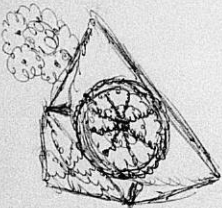


DR60-5 - MEMORANDUM FROM LELAND R. EDMONDS TO MAPC MEMBERS REGARDING PROVIDING FOR BORROW PITS IN CITY ZONING ORDINANCE.



ASAP

DATE

COMMITTEE

M.A.P.C. *with Staff to prepare* 3-3-60
renewal and board

~~MAPC~~ *Final Staff* 3-17-60
to prepare Public Note

MAPC. *Public Hearing* 5-5-60
Refer to 7-7-60

MAPC *Refer for* 7-7-60
Further staff study by
W/ Legal Dept

Close - consider with
prototype ordinance

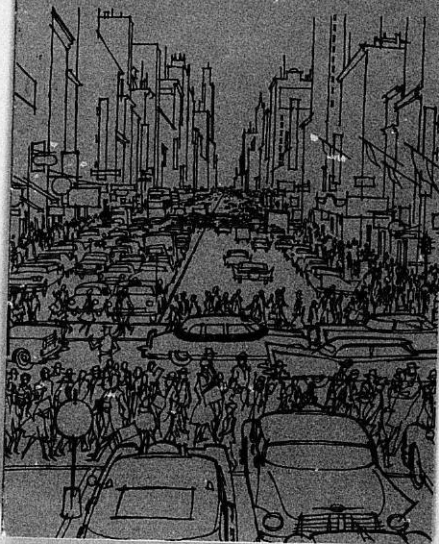
*London Journal
of Planning
D. R. O'Harrow*

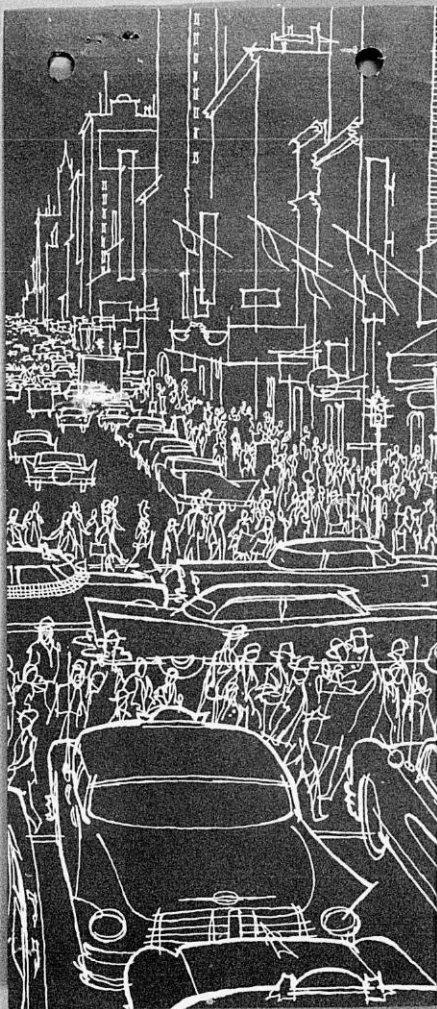
The URBAN FUTURE

By Dennis O'Harrow

Executive Director

American Society of Planning Officials
Chicago, Illinois





It is well to start out a paper such as I am about to present, with, as the attorneys say, certain stipulations. These are facts that you and I agree to, so that we can operate from a common base. Even if you cannot agree unreservedly, you must assume during the length of the paper that I am correct. It permits us to communicate, as the advertising researchers would say.

My first point to stipulate, then, is that we shall not have a thermonuclear nor biological — a germ — war. Such an event would render completely meaningless every statement that I make. Moreover, I believe that if we do not deeply have faith that such a catastrophe can be avoided, we are all emotionally incompetent to face the situation during the next decades, catastrophe or no catastrophe!

The second stipulation, and the only additional one, is that we shall have an ever-growing, ever-progressing, ever-improving way of life, both domestically and internationally. Perhaps this, too, is an act of faith.

After these stipulations, I want to talk about some facts — about one fact in particular. This is the fact that we are even now in the midst of, not a thermonuclear explosion, but a biologic explosion, the so-called population explosion.

The crude figures based on the present trend are easily stated. In 1950, we had 151,000,000 people in the United States. The census of 1960 counted something over 179,000,000. By 1970 we shall have

The Urban Future

210,000,000; by the year 2000, we shall have 350,000,000. That is, during the second half of the 20th century, it appears highly probable that we shall add 200,000,000 persons to the population of the United States.

To put it in another way: between 1960 and 1970 we shall add a population equal to the present population in the 25 largest cities: New York, Chicago, Los Angeles, Detroit, Philadelphia, Baltimore, St. Louis, and so on.

In relation to this population, there is another very important fact that we must recognize. This is that for all practical purposes 100 per cent of the population increase in the United States will eventually come to live in urban places. Something like 80 or 90 per cent of the population will live in the present metropolitan areas. This is the reason I selected my title — "The Urban Future." Because the future, the growth, of the United States is definitely to be urban. While there always will be a certain amount of shifting from city to farm and from farm to city, the net effect will be that all of the future increase in population will live in urban areas. At the moment, there is nothing in the United States, nor in the technological crystal ball, that will contradict this assertion.

At this point I would like to interject a little bit of planning philosophy or planning methodology or planning outlook — call it what you will. Earlier I made the statement, or the prediction, that by the year 2000 we should have 350,000,000 persons in the United States, where we today have about 180,000,000. Or to stretch the prediction a bit to make it come out even: within two or three years after the turn of the century we shall have twice as many persons in the United States as we have today.

First I should reassure you as to the reliability of our population predictions. I shall quote a leading demographer:

"The population of the United States ten, twenty, even fifty years hence can be predicted with a greater degree of assurance than any other economic or social fact, provided the immigration laws are unchanged."

That's what I call real self-confidence! The only trouble is that this statement was made in 1930, and

in less than 20 years it was conceded by everyone that no population predictors had made a decent guess in fifty years.

I quote from a leading economist writing in 1949:

"It is disheartening to have to assert that the best population forecasts deserve little credence even for 5 years ahead, and none at all for 20-50 years ahead."

Actually, neither of these statements is correct — the truth lies somewhere between the two extremes. But I would just point out that every official population projection for the past 20 years has consistently *under-estimated* the actual population increase.

