

AN ORDINANCE

*TO AMEND THE YORK COUNTY CODE OF ORDINANCES, CHAPTER 155, ZONING CODE, SO AS TO PROVIDE FOR "NONMETALLIC MINERAL PRODUCT MANUFACTURING" ("NMPM"); TO PROVIDE FOR REGULATORY PROVISIONS RELATED THERETO; TO AMEND THE DEFINITION AND USE TABLE IN ORDER TO ESTABLISH THE USES AND PROVIDE FOR THE DISTRICTS IN WHICH THEY ARE ALLOWED OR REMOVED; TO CHANGE FROM A PERMITTED USE TO A SPECIAL EXCEPTION USE IN ID; AND TO REMOVE AS A PERMITTED USE IN UD; TO AMEND INDIVIDUAL DISTRICT USE REGULATIONS IN ID BY ADDING SUPPLEMENTAL REGULATIONS IN ORDER TO ADDRESS ITEMS SUCH AS MINIMUM LOT SIZE; ACCESS AND ROUTING PLANS; SEPARATION, SCREENING, DUST REGULATION; PERFORMANCE STANDARDS AGREEMENTS; AND PROOF OF OTHER GOVERNMENTAL REGULATORY COMPLIANCE REQUIREMENTS/PERMITS; TO REMOVE NMPM AS AN ALLOWABLE USE IN UD; TO INVOKE THE PENDING ORDINANCE DOCTRINE; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.*

BE IT ORDAINED AND ENACTED BY THE COUNTY COUNCIL OF YORK COUNTY, SOUTH CAROLINA:

**SECTION 1. Legislative findings.**

As an incident to the adoption of this ordinance, the York County Council, as the governing body of York County, South Carolina, has made the following legislative findings:

1.1 The Code of Ordinances of York County, South Carolina, should be amended by amending through amendments to Chapter 155, Zoning Code, in order to clarify the ordinance governing uses which are not set out sufficiently in the Code or which are developing to such a degree or with such impact that additional regulation is needed to safeguard our citizenry and promote orderly prospective treatment of the uses in order to guide development with regard to existing and future zoning needs and promote the public health, safety, convenience, order, appearance, prosperity and general welfare of York County and its citizens.

1.2 Council is empowered to enact ordinances for the implementation and enforcement of powers granted to Council pursuant to Sections 4-9-30 (9), (14), and (17),

S.C. Code Ann., as amended, and to exercise such other powers as may be authorized for counties under S.C. Code Ann. Section 6-29-710, as amended.

1.3 Council finds that the amendment and clarification will, inter alia, guide development and provide for the orderly and subsequent growth in the County; facilitate the creation of a convenient, attractive, and harmonious community; regulate the uses of buildings, structures and land for trade, industry, residence, recreation, agriculture, public activities, and other purposes; and further the public welfare.

1.4 Specifically, Council finds that regulation of nonmetallic mineral product manufacturing will expound upon a zoning use not sufficiently regulated within the existing code of ordinances and will thereby provide a regulation process specific for the NMPM (concrete) industry within York County while safeguarding the interests of the York County citizens and the integrity of the County.

**SECTION 2. Code of York County Amended.**

Chapter 155, ZONING CODE, is hereby amended in the particulars established in Exhibit A, attached and incorporated herewith by reference.

**SECTION 3. Public Hearing Required.**

The York County Council shall conduct a public hearing after publishing a notice of the date, time and place of such hearing at least fifteen (15) days in advance of such hearing before final legislative action is taken for the adoption of this ordinance. Additionally, the York County Council hereby invokes the application of the Pending Ordinance Doctrine to this Ordinance.

**SECTION 4. Severability.**

The provisions of this ordinance are hereby declared to be severable, and if any provision or section of this ordinance is declared to be unconstitutional or unenforceable by the final order of a court of competent jurisdiction, such declaration shall not affect the

constitutionality, legality or enforceability of any other section or provision of this ordinance, which shall be deemed severable, valid, enforceable and effective.

