

ORDINANCE NO. 4788
Zoning Text Amendment No. 2020 - 01

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING APPENDIX D OF THE MESQUITE CITY CODE, COMPREHENSIVE FEE SCHEDULE, AS AMENDED, TO ESTABLISH IN ARTICLE XIV (PUBLIC WORKS) A NEW SECTION 14-115 TO BE TITLED "TEMPORARY USE PERMITS" TO ADD FEES FOR TEMPORARY BATCH PLANTS AND TEMPORARY MATERIAL STOCKPILE SITES; AMENDING THE MESQUITE ZONING ORDINANCE, AS PREVIOUSLY AMENDED, BY REPEALING AND REENACTING SUB-SECTION (C) OF SECTION 1-602 TO BE TITLED "TEMPORARY BATCH PLANTS AND TEMPORARY MATERIAL STOCKPILE SITES"; PROVIDING A REPEALING CLAUSE; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, this Mesquite Zoning Ordinance text amendment provides for updates to the existing Temporary Batch Plants ordinance and includes new provisions for Temporary Material Stockpile sites; and

WHEREAS, this revision is recommended to protect the public health, safety and welfare and to ensure such temporary uses have adequate infrastructure to support such temporary uses without damaging said infrastructure; and

WHEREAS, this City ordinance compliments State permitting for Temporary Batch Plants; and

WHEREAS, the Planning and Development Services Department staff and the City Engineer recommend the City Council adopt this text amendment to the Mesquite Zoning Ordinance; and

WHEREAS, on **May 26, 2020**, the City of Mesquite Planning and Zoning Commission considered text amendments to the Mesquite Zoning Ordinance and after having given proper public notice and holding a public hearing, the Planning and Zoning Commission recommends the City Council adopt this text amendment to the Mesquite Zoning Ordinance; and

WHEREAS, the City Council gave public notice and held a public hearing regarding the proposed Mesquite Zoning Ordinance text amendment; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite Zoning Ordinance as herein provided.

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

SECTION 1. Recitals Incorporated. The City Council hereby finds and determines the recitals made in the preamble of this ordinance are true and correct, and hereby incorporates such recitals here in the body of this ordinance as if copied in their entirety.

SECTION 2. ZONING ORDINANCE TEXT AMENDMENT: Repealing and Reenacting Sub-section (C) of Section 1-602 of the Mesquite Zoning Ordinance. Part 1 of the Mesquite Zoning Ordinance, as amended, is hereby amended by repealing and reenacting existing Sub-section (C) of Section 1-602 currently titled “Temporary Batch Plant” to be retitled “Temporary Batch Plants and Temporary Material Stockpile Sites” and to now read as identified in **EXHIBIT A** attached hereto and made a part hereof, and in all other respects said Zoning Ordinance, Part, and Section shall remain in full force and effect.

SECTION 3. MESQUITE CITY CODE, APPENDIX D – THE COMPREHENSIVE FEE SCHEDULE AMENDMENT: Amending Article XIV, adding new Section 14-115, “Temporary Use Permits.” Appendix D – the Comprehensive Fee Schedule of the Mesquite City Code, as amended, is hereby amended to establish in Article XIV (PUBLIC WORKS) a new Section 14-115 titled “Temporary Use Permits” to add fees for Temporary Batch Plants and Temporary Material Stockpile sites to read as follows, and in all other respects, said Code, Appendix and Articles to remain in full force and effect:

* * *

ARTICLE XIV. PUBLIC WORKS

* * *

Sec. 14-115. Temporary Use Permits.

Temporary Batch Plant.....	\$250.00
Temporary Material Stockpile Site.....	\$250.00
Request for Extension to Initial Term.....	\$200.00

* * *

SECTION 4. Repealing Clause. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 5. Conflicts Resolution Clause. In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

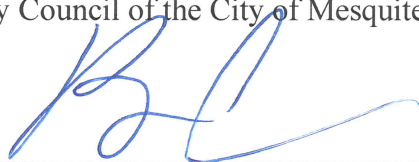
SECTION 6. Severability Clause. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, the Mesquite City Code, as hereby or previously amended, or the Mesquite Zoning Ordinance, as hereby or previously amended, which shall remain in full force and effect.