This is where a planner or a demographer really leads with his chin — when he says that on such and such a date we shall have a certain population; we shall have twice as many people in the country as we have today. In addition to being foolhardy, it is not necessary to go out on a limb like this. Nor in my opinion, is it the best way to look at the situation.

Instead, I prefer to make this statement: to house the future population of the United States, to provide it with employment, education, health and recreational facilities, we must build an urban plant to take care of it. No longer will any appreciable portion of the population be able to provide for itself in a pioneering fashion, to live off the land, to strike out on its own. Providing this urban plant is a major task, if not *the* major task for the nation.

To make this quantitative: our job is to build urban facilities to care for and supply 100,000,000 additional people, to build a city, if you will, for a population of 100,000,000. The city will be dispersed from Alaska to Puerto Rico, from Maine to Hawaii.

In thinking about this city of 100,000,000, we need another dimension: time. At our present rate of growth we have about the span of one generation in which to construct it — about 30 years. We may need the facilities within 25 years of today, by February 6, 1987. It may take 35 years or even longer. But we definitely do *not* have the amount of time to build the urban facilities for the next 100,000,000 that we had to build the urban facilities for the last 100,000,000, which was about 90-100 years.

The Urban Future

I believe that when we state it this way: we must provide additional urban facilities for 100,000,000 people and the way it looks now, we have about three decades in which to do it — we have something that we can base our thinking on. Twenty-five to thirty-five years seems a long time, but in view of the magnitude of the operation I think that we shall find it fearfully short. However, three decades is a period of time that can be encompassed in the future planning of a total industry and of the major individual organizations with the industry.

Urban facilities for 100,000,000 — a nice impressive statement, but what does it mean, how can we visualize it? There is an urbanized area that starts north of Boston and stretches down the eastern seaboard to somewhere south of Washington. It includes the cities and the metropolitan areas of Boston, Providence, Hartford, New York, Philadelphia, Baltimore, Washington, Norfolk, and several others. You all know this area. Recently it was the subject of an intensive study made by Professor Jean Gottman for the 20th Century Fund. He calls such an area a *megalopolis*. It is sort of a new dimension in urban places — the next step beyond *metropolis*, which was the next step beyond *city*, which was the next step beyond *village*.

The point is, however, that this great urbanized strip from Boston to Norfolk contains only 37,000,000 people, a little more than one-third the size of the future urban development that we are talking about. Can you imagine the job to build from scratch just one new Boston, one new Philadelphia, one new New York City, one new Baltimore, one new Washington? Yet in the up-coming 30 years we shall have to build 2½ to 3 new Bostons, Philadelphias, New Yorks and so on!

I hope you will forgive me if I seem to harp on this matter of size. It is extremely important that we begin to get fixed in our mind the order of magnitude of the job. Besides, I think we may be able to come up with a few figures that will help you interpret the future more specifically for your own industry, perhaps give you some idea of what it may mean to you as an individual operator.

One of the most important resources needed to care for this next 100,000,000 city dwellers, and one

particularly of interest to planners, is land — urban land. Actually there is an enormous amount of land in the United States, but not a great deal of it is urban land. Urban land is land that is now supplied with some basic urban utilities, or is in such a location as to make it possible to supply it with those facilities economically. So, as any home builder or developer in the country can tell you, urban land is scarce, costly, and getting scarcer and more costly every day.

To get quantitative about land: our experience shows that for each person added to the population of an urban area, about one-quarter acre is converted from non-urban to urban use. For our basic 100,000,000 urban population we shall need 57,500 square miles of land, slightly more land than there is in the entire state of Illinois.

Perhaps I should remind you at this time that the land which we shall be converting to urban use is not all to be used for residences. It includes land needed for industrial and commercial use, for airports, for parks, for playgrounds, for streets, expressways, grade separations and parking lots.

That one classification — land used for streets and expressways, is one that should be of particular interest to this group. Using admittedly sweeping assumptions, I calculate that in the streets of this urban development, we shall use something on the order of 4 billion tons of sand and gravel. Remember, this is for *new urban* streets only. It includes nothing for repairs and replacements of existing streets, nor for the construction and replacement of cross-country expressways — only the expressways within urban areas. The street mileage — new streets only — will be on the order of 750,000 lineal miles.

There are some more interesting figures. For example, we estimate that there will be needed 480,000 additional elementary school rooms and 360,000 additional high school rooms. At present day prices these will cost about \$280 billion. There will be in the neighborhood of 30 million additional families that will need housing — 30 million more than we provide for now. Thirty million housing units will cost how much? Three hundred billion dollars? Five hundred billion dollars? What is the average amount of ready-mixed concrete used in a dwelling unit?

Remember, all the figures I cite are for work *in addition* to the normal repair and replacement con-

The Urban Future

struction that must take place during this same period. For example, John Dyckman and Reginald Isaacs have estimated that to carry out a complete renewal (note that this does not mean complete "rebuilding" or "redevelopment") for the urban places in the United States over a twelve year period, we would require \$1,300 billion. As much sense as it might make to do this, we can be quite sure that it will not be done. However, it is not too far-fetched to believe that expenditures for renewal in this order, both public and private, may be expected over the 30 years more or less that we have in which to provide for the next 100,000,000 population. But remember — urban renewal will not, is not intended to, produce any significant number of *additional* facilities. It conserves, improves, and replaces existing facilities. We still have to provide for the 100,000,000 newcomers.

Water supply is one of the most stupendous, and at the same time, critical problems that we face in this country. There is probably not a major city or metropolitan area in the nation that is now prepared to handle the water problem that will be generated by its share of the 100,000,000 new urban dwellers. At the 1960 National Conference on Water Pollution, the following statement was made:

"In spite of all [federal, state, and municipal] effort, there are not now under construction, or even planned for construction, by all the public and private agencies combined, sufficient water projects to provide the amount of water of acceptable quality that we will require by 1975. The naked fact is that the United States faces a water crisis."

Note the date of the predicted shortage: 1975. We are here talking about the even greater requirements by 1992. Incidentally, the original cost for supplying water systems for 100,000,000 additional persons is in the order of \$225 billion.

You can make some guesses at other facets of the economy: at least \$30 billion in new hospitals. Sanitary sewers and sewage plants: approximately the same cost as the new water installations. New industrial and commercial development: \$200 billion to \$500 billion.