**SECTION 5. Repeal of inconsistent sections and ordinances.**


All sections of the York County Code of Ordinances and all York County ordinances in conflict with this ordinance are hereby amended to the extent of such conflict.


**SECTION 6. Effective date.**

Subject to the application of the Pending Ordinance Doctrine, this ordinance shall take effect immediately upon adoption.

Adopted this 21 day of May, 2018.

YORK COUNTY COUNCIL

By:   
J. Britt Blackwell, O.D., Chairman  
York County Council

Attest:   
William P. Shanahan, Jr.  
County Manager

First Reading: April 16, 2018  
Second Reading: May 7, 2018  
Public Hearing: May 7, 2018  
Third Reading: May 21, 2018

# EXHIBIT A

York County Code of Ordinances, Section 155.009, DEFINITIONS is hereby amended by adding the following terms (in alphabetical order within the Code) and definitions, as follows:

**NONMETALLIC MINERAL PRODUCT MANUFACTURING (NAICS CODE 32):** An industrial facility used for the manufacturing and production of Clay Product and Refractory Manufacturing (NAICS 3271); Glass and Glass Product Manufacturing (NAICS 3272); Cement and Concrete Product Manufacturing (NAICS 3273); Lime and Gypsum Product Manufacturing (NAICS 3274); and Other Nonmetallic Mineral Product Manufacturing (NAICS 3279).

York County Code of Ordinances, Section 155.010, TABLE OF PERMITTED USES AND SPECIAL EXCEPTIONS, Paragraph (F) is hereby amended, to remove uses “Asphalt Manufacturing, Clay Product Manufacturing, Concrete Manufacturing and Production, Enamel Manufacturing and Production, Glass and Glass Production Manufacturing, Stone and Masonry Manufacturing and Production,” and Add “Nonmetallic Mineral Product Manufacturing” as follows:

<i>Table of Permitted Uses and Special Exceptions</i>														
Uses	Supplemental Regulations?	AGC	AGC-I	PLD	PLD-I	PC-I	PC-II	PD	PD-II	PD-I	PD-II	PD-III	U	U-I
<b>MANUFACTURING</b>														
Nonmetallic mineral product manufacturing	Yes												SE	

The York County Code of Ordinances, Section 155.161, INDUSTRIAL DEVELOPMENT DISTRICT (ID) PERMITTED USES is hereby amended by deleting paragraphs (L) (3), (6), (9), (12), (18), (32), and renumbering subsequent paragraphs:

The York County Code of Ordinances, Section 155.162, INDUSTRIAL DEVELOPMENT DISTRICT (ID) SPECIAL EXCEPTIONS is hereby amended by adding new paragraph (B) (8), as follows:

“(B) (8) Nonmetallic mineral product manufacturing, provided:

- (a) *Minimum lot size.* Minimum lot size is 5 acres.
- (b) *Access and routing plan.*

1. The purpose of the access and routing plan is to avoid unreasonable impacts on residential land uses and to maintain the safe conditions of public roads in the vicinity of the proposed use, which may deteriorate or be damaged by heavy truck traffic associated with industrial uses.

2. The access and routing plan shall include:

(i) All public roads within two (2) miles of any property boundary of the proposed site;

(ii) Access ways to the site, including public rights-of-way, intersections, existing and proposed paving and drainage improvements;

- (iii) State- and federally-designated truck routes; and
- (iv) County roadway classifications for each public road.

3. The access and routing plan shall demonstrate compliance with the following criteria:

(i) Reasonable steps have been taken to avoid regular hauling and transport routes and points of access in residential areas;

(ii) All means of access for heavy trucks must be onto a major road, as defined by York County Zoning Code Section 155.009, unless the Zoning Board of Appeals determines that:

a. The minor road is sufficient to accommodate safe turning movements into and out of the site;

b. The minor road is built to conditions sufficient to withstand the impacts of heavy truck ingress and egress to the site or the applicant commits to necessary upgrades or to repairs, if needed, through a liability agreement;

c. Ingress and egress by heavy truck traffic at the proposed access points will not unreasonably impact residential land uses and areas; and

d. Measures have been included at all intersections where access drives connect with a public right-of-way to limit dirt, rocks, and other debris from collecting on the road surface.

