.
- ★ - symbol indicates to consult the use regulations in Div. 51A-4.200.

(Please see the proposed changes in the Use Charts in the proceeding pages with proposed amendments).

### Overview of Sec. 51A-4.203 Industrial Uses

Sec. 51A-4.203 regulates the land uses for the industrial zoning districts and other regulations for land uses. This division regulates and includes the following:

- “Potentially incompatible industrial uses” are permitted by SUP only in the IM (Industrial Manufacturing) district.
- Main uses, activities, operations, and processes that are declared a “potentially incompatible industrial use”.
- Products manufactured by main uses that are declared a “potentially incompatible industrial use.”
- Specific uses and, whether, or not those uses are permitted by right, by SUP, with RAR required or if allowed with special authorization by the building official with additional provisions.
- Definition of the specific use.
- Area regulations, and other design standards, including requirements for parking, environmental performance standards, landscape, and additional provisions, such as a temporary certificate of occupancy.
- Additional provisions for issuance of the temporary certificate of occupancy by the building official, duration that certificate of occupancy is valid, determination for building official to deny the certificate, and when the building official may extend the certificate.
- Additional provisions for whom the temporary certificate of occupancy is issued.

### **PROPOSED AMENDMENTS TO CHAPTER 51A**

The proposed amendments to the sections below in Chapter 51A are intended to address the urgency and increasing concerns of a lack of a public process by adding public notification and input for temporary and permanent concrete or asphalt batching plant applications within the City.

In this first, short-term approach to amending Concrete or Asphalt Batching Plant regulations, staff is recommending the following for CPC consideration and approval of Phase I:

1. Alignment of CECAP goals of ensuring new industries are an appropriate distance away from neighborhoods by:
  - a) Adding the public notification process and public input for temporary concrete or asphalt batching plants in all districts where allowed.
  - b) Removing the administrative approval process for temporary concrete or asphalt batching plants in all districts where allowed.
  - c) Adding the public notification process and public input for permanent concrete or asphalt batching plants in the IM (Industrial Manufacturing) district.



- d) Removing the “by-right” zoning designation for permanent concrete or asphalt batching plants in the IM (Industrial Manufacturing) district.
- e) Adding the public notification process and public input for temporary concrete or asphalt batching plants in the Use Charts for all districts where allowed.
- f) Removing the administrative approval process for temporary concrete or asphalt batching plants in the Use Charts for all districts where allowed.
- g) Adding the public notification process and public input for permanent concrete or asphalt batching plants in the Use Chart for the IM (Industrial Manufacturing) district.
- h) Removing the by-right designation in the IM (Industrial Manufacturing) district for permanent concrete or asphalt batching plants in the Use Chart.

### Proposed Amendments

Note: **Red [additions]** and **strikethroughs** represent changes from the current ordinance. These changes were included in the 10 Feb 22 ZOAC approval and have not been modified since that meeting.

#### **Division 51A-4.110. Residential District Regulations.**

##### **SEC. 51A-4.111. AGRICULTURAL [A(A)] DISTRICT.**

...

(2) Main uses permitted.

...

(C) Industrial uses.

... -- Temporary concrete or asphalt batching plant. **[SUP]**

##### **SEC. 51A-4.112. SINGLE FAMILY DISTRICTS.**

(a) R-1ac(A) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. **[By special authorization of the building official. SUP]**

...

(b) R-1/2ac(A) district.

...

(2) Main uses permitted.

- ...
- (C) Industrial uses.
- ...
- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]
- ...
- (c) R-16(A) district.
- ...
- (2) Main uses permitted.
- ...
- (C) Industrial uses.
- ...
- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]
- ...
- (d) R-13(A) district.
- ...
- (2) Main uses permitted.
- ...
- (C) Industrial uses.
- ...
- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]
- ...
- (e) R-10(A) district.
- ...
- (2) Main uses permitted.
- ...
- (C) Industrial uses.
- ...
- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]
- ...
- (f) R-7.5(A) district.
- ...
- (2) Main uses permitted.
- ...
- (C) Industrial uses.
- ...
- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

...