SECTION 7. Penalty Clause. Generally. Nothing in this ordinance prohibits the City from pursuing civil and criminal enforcement remedies and penalties concurrently or availing itself of any other remedy allowed by law. **Criminal.** Any violation of the provisions or terms of this ordinance by any "person," (as defined in Mesquite City Code, Chapter 1, [Section 1-2](#)) shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine not to exceed TWO THOUSAND DOLLARS (\$2,000.00) for each offense, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended. **Civil.** The City may also file a civil action for enforcement of this ordinance. **Maximum penalties.** If the maximum penalties provided for by this ordinance for an offense or civil action is greater than the maximum penalty provided for the same offense or civil action under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense or civil action shall be the maximum penalty provided by the laws of the State of Texas.

SECTION 8. Publication. This ordinance shall be published in the City's official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

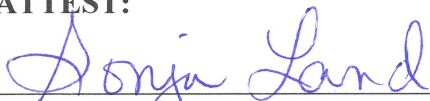
SECTION 9. Effective Date. This ordinance after its passage and publication shall take effect on, and be in force from and after, five (5) days after publication thereof, in accordance with Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on this the **15th day of JUNE 2020**.



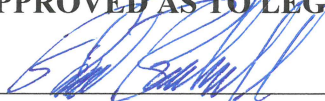
Bruce Archer
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

Mesquite Zoning Ordinance

PART 1. – GENERAL PROVISIONS

* * *

1-600 – TEMPORARY USES AND STRUCTURES

* * *

1-602 – Permitted temporary uses and structures.

* * *

C. *Temporary batch plants and temporary material stockpile sites.*

1. *Permit Required.*

a. *Temporary Use Permit (TUP).*

- (1) A Temporary Use Permit may be issued to a contractor, or other person, for a temporary concrete or asphalt batch plant or for a site to be used to temporarily stockpile material (such as fill material, soil, rock, etc.) when there is active and continuous off-site construction requiring concrete or asphalt.
- (2) A Temporary Use Permit may only be issued for an initial term of 1-year or less.
- (3) A Temporary Use Permit is required prior to seeking a Conditional Use Permit.

b. *Conditional Use Permit (CUP).*

- (1) A Conditional Use Permit may be issued for a temporary concrete or asphalt batch plant or for a site to be used to temporarily stockpile material to be used on another construction site (such as fill material, soil, rock, etc.) when used by a contractor, or other person, for a period of more than 1-year, when there is active and continuous construction requiring concrete or asphalt.
- (2) A Temporary Use Permit is required prior to seeking a Conditional Use Permit.
- (3) Conditional Use Permits are granted and regulated in accordance with [Section 5-300](#).

2. *Term.*

a. *Temporary Use Permit (TUP) – Term.*

- (1) A Temporary Use Permit may be issued for any specified time period of 1-year or less.
- (2) An extension to the initial term may be granted by the City Engineer, as long as the initial time period added together with the extension time period is a total term of 18-months or less.

b. *Conditional Use Permit (CUP) – Term.* A Conditional Use Permit may be issued for any term in accordance with [Section 5-300](#).

3. *Application.*

a. *Temporary Use Permit (TUP).*

- (1) An initial application for a Temporary Use Permit for a temporary batch plant or a temporary material stockpile site shall be submitted to the Engineering Division, along with the associated fee, and considered by the City Engineer, or his or her designee, for administrative approval.
- (2) To request an extension, prior to the expiration of the initial term, an application for an extension to the Temporary Use Permit shall be submitted to the Engineering Division, along with the associated fee, and considered by the City Engineer, or his or her designee, for administrative approval.
- (3) The application for a Temporary Use Permit shall include: (1) a copy of the approved State permit for such operation, (2) truck routes for delivering materials to the batch plant site and delivery of the finished material (concrete or asphalt or stockpiled material) to the construction project site, (3) stormwater pollution prevention plan (SWPPP), (4) dust control measures to be implemented on the site to prevent dust from the site impacting surrounding properties, (5) estimation on the number of truck loads and cubic yards of material that will be delivered to the site and taken from the site to the construction project, (6) listing of the expected time frame the site will be used, and (7) associated application fee.