I hope this will give you some idea of the magni-

tude of the task ahead of us to take care of 100,000,000 new people in our urban areas during the next 25 to 35 years. This is not a wild-eyed dream — I am speaking about actual facts. The only assumptions you had to make were that we would not have a totally devastating war and that we would continue to progress and provide our citizens with the highest possible standard of living.

Now, what does all this add up to so far as your very important industry goes? What is the particular problem of sand and gravel production? The answers, one step removed, are of great significance to the ready-mixed concrete industry.

I do not pretend to have analyzed the situation completely, nor especially accurately. It can be done, but would take a lot more time than I could devote to it here. Nevertheless, I feel that conservatively estimated, you will have to produce over the next 30 years twice as much sand and gravel as you would produce if you stayed at your present capacity.

This means that by the time the one hundred millionth new citizen is born in this country, you will need to be producing, not at twice your present rate, but at something more nearly three times your present rate.

This may sound a little odd, but I am sure it will be clear when you stop to think about it. Say your present annual production is 300 million tons. Over the 30 years at your present rate you would produce 9 billion tons. But at my two-times estimate, you would need to have produced 18 billion tons. For the first part of that 30 year period you are building up capacity, but you are still below the 600 million ton average you need. So for the latter part of the 30 year period you will have to dig at a rate greater than the 600 million ton average, in order to make up for lost time.

At the end you would probably be mining sand and gravel at close to a rate of 1 billion tons per year. If any of you recall your elementary physics you will recognize the analogy here with the formula for the speed of a falling object: $\frac{1}{2}gt^2$.

Earlier in this paper I spoke of the need for urban land, and the scarcity of urban land. I indicated that the principal characteristic of urban land was proper location. Although we have an enormous land area

Urban Future

In the United States, still there is a shortage of land with the proper locational factors to make it suitable for urban uses.

Now if the sand and gravel industry is to get itself geared up for the urban future, it, too, is badly in need of land. There are three principal characteristics of the land it can use, each of which also tends to make land suitable for its purposes scarce.

1. The land must have a workable sand, gravel, or stone deposit.
2. The land must be properly located.
3. It must be permissible to mine the land.

The first criterion certainly needs no explanation. You cannot produce sand or gravel or crushed stone from land unless it is there to produce in the first place, and within economic reach. While this mineral resource probably has a wider distribution than any other in the United States, it still does not underlie every acre in the country. This is the first factor limiting the availability of suitable land.

Then there is the second factor. While you can go to the ends of the earth for some mineral products, such as diamonds and even iron ore, you can not do that for sand and gravel. It must be located reasonably close to where it will be used. For the urban future, this means that gravel or sand-bearing land to be useable must be reasonably near where the urban growth will take place — reasonably near present urban centers, often within present metropolitan areas.

This again cuts down on the available supply of land. I was not able to find an economic analysis of your industry's operations, but I assume that somewhere you know the proper figures to use in a statement such as this: *X per cent of all sand, gravel and crushed stone must be produced within Y miles of its point of use — perhaps 90 per cent of all sand, gravel and crushed stone must be produced within 50 miles of its point of use.*

In short, a generous gravel deposit in Alaska is pretty useless for urban construction around Wichita, Kansas.

But after you find a patch of land having a gravel deposit, one that is located within a reasonable distance from the center of its market, your next ques-

tion is: Can you mine it? Is a gravel pit legal at that location?

I represent planners — that group of persons with whom members of your industry have had some serious and prolonged discussions. Some of our dialogues, I regret to say, have been carried out in courtrooms because you and the community which we represented did not see eye to eye on zoning your land.

On the whole, however, I believe planners have had better understanding by the sand and gravel industry than by any other large industrial group whose operations were such potential neighborhood stirrers — if you know what I mean.

But to get back to our discussion of the urban future and your industry's part in it. You must prepare to do your share to outfit the one hundred million by finding enough gravel-bearing land (perhaps enough to triple your present production), finding it located near your markets, and finding it in zoning districts that permit you to mine it. Because zoning, as you all know, is one of the most serious of scarcity-creators.

I do not intend to talk about the rationale of zoning or the irrationality of zoning commissions. I am sure that you know both situations are never quite the same in any two cities.

But I do want to say this about land use controls, zoning and subdivision regulations. You can in the future expect to see them become even more widely used than they are now. I believe also that you will be subject to restrictions much tougher than those you have now. Just remember, in 30 years we have to convert some 57,500 square miles of farm land into city land — 57,500 square miles to change between now and 1992. Even with our best efforts, there will be confusion — but you can be sure we shall do everything we can to prevent complete and utter chaos.

Although land use regulations will probably become more strict, you will at the same time begin to see better and more intelligent administration of those regulations. I believe that you will see more professional administration and administrators, and less amateur, and emotional and political, administration and administrators.

The Urban Future

Now if I were a professional administrator of planning controls, or if I were a court hearing an appeal from an amateur, emotional decision in some zoning matter related to sand and gravel mining, do you know what I would be impressed by? I would be most impressed by an applicant who put his case to me in terms of an area-wide plan for the industry. I would be impressed by a plan that showed not only how the property under dispute fitted in the area-wide plan, but also how the plan for the industry fitted in with the future development of the area, both as to location of the industry and as to production of the materials required for development of the area.

It seems to me that in some ways the sand, gravel and concrete industry has the characteristics of a public utility. It is absolutely indispensable to modern life. It spends little, and needs to spend little, on advertising because of this. It is a large-quantity, low-margin operation. And finally, its product must be locally produced and distributed.

The two important things are that the industry is indispensable and that it is local. Because of these, it is an industry that is amenable to the techniques of localized planning, as are other utility operations — water, gas, electricity, public transit. For the sake of the public that you serve, as well as for your own sake, you should spend time on seeing where you are headed for, how, and why.

You must remember that when you run afoul of a zoning ordinance, the burden of the proof of its inequity or unreasonableness is on you. The community, correctly or incorrectly, has determined what a particular parcel of land (yours) may be used for. It is up to you to prove that they are wrong, *if they are wrong*.

If you were to come to me to get permission to mine gravel, I should like to know the answer to a number of questions:

How much gravel is produced in the market area now?

What is the present capacity for gravel production in presently-worked quarries?

What unworked gravel-bearing lands are now under control of gravel producers?