(g) R-5(A) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

#### **SEC. 51A-4.113. DUPLEX [D(A)] DISTRICT.**

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

#### **SEC. 51A-4.114. TOWNHOUSE [TH-1(A), TH-2(A), and TH-3(A)] DISTRICTS.**

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

#### **SEC. 51A-4.115. CLUSTERED HOUSING (CH) DISTRICT.**

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

#### **SEC. 51A-4.116. MULTIFAMILY DISTRICTS.**

(a) MF-1(A) and MF-1(SAH) districts.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

...

(b) MF-2(A) and MF-2(SAH) districts.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

...

(c) MF-3(A) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

...

(d) MF-4(A) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

#### **SEC. 51A-4.117. MANUFACTURED HOME [MH(A)] DISTRICT.**

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

**SEC. 51A-4.121. OFFICE DISTRICTS.**

(a) Neighborhood office [NO(A)] district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

...

(b) LO(A) districts (LO-1, LO-2, and LO-3).

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

...

(c) MO(A) districts (MO-1 and MO-2).

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

...

(d) General office [GO(A)] district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

**SEC. 51A-4.122. RETAIL DISTRICTS.**

(a) Neighborhood service [NS(A)] district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

...

(b) Community retail (CR) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

...

(c) Regional retail (RR) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

**SEC. 51A-4.123. COMMERCIAL SERVICE AND INDUSTRIAL DISTRICTS.**

(a) Commercial service (CS) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

...

(b) Light industrial (LI) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

...

(c) Industrial/research (IR) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

...

(d) Industrial manufacturing (IM) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Industrial (outside). [SUP may be required. See Section 51A-4.203(a); otherwise RAR.]

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

#### **SEC. 51A-4.124. CENTRAL AREA DISTRICTS.**

(a) CA-1(A) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. [~~By special authorization of the building official.~~ SUP]

...

(b) CA-2(A) district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...  
-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

#### **SEC. 51A-4.125. MIXED USE DISTRICTS.**

...  
(d) MU-1 and MU-1(SAH) districts.

...  
(2) Main uses permitted.

...  
(C) Industrial uses.

...  
-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

...  
(e) MU-2 and MU-2(SAH) districts.

...  
(2) Main uses permitted.

...  
(C) Industrial uses.

...  
-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

...  
(f) MU-3 and MU-3(SAH) districts.

...  
(2) Main uses permitted.

...  
(C) Industrial uses.

...  
-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

#### **SEC. 51A-4.126. MULTIPLE COMMERCIAL DISTRICTS.**

...  
(d) MC-1 district.

...  
(2) Main uses permitted.

...  
(C) Industrial uses.

...



-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

...

(e) MC-2 district.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

...

(f) MC-3 and MC-4 districts.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

#### **SEC. 51A-4.127. URBAN CORRIDOR DISTRICTS.**

...

(c) UC districts.

...

(2) Main uses permitted.

...

(C) Industrial uses.

...

-- Temporary concrete or asphalt batching plant. ~~[By special authorization of the building official. SUP]~~

#### **SEC. 51A-4.203. INDUSTRIAL USES.**

(a) Potentially incompatible industrial uses.

...

(1) The following main uses, activities, operations, and processes are hereby declared to be potentially incompatible industrial uses

...

- Concrete batching
- Asphalt batching

- ...
- (b) Specific uses.
- ...
- (6) Temporary concrete or asphalt batching plant.

...

(B) Districts permitted: ~~Special authorization by the building official is required in accordance with the additional provisions for this use.~~ By SUP only in all districts.

Note: The following language has been included by staff and reviewed by legal to further clarify that an SUP is needed for all temporary concrete or asphalt batching plants.