- b. *Conditional Use Permit (CUP).* An application for a Conditional Use Permit for a temporary batch plant or a temporary material stockpile site shall be submitted in accordance with [Section 5-300](#).

4. *Fee.*

Unless otherwise authorized, each application for a Temporary Use Permit, any request for an extension to the initial term, or a Conditional Use Permit must be accompanied by the required fee(s) as set in the City of Mesquite Comprehensive Fee Schedule.

Cross reference – The Comprehensive Fee Schedule, Mesquite City Code, Appendix D.

5. *Requirements.*

The following requirements apply to both a Temporary Use Permit and a Conditional Use Permit.

- a. *Distance requirement.* Temporary batch plants, including all associated stockpiles and equipment, and temporary material stockpile sites shall be located at least 500 feet from any occupied residential lot, and shall not be used for construction at any other location than the project for which it is permitted.
- b. *Restoration of the site after temporary use is completed.* After the temporary use is completed, the sites shall be returned to the original conditions and grades, including restoration of vegetative ground cover.
- c. *Discontinuance of temporary use.* The temporary use shall be abandoned or discontinued for a minimum of six (6) months before a new Temporary Use Permit or Conditional Use Permit may be granted.

- d. *Removal of the temporary use after construction project completion.* The permitted batch plant or temporary material stockpile site may not remain more than thirty (30) days following the completion of the identified construction project.
 - e. *Construction activity limited.* The construction activity or project identified for which the Temporary Use Permit or Conditional Use Permit is associated shall be for projects partially or fully within the city limits of Mesquite or a publicly designated regional project, as determined by the City Engineer, or his or her designee.
 - f. *Notification by applicant to surrounding area property owners.* Prior to approval and issuance of any new Temporary Use Permit, or prior to a public hearing for a new Conditional Use Permit for a temporary batch plant or a temporary material stockpile site, the Applicant shall send notice to all property owners within 1,000 feet of the proposed site. Said notice shall be delivered by U.S. mail and shall include a description of the TUP or CUP being requested, any proposed conditions by City staff, the site location, and the time period for the initial issuance of the TUP or CUP (if applicable). Said notice shall also contain the contact information for City staff, the City Council member in whose district the site is proposed to be located, the Mayor, and the Applicant. Production of the notice, mailing, and the associated costs shall be the responsibility of the Applicant.
6. *Action by the City Engineer – Temporary Use Permit.*
- a. The City Engineer, or his or her designee, must evaluate the application for an initial Temporary Use Permit or any application for an extension to the initial term, and other required submittals pursuant to the approval standards of this sub-section and may take any of the following actions regarding the application for the Temporary Use Permit or request for extension:
 - (1) approval;
 - (2) approval with modifications;
 - (3) denial.
 - b. The City Engineer, or his or her designee, may require that the Temporary Use Permit be:
 - (1) revocable;
 - (2) effective for a specified time period (but for no more than a 1-year initial term or a total of 18-months or less with an extension);
 - (3) non-transferable; or
 - (4) subject to one or more conditions.
7. *Approval standards.* A permit may be granted for a temporary batch plant or a temporary material stockpile site when the City Engineer, or his or her designee, (in the case of a Temporary Use Permit) or the City Council (in the case of a Conditional Use Permit) finds:
- a. The City roads to be used to deliver material to the site and take material from the site to the construction project are structurally adequate to accommodate the expected truck traffic from and to the site without significant deterioration; and
 - b. The operation of the temporary batch plant or the temporary stockpile site will not result in the deterioration of public infrastructure; and

- c. No new public infrastructure or improvements to existing public infrastructure will be required for the operation of the temporary batch plant or temporary material stockpile site; and
- d. The proposed truck route for the temporary permitted use will generally not utilize local streets; and
- e. Dust control measures and other measures to minimize health or environmental impacts, based on industry standards, identified in the application are adequate as determined by the City Engineer; and
- f. In order to grant a Conditional Use Permit (CUP), the City Council shall review and find all of the above and shall also take into consideration the review criteria for a CUP as identified in [Section 5-300](#).