Which of these lands is in a zoning district that now permits mining, which is in a district that prohibits it?

What is the extent of all gravel land that is within the economic haul distance of this market?

What is the present sale pattern for gravel in this market: direct construction, ready-mix concrete, concrete products?

What is the outlook for the future distribution pattern?

What is the future demand for gravel in the area, and where?

What are the sand and gravel industry plans for meeting future demand in the area?

I am sure there are a number of other questions you could think up yourselves, questions that you would individually like to have answered before you invested any money in a new area.

However, there are also three general questions that the local community would like to have you answer:

1. What is the need that would persuade us to allow you to open up another gravel pit?
2. If we let you open it, what would you do to make it as unobnoxious as possible?
3. After you have finished your operation, how will you restore the land?

Your industry has made enormous strides in producing satisfactory answers to the second and third questions: good operation and effective restoration. It is now time that you thought about answering the first question: why should the community allow you to start operations in the first place? If you can answer that question in a satisfactory manner, it will make a world of difference in reducing the scarcity of good gravel-bearing land in which it is legal to mine sand, gravel or rock.

I have tried to give you some idea of the future development of the nation. I have said that it is an urban future. I do not need to tell you the relation between urban growth and your own industry.

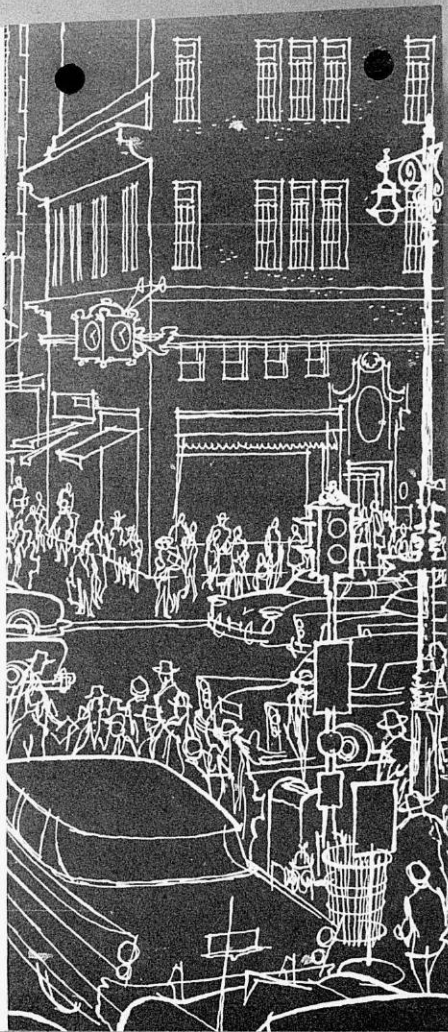
The Urban Future

Sooner or later, and I estimate the time to be about 30 years, we must provide new urban facilities for 100 million additional persons, as well as to maintain and replace the present urban plant for 125 million persons. Roughly, the average production for your industry during the next 3 decades must be on the order of twice what you are now doing. To achieve this average for 30 years you may have to reach a production level at approximately triple your present rate.

The industry, to meet its responsibility for caring for the next hundred million urbanites, should get into overall planning — nationally, of course, but also on a metropolitan or market area basis. In urban planning, the planning that I represent, it is not possible to do a decent job of planning for only one function, say water, and forget other aspects of urban development, such as sewers, transit land use, and so on. Just so, it is not practical for your planning to embrace only the production of aggregate. You should also work on overall planning for the ready-mix concrete industry and probably also for concrete products, at least. The fact that your two organizations meet together shows that you are aware of this inter-relationship.

Comprehensive industry-wide planning will not only help your industry internally, but it can be a decisive factor when it comes to appearing before the local authorities in zoning matters.

In closing, I should like to warn you that I have been speaking of only the *next* hundred million people to be added to our nation's urban areas. I estimate that we have about 30 years to solve the problem. As for the *second* hundred million, a group that starts accumulating in 1993, I am not quite ready to comment on that. I will say that at the current rate of growth, it seems as though instead of 30 years to build urban facilities for the second hundred million, we shall have only about 12 years. That is a problem of a different order. The first one is tough enough for me.



July 10, 1963

John Dekker, Assistant City Attorney

Robert A. Lakin, Assistant Planning Director

Sand and Gravel Pit Ordinance

We have reviewed the Corpus Christi ordinance concerning excavations within the city and agree with you that it does contain several provisions which could and should be adapted to the Wichita situation. I feel that this general type of ordinance, however, is geared more to a nuisance classification than one to be considered under Title 28 of the City Code, re zoning.

There are some sections which I feel could stand strengthening or changing. On page 3 where excavations are established as a nuisance when they "effect or destroy the lateral support of or block and impede traffic on any public street, alley, road or way," I feel the language should be changed to provide some specific dimensions. This follows our prototype regulation which we set out in our publication entitled "Flooding".

In addition to the items required in the application, I would suggest once again that some provisions be made to require any one excavating within the community, to develop, have approved and file for record a redevelopment plan. The redevelopment plan might be for any number of uses, such as recreation, residential development, water resource for industrial development, etc. If excavation areas are to be made compatible within an urban area, I think the "redevelopment plan" is a must.

Another point which I feel should be changed is under Section 18, page 11, - Exclusions. The Corpus Christi ordinance does not apply to any political subdivision of the state, the state itself or of the United States. One of our major problems in the Wichita area has been the development of borrow pits for Interstate Route construction. Although most of the requests here were submitted by the contractors themselves, I am sure if we include this type of provision as an exclusion, then the state or federal governments will become the responsible party for acquiring the dirt, thus circumventing this type of regulation. Although there might be some problem of including these units of government, particularly as it might relate to inland waterways, dams, etc. I believe something could and should be worked out.

Page 2 - John Dekker, Assistant City Attorney
July 10, 1963

We will be happy to work with you and any other department specified by the Manager, in developing an ordinance for Wichita, based along these lines. I might also suggest that you send a copy of this ordinance to George Wilton and M. S. Mitchell, in that they have been closely associated with excavations along the flood control structure.