#### **SEC. 51A-4.203. INDUSTRIAL USES.**

- (b) Specific uses.
- ...
- (6) Temporary concrete or asphalt batching plant.
- ...
- (E) Additional provisions:
- (i) ~~[An application for specific use permit must consider if ] A temporary certificate of occupancy is required for this use. The building official may issue a temporary certificate of occupancy in any zoning district for a temporary batching plant to mix, compound, and batch concrete, asphalt, or both, for a public or private project. The certificate is valid for six months. The building official shall deny the certificate if he determines that~~ on-site fencing, screening, or buffering elements ~~do not~~ provide adequate protection for adjacent property. ~~If the project is not completed within six months, the building official may extend the certificate to complete the project].~~
- (ii) ~~[This use must] A person to whom a temporary certificate of occupancy is issued shall:~~
- (aa) comply with city, state and federal laws at the batching plant site;
- (bb) clear the site of equipment, material and debris upon completion of the project;
- (cc) repair or replace any public improvement that is damaged during the operation of the temporary batching plant; and
- (dd) locate and operate the temporary plant in a manner which eliminates unnecessary dust, noise, and odor (as illustrated by, but not limited to covering trucks, hoppers, chutes, loading and unloading devices and mixing operations, and maintaining driveways and parking areas free of dust).
- (iii) A person shall only furnish concrete, asphalt, or both, to the specific project for which the ~~[specific use permit] temporary certificate of occupancy~~ is issued.
- (iv) ~~Reserved The placement of a temporary batching plant for a private project is restricted to the site of the project. The board may grant a special exception to this requirement when, in the opinion of the board, the special exception will not adversely affect neighboring properties.~~

[Chart 4.203]

Dallas Development Code: Ordinance No. 19455, as amended

	DISTRICTS	Single Family							D/TH		Multifamily											
		A(A)	R-1ac(A)	R-1/2ac(A)	R-16(A)	R-13(A)	R-10(A)	R-7.5(A)	R-5(A)	D(A)	TH(1-3)(A)	CH	MF-1(A)	MF-1(SAH)	MF-2(A)	MF-2(SAH)	MF-3(A)	MF-4(A)	MH(A)			
4.203	INDUSTRIAL USES		RESIDENTIAL																			
0	Alcoholic beverage manufacturing																					
1	Industrial (inside) not potentially incompatible*																					
1A	Industrial (inside) potentially incompatible*																					
1.1	Industrial (inside) light manufacturing																					
2	Industrial (outside) not potentially incompatible*																					
2A	Industrial (outside) potentially incompatible*																					
2.1	Medical / infectious waste incinerator																					
3	Metal salvage facility																					
3.1	Mining	S																				
3.2	Gas drilling and production	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S			
3.3	Gas pipeline compressor station																					
4	Municipal waste incinerator																					
4.1	Organic compost recycling facility	S																				
5	Outside salvage or reclamation																					
5.1	Pathological waste incinerator																					
6	Temporary concrete or asphalt batching plant			By special authorization of the building official																		

\* See Section 51A-4.203(a) to determine whether the proposed use is "potentially incompatible."

Striking, "~~By special authorization of the building official~~" and adding, S (SUP) for R-16(A), R-13(A), R-10(A), R-7.5(A), R-5(A), D(A), TH(1-3)(A), CH, MF-1(A) and MF-2(A) Residential Districts for subsection 6. Temporary concrete or asphalt batching plant – and adding, S (SUP) to R-1ac(A), R-1/2ac(A), MF-2(SAH), MF-3(A), MF-4(A) and MH(A), Residential Districts, Ch. 51A-4.203 Industrial Uses to match the text descriptions of these residential districts in Division 51A-4.110. "Residential District Regulations" that includes this Temporary concrete or asphalt batching plant use and verbiage.

Office				Retail			Com./Ind.				Cntrl.		Mixed Use					Multiple Com.				Urban Cor.						
NO(A)	LO(A)	MO(A)	GO(A)	NS(A)	CR	RR	CS	LI	IR	IM	CA-1(A)	CA-2(A)	MU-1	MU-1(SAH)	MU-2	MU-2(SAH)	MU-3	MU-3(SAH)	MC-1	MC-2	MC-3	MC-4	UC-1	UC-2	UC-3			
NONRESIDENTIAL																											4.203	
								Ⓡ	Ⓡ	Ⓡ	S	S															0	
								Ⓡ	Ⓡ	Ⓡ																		1
										S																		1A
							●	●	●	●																		1.1
									S	Ⓡ																		2
										S																		2A
									S	S																		2.1
										S																		3
										S																		3.1
S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	3.2
											S																	3.3
									S	S																		4
									S	Ⓡ																		4.1
										S																		5
									S	S																		5.1
By special authorization of the building official																											6	