(iii) No minor roads will be used for regular hauling and transport within the 2-mile plan area, unless the ZBA determines that:

a. Regular hauling and transport routes will not unreasonably impact residential land uses or lands zoned for residential uses; and

b. Minor roads in the plan area are built to conditions sufficient to withstand the impacts of heavy truck traffic, based on projected trips to and from the site, or the applicant commits to necessary upgrades to the minor roads or to any repairs attributable to the use, through a liability agreement.

(iv) The applicant has instituted procedures for ensuring drivers of heavy trucks associated with the site are provided with maps indicating the roads within the 2-mile plan area approved for regular hauling and transport.

(v) If the Director of Public Works determines that any road designated for regular hauling and transport is not adequately constructed to meet the weight and volume of heavy truck traffic associated with the proposed use, a special exception must include as a condition the execution of a liability agreement with the County prior to final site plan approval.

(c) *Separation Requirements.*

1. Nonmetallic mineral product manufacturing uses shall be located at least 500 feet from:

(i) Any existing or approved residence, school, day care center, church or similar religious land use, hospital, or public park.

(ii) The following zoning districts: RC-I, RC-II, RD-I, RD-II, PD, and TND; and

(iii) The following overlay zoning districts: Lake Wylie and Catawba River Buffers and AGC and RUD Significant Historical and Architectural Sites Overlay.

2. Separation distances shall be measured from the property line of the manufacturing facility to the nearest property line of the existing land use or the nearest zoning district boundary, as applicable.

(d) *Setbacks.* All elements of the facility, including structures/buildings, equipment, parking areas, and access roads, shall be located at least 125 feet from all property lines; except that access roads may cross the 125-foot setback area and utilities may be located within the 125-foot setback area.

(e) *Screening.*

1. A Type D bufferyard shall be required along all property lines regardless of the adjacent land use.

2. Access roads may cross the bufferyard.

3. Utilities may be located within the bufferyard. Where utilities are located within the required buffer, only the minimum amount of disturbance necessary shall be allowed for installation of the utility. The Zoning Board of Appeals may require supplemental buffering including, but not limited to, additional buffer width, supplemental plantings in other areas of the buffer, or a privacy fence, if the ZBA determines the placement of the utilities in the buffer negatively impacts adjacent property owners.

4. All existing trees within the buffer area shall be preserved, except for reasonable allowances for construction of necessary road crossings and utilities.

5. When located within 1,000 feet of a residential use, the ZBA may require additional screening measures in order to protect nearby residential areas from noise and visual blight.

(f) *Dust reduction measures.* Dust reduction measures shall be employed to minimize on-site and off-site dust nuisance generated by the manufacturing use. These measures may include, but are not limited to:

1. Utilization of stabilized roadways within the site;

2. On-site speed limits to minimize disturbance; and

3. Application of water and other dust palliatives.

(g) *Performance Standards Agreement.* All nonmetallic mineral product manufacturing uses shall comply with the provisions of the Performance Standards Agreement in Appendix D, Exhibit 1. A signed copy of the agreement shall be submitted with the special exception application.

(h) *Proof of other required permit approvals.*

1. In conjunction with the special exception application, the applicant shall submit one complete digital (PDF) copy of all final approvals to operate from other required local, state, and/or federal permitting agencies. All approvals must be demonstrated to be up-to-date and in effect.

2. In cases where final permitting agency approval is not issued without evidence of all necessary local zoning approvals, the applicant shall provide one complete digital (PDF) copy of the application submitted to the permitting agency. Once final approval is received, the applicant shall provide one complete digital (PDF) copy of the permit to County staff prior to the start of manufacturing operations."

**The York County Code of Ordinances, Section 155.191, URBAN DEVELOPMENT DISTRICT (UD) PERMITTED USES is hereby amended by deleting paragraphs (Q) (3), (6), (9), (12) (18), (32), and renumbering the subsequent paragraphs, as follows:**