Robert A. Lakin
Assistant Planning Director

RAL:ber

cc: Ralph Wuls
B. E. Smith
Glen Lytle
George Wilton

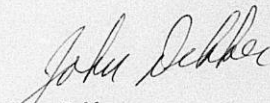
THE CITY OF WICHITA
OFFICE OF CITY ATTORNEY

DATE June 27, 1963

TO Leland R. Edmonds, Director of Planning
FROM John Dekker, Assistant City Attorney
SUBJECT Sand and Gravel Pit Ordinance

Attached hereto you will find copies of an ordinance and amendments thereto relating to the control of excavations, etc. This ordinance is from Corpus Christi, Texas, and from my superficial examination, has some meritorious items.

I suggest that you review this and determine if you feel that a similar ordinance patterned after this one would be of value to us in control of all such problems. I have reviewed this matter with the City Manager, and it has been suggested that this be done in this manner.


John Dekker,
Assistant City Attorney

JD:ka

Att:

cc: Ralph Wulz, Director of Public Works
B. E. Smith, City Engineer
Glen Lytle, Superintendent of Central Inspection



AN ORDINANCE

FOR THE PROMOTION OF PUBLIC SAFETY, HEALTH, GENERAL WELFARE, THE ABATEMENT OF NUISANCE AND TO EFFECTUATE THE GENERAL PURPOSE OF MUNICIPAL PLANNING IN THE REGULATION AND CONTROL OF ALL MAN-MADE EXCAVATIONS OVER ONE (1) FOOT IN DEPTH EXCLUDING NORMAL AGRICULTURAL, INDUSTRIAL, HORTICULTURAL AND RESIDENTIAL USE OF PROPERTY, PERSONS CONSTRUCTING BY PERMIT OF DEPARTMENT OF PUBLIC WORKS, PRIVATE UTILITIES OPERATING UNDER FRANCHISE OR SPECIAL PERMIT ISSUED BY THE CITY AND THE UNITED STATES OF AMERICA, THE STATE OF TEXAS AND POLITICAL SUBDIVISIONS OF EITHER THEREOF, WITHIN THE CITY OF CORPUS CHRISTI; DEFINING CERTAIN TERMS; PRESCRIBING PROCEDURE FOR OBTAINING EXCAVATION PERMITS; PROVIDING A FEE FOR EXCAVATION PERMITS; TIME LIMITATION OF PERMIT; INSPECTION OF EXCAVATIONS PROVIDED; REVOCATION OF EXCAVATION PERMITS ISSUED; PROHIBITED EXCAVATION LOCATIONS; NON-REPEAL OF CERTAIN ORDINANCES; CONTAINING A SAVINGS CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PRESCRIBING A PENALTY AS A FINE OF NOT LESS THAN FIVE DOLLARS (\$5.00) AND NOT TO EXCEED A FINE OF MORE THAN TWO HUNDRED DOLLARS (\$200.00) FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING MANNER OF PUBLICATION AND EFFECTIVE DATE OF ORDINANCE.

WHEREAS, THIS COUNCIL DOES NOW DETERMINE ~~THAT~~ DETERMINE THAT IT IS NECESSARY IN THE INTEREST AND PROMOTION OF PUBLIC HEALTH, SAFETY AND WELFARE TO REGULATE AND CONTROL THE MAINTENANCE OF EXISTING AND FUTURE MAN-MADE EXCAVATIONS WITHIN THE CITY LIMITS OF THE CITY OF CORPUS CHRISTI, TEXAS; NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. TITLE: THE TITLE OF THIS ORDINANCE AND THE NAME BY WHICH IT SHALL BE KNOWN IS THE "CORPUS CHRISTI EXCAVATION ORDINANCE".

SECTION 2. PURPOSE: THE FACT THAT THERE ARE AT THE PRESENT TIME NO ADEQUATE PROVISIONS OR CITY ORDINANCES WITH REFERENCE TO MAN-MADE EXCAVATIONS, DEPRESSIONS, PITS, HOLES, QUARRIES, GULLIES AND DITCHES WITHIN THE CITY LIMITS OF THE CITY OF CORPUS CHRISTI, THE FACT THAT SUCH MAN-MADE CONDITIONS DO EXIST IN THE CITY OF CORPUS CHRISTI, THE FACT THAT SUCH MAN-MADE CONDITIONS ARE DIRECTLY RELATED TO THE LIVES, PROPERTY, HEALTH, SAFETY AND CONVENIENCE OF THE PUBLIC AND IN AFFECTING THE GENERAL PURPOSE OF ORDERLY

MUNICIPAL PLANNING OF THIS CITY, AND THE FACT THAT MAN-MADE EXCAVATIONS OF ALL DESCRIPTION WITHIN THE CITY LIMITS MAKES REGULATION AND CONTROL THEREOF NECESSARY AND DESIRABLE IN ORDER TO PREVENT NUISANCES, HEALTH HAZARDS, PROTECT THE LIVES, PROPERTY, PUBLIC WELFARE, THE GENERAL WELFARE AND TO EFFECTUATE THE GENERAL PURPOSE OF ORDERLY MUNICIPAL PLANNING OF THE CITY OF CORPUS CHRISTI, EACH SINGULARLY AND COLLECTIVELY CONSTITUTE THE REASONS, NEEDS AND PURPOSES FOR WHICH THIS ORDINANCE IS ADOPTED AND ENACTED.

SECTION 3. DEFINITIONS: FOR THE PURPOSES OF THIS ORDINANCE, AND FOR ALL PURPOSES UNDER THIS ORDINANCE, THE FOLLOWING WORDS AND TERMS WHEREVER AND WHENEVER USED OR APPEARING IN THIS ORDINANCE SHALL HAVE THE SCOPE AND MEANING HEREINAFTER DEFINED AND SET OUT IN CONNECTION WITH EACH:

- (1) THE WORD "PERSON" SHALL INCLUDE BOTH THE SINGULAR AND THE PLURAL; AND SHALL MEAN AND INCLUDE ANY INDIVIDUAL, FIRM, PARTNERSHIP, ASSOCIATION, CORPORATION, CLUB, SOCIETY, CO-OPERATIVE, TRUST, RECEIVER, SYNDICATE OR ANY OTHER GROUP OR COMBINATION ACTING AS A UNIT.
- (2) THE WORD "EXCAVATION" SHALL INCLUDE BOTH THE SINGULAR AND THE PLURAL; AND SHALL MEAN AND INCLUDE ANY ACT BY WHICH SOIL, EARTH, CLAY, SAND, GRAVEL, ROCK, LOAM, CALICHE, DIRT, HUMUS, OR ANY OTHER SIMILAR MATTER IS DUG, CUT INTO, QUARRIED, UNCOVERED, REMOVED, DISPLACED, RELOCATED OR BULLDOZED OVER ONE (1) FOOT IN DEPTH IN THE EARTH.
- (3) THE WORD "SOIL" SHALL MEAN AND INCLUDE ANY EARTH, SAND, CLAY, LOAM, CALICHE, GRAVEL, HUMUS, ROCK, DIRT OR ANY OTHER MATTER IN OR UPON THE GROUND WITHOUT REGARD TO THE PRESENCE OR ABSENCE THEREIN OF MINERALS OR OTHER ORGANIC MATTER.