Striking, "~~By special authorization of the building official~~" and adding S (SUP) for LI, IR, IM, CA-1(A), CA-2(A), MU-1, MU-1(SAH), MU-2, MU-2(SAH), MU-3, MU-3(SAH) Non-Residential Districts for subsection 6. Temporary concrete or asphalt batching plant - and adding S (SUP) to NO(A), LO(A), MO(A), GO(A), NS(A), CR, RR, UC-1, UC-2 and UC-3, Non-Residential Districts, in Div. 51A-4.120, "Non-Residential District Regulations" that includes this Temporary concrete or asphalt batching plant use and verbiage.

## **Appendix**

SEC. 51A-4.219. SPECIFIC USE PERMIT (SUP). [SEC. 51A-4.219. SPECIFIC USE PERMIT \(SUP\). \(amlegal.com\)](#)

## SEC. 51A-4.219. SPECIFIC USE PERMIT (SUP).

### (a) General provisions.

(1) The SUP provides a means for developing certain uses in a manner in which the specific use will be compatible with adjacent property and consistent with the character of the neighborhood.

(2) The use regulations for each use in Division 51A-4.200 state whether an SUP is required for a use to be permitted in a zoning district. The SUP requirement for a use in a district does not constitute an authorization or an assurance that the use will be permitted. Each SUP application must be evaluated as to its probable effect on the adjacent property and the community welfare and may be approved or denied as the findings indicate appropriate. Each SUP must be granted by the city council by separate ordinance.

(3) The city council shall not grant an SUP for a use except upon a finding that the use will:

(A) complement or be compatible with the surrounding uses and community facilities;

(B) contribute to, enhance, or promote the welfare of the area of request and adjacent properties;

(C) not be detrimental to the public health, safety, or general welfare; and

(D) conform in all other respects to all zoning regulations and standards.

(4) The granting of an SUP has no effect on the uses permitted as of right and does not waive the regulations of the underlying zoning district.

(5) The city council may impose reasonable conditions upon the granting of an SUP consistent with the purposes stated in this chapter.

(6) The applicant shall post the SUP ordinance in a conspicuous place on the property, except where a use has no interior building space (for example, a private street or alley use). The applicant shall post the SUP ordinance by June 1, 2006.

### (b) Specific use permit procedure.

(1) An applicant for an SUP shall comply with the zoning amendment procedure for a change in zoning district classification. Each SUP ordinance is incorporated by reference into this chapter.

(2) At the time of applying for an SUP, the applicant shall submit:

(A) a site plan that includes:

(i) the dimensions, bearings, and street frontage of the property;

(ii) the location of buildings, structures, and uses;

(iii) the method of ingress and egress;

(iv) off-street parking and loading arrangements;

(v) screening, lighting, and landscaping, if appropriate;

(vi) the locations, calipers, and names (both common and scientific) of all trees near proposed construction activity (trees in close proximity that all have a caliper of less than eight inches may be designated as a "group of trees" with only the number noted); and

(vii) any other information the director determines necessary for a complete review of the proposed development; and

(B) a traffic impact analysis if the director determines that the analysis is necessary for a complete review of the impacts of the proposed development.

(3) If the director determines that one or more of the items listed in Paragraph (2) is not necessary to allow for a complete review of the proposed development, he shall waive the requirement that the item(s) be provided.

(3) The minor amendment process allows flexibility as necessary to meet the contingencies of development. Amendments that do not qualify as minor amendments must be processed as a zoning amendment. The city plan commission shall, after a public hearing, authorize minor changes in the site plan that otherwise comply with the SUP ordinance and the underlying zoning and do not:

- (A) alter the basic relationship of the proposed development to adjacent property;
- (B) increase the number of dwelling units shown on the original site plan by more than 10 percent;
- (C) increase the floor area shown on the original site plan by more than five percent or 1,000 square feet, whichever is less;
- (D) increase the height shown on the original site plan;
- (E) decrease the number of off-street parking spaces shown on the original site plan so as to create a traffic hazard or traffic congestion or fail to provide adequate parking; or
- (F) reduce setbacks at the boundary of the site as specified by a building or setback line shown on the original site plan.