SECTION 3. A. EXCAVATIONS AS NUISANCES: IT IS DECLARED AND DECREED THAT FROM AND AFTER THE EFFECTIVE DATE OF THIS ORDINANCE ANY EXCAVATION LOCATED WITHIN THE CITY LIMITS, OR HEREAFTER CREATED WITHIN THE CITY LIMITS OR WITHIN FIVE THOUSAND (5,000) FEET OF THE CITY LIMITS OF THE CITY OF CORPUS CHRISTI, TEXAS, SHALL AND DOES CONSTITUTE A NUISANCE WHEN MAINTAINED OR PERMITTED TO EXIST BY ANY PERSON IN AN UNWHOLESOME OR NAUSEOUS CONDITION, OR IN A MANNER BY WHICH STAGNATE WATER ACCUMULATES, OR IN A MANNER IN WHICH WATER COLLECTS WHERE IT IS POSSIBLE AND PROBABLE MOSQUITOES WILL BREED, OR IN A CONDITION WHERE RATS COULD HARBOR, OR IN A MANNER AND CONDITION CONSTITUTING A BREEDING PLACE FOR FLIES OR IN A MANNER AND CONDITION WHERE FILTH, GARBAGE, TRASH, DEBRIS AND OTHER DISCARDED MATERIAL ACCUMULATES AND IS DEPOSITED, OR IS MAINTAINED OR PERMITTED TO EXIST IN AN UNFENCED, OPEN CONDITION, ACCESSIBLE TO CHILDREN AND OTHER MEMBERS OF THE PUBLIC, OR IS MAINTAINED AND WORKED IN SUCH A MANNER AS TO DISTURB, EFFECT OR DESTROY THE LATERAL SUPPORT OF OR BLOCK AND IMPEDE TRAFFIC ON ANY PUBLIC STREET, ALLEY, ROAD OR WAY, OR THAT IS MAINTAINED OR PERMITTED TO EXIST IN ANY CONDITION WHICH CONSTITUTES A POSSIBLE AND PROBABLE MEDIUM OF TRANSMISSION OF DISEASE TO OR BETWEEN HUMAN BEINGS, OR TO MAINTAIN OR PERMIT TO EXIST ANY ONE OR MORE OF THE ABOVE ENUMERATED CONDITIONS. IT IS FURTHER DECLARED AND DECREED THAT ANY PERSON IN LOCATING OR MAINTAINING ANY EXCAVATION IN VIOLATION OF THE PROVISIONS OF THIS SECTION OF THIS ORDINANCE SHALL BE SUBJECT TO THE PENALTY PROVISIONS OF THIS ORDINANCE AND IS HEREBY DEEMED TO BE MAINTAINING A NUISANCE. NOTHING HEREIN SHALL IN ANY WAY REDUCE THE REMEDIES WHICH THE CITY MAY OTHERWISE HAVE TO REGULATE, CORRECT, ABATE OR ABOLISH ANY NUISANCE WITHIN THE CITY LIMITS OR WITHIN FIVE THOUSAND (5,000) FEET OF THE CITY LIMITS.

Good!

SECTION 4. PERMIT: IT SHALL BE UNLAWFUL AND A VIOLATION OF THIS ORDINANCE FOR ANY PERSON ACTING FOR HIMSELF OR ACTING AS AN AGENT, EMPLOYEE, INDEPENDENT CONTRACTOR OR SERVANT OF ANY OTHER PERSON, TO COMMENCE AN EXCAVATION, TO EXCAVATE OR CONTINUE TO EXCAVATE OR TO MAINTAIN AN EXISTING EXCAVATION WITHIN THE CITY LIMITS OF THE CITY OF CORPUS CHRISTI, TEXAS, OR TO WORK UPON OR ASSIST IN ANY WAY IN THE PROSECUTION OR OPERATION OF ANY SUCH EXCAVATION, WITHOUT AN EXCAVATION PERMIT HAVING BEEN ISSUED BY THE AUTHORITY OF THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI IN ACCORDANCE WITH THE TERMS OF THIS ORDINANCE.

SECTION 5. APPLICATION FOR PERMIT: THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI HEREBY DECREES THAT ALL EXCAVATION PERMITS SHALL BE ISSUED BY THE INSPECTION SECTION OF THE DEPARTMENT OF PUBLIC WORKS OF THE CITY. SUCH PERMITS SHALL BE ISSUED ONLY AFTER AN APPLICATION, IN THE FORM OF AN AFFIDAVIT, IS EXECUTED IN DUPLICATE AND PRESENTED TO THE INSPECTION SECTION OF THE DEPARTMENT OF PUBLIC WORKS, WHICH APPLICATION SHALL BE REFERRED TO THE ZONING AND PLANNING COMMISSION OF THE CITY FOR REVIEW, CONSIDERATION AND RECOMMENDATION. THE DEPARTMENT OF PUBLIC WORKS SHALL BE BOUND TO ACT IN ACCORD WITH THE ZONING AND PLANNING COMMISSION'S RECOMMENDATION IN THE ISSUANCE OF EACH EXCAVATION PERMIT.

SECTION 6. INFORMATION TO BE SUPPLIED IN EACH APPLICATION FOR PERMIT: EACH APPLICATION FOR AN EXCAVATION PERMIT MUST INCLUDE ALL OF THE FOLLOWING INFORMATION IN DETAIL BEFORE IT CAN BE ACCEPTED BY THE DEPARTMENT OF PUBLIC WORKS AND BEFORE IT CAN BE CONSIDERED BY THE ZONING AND PLANNING COMMISSION OF THE CITY:

- (1) THE IDENTITY AND RESIDENCE ADDRESS OF THE APPLICANT.
- (2) THE IDENTITY AND RESIDENCE ADDRESS OF THE OWNER OF THE LAND.
- (3) THE LOCATION AND LEGAL DESCRIPTION OF THE LAND.
- (4) A POSITIVE STATEMENT AS TO WHETHER THE LAND HAS BEEN PLATTED.

- (5) A POSITIVE STATEMENT THAT CITY, COUNTY, STATE AND SCHOOL DISTRICT AD VALOREM TAXES HAVE BEEN PAID AND ARE CURRENT CONCERNING THE LAND.
- (6) THE PURPOSE OR REASON FOR THE REMOVING OR MOVING OF THE SOIL FROM OR ON THE LAND.
- (7) THE QUANTITY IN CUBIC YARDS OF SOIL TO BE MOVED OR REMOVED FROM THE LAND.
- (8) IN THE CASE OF REMOVAL THE PLACE OR PLACES TO WHICH THE SOIL IS TO BE REMOVED.
- (9) THE PROPOSED DATE OF COMPLETION OF THE SOIL REMOVAL OR MOVING.
- (10) A POSITIVE STATEMENT THAT NO BUILDINGS, RESIDENCES OR STRUCTURES ARE WITHIN ONE HUNDRED AND FIFTY (150) FEET OF THE PROPOSED EXCAVATION.
- (11) A POSITIVE STATEMENT THAT THE PROPOSED EXCAVATION SHALL NOT BLOCK, INCUMBER OR CLOSE ANY PUBLIC STREET, WAY OR ALLEY, OR DISTURB THE LATERAL SUPPORT THEREOF. *needs to be better defined.*
- (12) A POSITIVE STATEMENT THAT THE PROPOSED EXCAVATION SHALL NOT BE LOCATED NEARER THAN THREE HUNDRED FIFTY (350) FEET TO ANY EXTERIOR PROPERTY LINE BOUNDARY OF LANDS UTILIZED FOR A PUBLIC OR PAROCHIAL SCHOOL, A COLLEGE, A UNIVERSITY, A HOSPITAL, A CHURCH, PUBLIC BUILDING OR A CEMETARY.
- (13) A POSITIVE STATEMENT THAT THE PROPOSED EXCAVATION IS NOT NOR SHALL NOT BE LOCATED IN AN AREA WHICH HAS OF PUBLIC RECORD RESTRICTIONS OR COVENANTS PROHIBITING SUCH A USE OF THE PROPERTY.
- (14) THE PROPOSED SLOPES AND LATERAL SUPPORTS TO BE USED IN THE EXCAVATION SHALL BE SET FORTH.
- (15) THE PRESENT AND PROPOSED ARRANGEMENTS MADE FOR SURFACE WATER DRAINAGE.

(16) THE SAFETY PRECAUTIONS TO BE INSTALLED AND MAINTAINED AT THE SITE, SUCH AS FENCES AROUND THE EXCAVATION, TRAFFIC CONTROL DEVICES AND DRAINAGE SYSTEM TO KEEP THE EXCAVATION FROM COLLECTING WATER WITHIN IT.

(17) SUCH OTHER PERTINENT DATA AS THE DEPARTMENT OF PUBLIC WORKS AND ZONING AND PLANNING COMMISSION MAY HEREAFTER BY RESOLUTION REQUIRE.

*add
develop
want
plans.*

SECTION 7. FEE ON APPLICATION FOR PERMIT: ON SUBMISSION OF AN APPLICATION FOR AN EXCAVATION PERMIT TO THE DEPARTMENT OF PUBLIC WORKS A FEE SHALL ALSO BE SUBMITTED FOR THE ADEQUATE ADMINISTRATION, INSPECTION, REGULATION AND ENFORCEMENT OF THIS ORDINANCE IN AN AMOUNT OF TWENTY-FIVE DOLLARS (\$25.00). IN THE EVENT OF A REFUSAL OF ISSUANCE OF AN EXCAVATION PERMIT, AS HEREINAFTER PROVIDED, THE TWENTY-FIVE DOLLARS (\$25.00) FEE SHALL BE REFUNDED TO THE APPLICANT.

SECTION 8. TIME LIMIT OF PERMIT: EACH EXCAVATION PERMIT ISSUED SHALL BE ISSUED FOR A MAXIMUM PERIOD OF ONE (1) YEAR, AFTER WHICH PERIOD, THE PERMIT IS VOID AND THE PERSON TO WHOM THE PERMIT WAS ISSUED MUST MAKE A NEW APPLICATION FOR A NEW PERMIT FOR EACH SUCCEEDING YEAR OR PORTION OF A YEAR THAT AN EXCAVATION IS OPERATED OR MAINTAINED.

SECTION 9. REVIEW OF APPLICATION BY ZONING AND PLANNING COMMISSION: WITHIN THIRTY (30) DAYS AFTER RECEIPT OF AN APPLICATION THE ZONING AND PLANNING COMMISSION OF THE CITY SHALL REVIEW AND CONSIDER SAID APPLICATION AND SUBMIT ITS RECOMMENDATION TO THE DEPARTMENT OF PUBLIC WORKS WHICH SHALL GRANT OR REFUSE THE PERMIT IN ACCORDANCE WITH THE ZONING AND PLANNING COMMISSION'S RECOMMENDATION. IN THE EVENT THE ZONING AND PLANNING COMMISSION FAILS FOR ANY REASON TO ACT UPON ANY APPLICATION FOR AN EXCAVATION PERMIT WITHIN THE THIRTY (30) DAY PERIOD PROVIDED HEREIN, IT SHALL BE CONCLUSIVELY PRESUMED THAT SUCH APPLICATION WAS APPROVED BY THE ZONING AND PLANNING COMMISSION AND THE DEPARTMENT OF PUBLIC WORKS SHALL FORTHWITH ISSUE THE EXCAVATION PERMIT SOUGHT.