For purposes of this paragraph, "original site plan" means the earliest approved site plan that is still in effect, and does not mean a later amended site plan. For example, if a site plan was approved with the specific use permit and then amended through the minor amendment process, the original site plan would be the site plan approved with the specific use permit, not the site plan as amended through the minor amendment process. If, however, the site plan approved with the specific use permit was replaced through the zoning amendment process, then the replacement site plan becomes the original site plan. The purpose of this definition is to prevent the use of several sequential minor amendments to circumvent the zoning amendment process.

An applicant or owner of real property within the notification area may appeal the decision of the city plan commission to the city council. An appeal must be requested in writing within 10 days after the decision of the city plan commission. City council shall decide whether the city plan commission erred, using the same standards that city plan commission used. Appeal to the city council is the final administrative remedy available.

(5) Reserved.

(6) A time limit may be imposed as a condition upon the granting of an SUP. If a time limit has been imposed, the SUP automatically terminates when the time limit expires. Except as otherwise provided in Subsection (c), the applicant shall go through the procedures outlined above in Paragraphs (1) and (2) to renew an SUP.

(7) As a further condition to the granting of an SUP, the city council may require the property owner to participate in cost-sharing for infrastructure improvements that are in part necessitated by the proposed development. In no case, however, shall the property owner be required to pay for more than 50 percent of the cost of improvements located more than 250 feet from the lot.

(8) The minor amendment process allows flexibility as necessary to meet the contingencies of development. Amendments that do not qualify as minor amendments must be processed as a zoning amendment. The city plan commission shall, after a public hearing, authorize minor changes in the landscape plan that otherwise comply with the SUP ordinance and the underlying zoning and do not:

- (A) reduce the perimeter landscape buffer strip shown on the original landscape plan;
- (B) detrimentally affect the original landscape plan's aesthetic function relative to adjacent right-of-way or surrounding property; or
- (C) detrimentally affect the original landscape plan's screening or buffering function.

For purposes of this paragraph, "original landscape plan" means the earliest approved landscape plan that is still in effect, and does not mean a later amended landscape plan. For example, if a landscape plan was approved with the specific use permit and then amended through the minor amendment process, the original landscape plan would be the landscape plan approved with the specific use permit, not the landscape plan as amended through the minor amendment process. If, however, the landscape plan approved with the specific use permit was replaced through the zoning amendment process, then the replacement landscape plan becomes the original landscape plan. The purpose of this definition is to prevent the use of several sequential minor amendments to circumvent the zoning amendment process.

An applicant or owner of real property within the notification area may appeal the decision of the city plan commission to the city council. An appeal must be requested in writing within 10 days after the

decision of the city plan commission. City council shall decide whether the city plan commission erred, using the same standards that city plan commission used. Appeal to the city council is the final administrative remedy available.

(c) Automatic renewals.

(1) As part of an SUP ordinance or ordinance amendment, the city council may declare that an SUP is eligible for automatic renewal pursuant to this subsection. Automatic renewal is an alternative to the standard method of renewing an SUP by amending the SUP ordinance. In order for automatic renewal to occur, the property owner or his representative must file a complete application for automatic renewal with the director after the 180th day but before the 120th day before the expiration of the current SUP time period. If a fee is required, the application is not considered "filed" until the fee is paid. For more information regarding fees, see Section 51A-1.105.

(2) Automatic renewal does not result in an amendment to the SUP ordinance. An applicant seeking to change the SUP conditions or to otherwise amend the SUP ordinance must go through the procedures outlined in Subsection (b).

(3) An application for automatic renewal must be filed with the director on a form furnished by the city for that purpose. As part of the application, the property owner or his representative shall state that all existing SUP conditions have been complied with, and that no changes to the conditions or other SUP ordinance provisions are being requested.

(4) Failure to timely file a complete application required under Paragraph (1) renders the SUP ineligible for automatic renewal. The city council may, however, reinstate an SUP's eligibility for future automatic renewals as part of a new SUP ordinance or ordinance amendment.

(5) Upon the filing of a complete application for automatic renewal, the director shall send written notice to all owners of real property lying within 200 feet of the area governed by the SUP. The notice must state that the SUP is eligible for automatic renewal and may be automatically renewed without further notice.

(6) If the owners of 20 percent or more of the land within 200 feet of the area governed by the SUP file a written protest against the automatic renewal in accordance with this paragraph, the director shall forward the application to the city plan commission and city council for further action. Written protests against an automatic renewal must be filed with the director before 5:00 p.m. of the 21st calendar day after the date the notice is mailed. A protest sent through the mail must be received by the director before the deadline. If the deadline falls on a Saturday, Sunday, or official city holiday, then the protests must be filed before noon of the following working day. To the extent that they do not conflict with this subsection, the provisions of Section 51A-4.701 governing written protests in zoning cases apply to protests filed under this subsection.

(7) After the deadline for filing written protests has passed, the director shall review the conditions of the SUP and determine whether the conditions have been met. If the director determines that the conditions have not been met, he shall forward the application to the city plan commission and city council for further action.

(8) "Further action" as that term is used in Paragraphs (6) and (7) means that the director shall schedule the application for public hearings before both the city plan commission and the city council. Notice of the public hearings must be given as would be required by law for a change in zoning district classification. The city plan commission shall make a recommendation to the city council regarding the proposed renewal based on staff reports, field inspections, and the evidence presented at its public hearing.

(9) In connection with an application that has been forwarded to it by the director pursuant to Paragraph (6) or (7), the city council may:

(A) pass an amending ordinance to repeal the SUP's eligibility for automatic renewal, or to supplement, remove, or amend any of the conditions or other provisions in the SUP ordinance; or

(B) take no action and thereby allow the SUP to automatically renew as a matter of law.

(10) No renewal or expiration of an SUP may occur while the application is pending before the city plan commission or city council. If the application is pending at the end of the current time period stated in the SUP ordinance, the time period shall be extended as a matter of law until:



(A) the day following the next succeeding official agenda meeting of the city council after the council makes its final decision on the application; or

(B) if the council votes to pass an amending ordinance, until the effective date of the amending ordinance.

(11) The renewal of an SUP eligible for automatic renewal occurs as a matter of law at the end of the current time period as stated in the SUP ordinance, or as extended pursuant to Paragraph (10). Unless otherwise specified in the SUP ordinance, an automatic renewal is for the same time period as the immediately preceding time period [excluding, if applicable, extensions pursuant to Paragraph (10)].

(12) An SUP that is automatically renewed pursuant to this subsection may continue to be automatically renewed in perpetuity so long as the owner or his representative continues to timely file the applications for automatic renewal required under Paragraph (1). Failure to timely file this application during any renewal period renders the SUP ineligible for further automatic renewal. The city council may, however, reinstate the SUP's eligibility for future automatic renewals as part of a new SUP ordinance or ordinance amendment.

(13) This subsection does not impair the ability of the city plan commission or city council to call a public hearing on its own motion for the purpose of passing an amending ordinance to repeal an SUP's eligibility for automatic renewal, or to supplement, remove, or amend any of the conditions or other provisions in an SUP ordinance. (Ord. Nos. 19455; 20132; 20496; 22053; 23997; 26270; 26730)

## **CPC ACTION**

March 24, 2022

**Motion:** It was moved to recommend **approval** of amending permanent and temporary concrete or asphalt batching plant uses, including but not limited to amending potentially incompatible industrial uses, in the Dallas Development Code, subject to staff's and Zoning Ordinance Advisory Committee's recommendations, as briefed.

Maker: Hampton

Second: Blair

Result: Carried: 10 to 0

For: 10 - Hampton, Shidid, Carpenter, Blair, Jung, Housewright,  
Gibson\*, Haqq, Kingston, Rubin\*

Against: 0

Absent: 3 - Popken, Anderson, Stanard

Vacancy: 2 - District 3, District 7

\*out of the room, shown voting in favor

**Speakers:** For: Kathryn Bazan, 10456 Vinemont St., Dallas, TX, 75218

For (Did not speak): Raul Reyes, 3455 Borger St., Dallas, TX, 75212

Against: None