SECTION 10. APPEAL TO CITY COUNCIL: IN THE EVENT AN APPLICANT IS REFUSED AN EXCAVATION PERMIT, HE MAY, NOT LATER THAN TEN (10) DAYS FROM THE DATE OF RECEIVING NOTICE OF SUCH REFUSAL, APPEAL TO THE CITY COUNCIL FOR A PUBLIC HEARING ON THE REFUSAL, BY DIRECTING A LETTER TO THE MAYOR AND COMMISSIONERS OF THE CITY OF CORPUS CHRISTI, SETTING FORTH THEREIN THE DATE OF DENIAL OF THE EXCAVATION PERMIT AND THE REASONS WHY THE APPLICANT FEELS HE HAS BEEN WRONGED IN BEING REFUSED THE PERMIT. THE CITY COUNCIL SHALL, ON RECEIVING SUCH NOTICE OF APPEAL, DIRECT THE CITY SECRETARY TO PLACE IT ON THE CITY COUNCIL'S WORK AGENDA TO BE CONSIDERED IN THE DUE ORDER OF CITY BUSINESS. THE CITY SECRETARY SHALL THEN NOTIFY THE APPLICANT AS TO THE DATE AND PLACE WHERE THE CITY COUNCIL WILL CONSIDER HIS APPEAL. THE CITY COUNCIL ON CONDUCTING THE PUBLIC HEARING REGARDING THE APPLICANT'S APPEAL, MAY BY MAJORITY VOTE SUSTAIN OR BY TWO-THIRDS VOTE OF ITS QUORUM PRESENT, OVERRULE THE ZONING AND PLANNING COMMISSION'S RECOMMENDATIONS.

SECTION 11. PERMIT FORM: THE EXCAVATION PERMIT SHALL BE IN SUCH FORM AND NUMBERED AS MAY BE PRESCRIBED BY THE DEPARTMENT OF PUBLIC WORKS AND SHALL CONTAIN ANY AND ALL SPECIAL CONDITIONS SET FORTH IN THE ZONING AND PLANNING COMMISSION'S RECOMMENDATION.

SECTION 12. FACTORS TO BE CONSIDERED BY ZONING AND PLANNING COMMISSION IN ARRIVING AT RECOMMENDATION: IN CONSIDERING AND REVIEWING AN APPLICATION FOR AN EXCAVATION PERMIT THE ZONING AND PLANNING COMMISSION SHALL BE GUIDED BY THE GENERAL PURPOSE OF ORDERLY MUNICIPAL PLANNING, THE PROHIBITING OF ANY CONDITION OR THE DOING OF ANY ACT CONSTITUTING OR CREATING A NUISANCE, HEALTH HAZARD OR ENDANGERING THE LIVES OR PROPERTY OF OTHERS. AS AIDS IN ACCOMPLISHING THESE PURPOSES THE FOLLOWING POINTS SHALL BE CONSIDERED BY THE ZONING AND PLANNING COMMISSION IN REVIEWING APPLICATIONS FOR EXCAVATION PERMITS, HOWEVER SUCH AIDS SHALL NOT BE EXCLUSIVE IN THE COMMISSION'S CONSIDERATION AND ULTIMATE RECOMMENDATION:

- (1) SOIL AND EARTH EROSION BY WATER AND WIND.
- (2) SURFACE WATER DRAINAGE AND WATER DRAINAGE FACILITIES OF THE EXCAVATION.

- (3) LATERAL SUPPORTS OF THE EXCAVATION.
- (4) CONDITION EXCAVATION TO BE MAINTAINED AND SAFEGUARDS TO BE TAKEN TO PROHIBIT CREATING A NUISANCE, HEALTH HAZARD, ATTRACTIVENESS TO CHILDREN, AND FEATURES PROVIDED TO DISPENSE WITH THE ENDANGERING OF THE LIVES AND PROPERTY OF THE PUBLIC.
- (5) LAND VALUES AND USES IN THE AREA OF THE EXCAVATION.
- (6) SUCH OTHER FACTORS AS MAY BEAR OR RELATE TO THE CO-ORDINATED, ADJUSTED AND HARMONIOUS PHYSICAL DEVELOPMENT OF THE CITY.

IN ARRIVING AT ITS ULTIMATE RECOMMENDATION THE ZONING AND PLANNING COMMISSION MAY ATTACH SUCH SPECIAL CONDITIONS THERETO AS MAY BE REASONABLY NECESSARY TO ATTAIN THE OVERALL PURPOSE OF THIS ORDINANCE.

SECTION 13. INSPECTION: FOR THE PURPOSE OF ADMINISTERING AND ENFORCING THIS ORDINANCE EMPLOYEES OF THE INSPECTION SECTION OF THE DEPARTMENT OF PUBLIC WORKS OF THE CITY OF CORPUS CHRISTI, SHALL HAVE THE RIGHT TO ENTER INTO AND UPON ANY LANDS, WITHIN THE CITY LIMITS, IN OR UPON WHICH AN EXCAVATION EXISTS OR ON ANY LANDS ON WHICH OPERATIONS ARE BEING CONDUCTED IN CREATING AN EXCAVATION, TO EXAMINE AND INSPECT SUCH LANDS AND EXCAVATIONS, TO DETERMINE WHETHER THE EXCAVATION ITSELF OR THE OPERATIONS IN CREATING AN EXCAVATION ARE IN VIOLATION OF THIS ORDINANCE AND TO FURTHER DETERMINE WHETHER AN EXCAVATION PERMIT HAS BEEN SECURED AS IS REQUIRED IN THIS ORDINANCE. IF THE PERSONAL INSPECTION PROVIDED FOR HEREIN REVEALS THAT THE EXCAVATION IS BEING OPERATED OR MAINTAINED IN VIOLATION OF THE EXCAVATION PERMIT ISSUED, SAID INSPECTOR SHALL IMMEDIATELY GIVE NOTICE IN WRITING TO THE PERSON IN CHARGE AT THE SITE OF THE EXCAVATION TO CEASE OPERATIONS, SETTING FORTH THEREIN THE EXACT REASON OR REASONS FOR THE ISSUANCE OF SAID NOTICE. AFTER ISSUANCE OF SAID NOTICE THERE SHALL BE NO FURTHER OPERATION OF THE EXCAVATION UNTIL THE VIOLATIONS COMPLAINED OF BY THE INSPECTING OFFICIAL HAVE BEEN REMEDIED. SAID OPERATOR SHALL HAVE THREE (3) DAYS FROM THE DATE OF RECEIPT OF THE COMPLAINT NOTICE FROM THE INSPECTING OFFICIAL TO REMEDY THE DEFECTS COMPLAINED OF BY...

THE INSPECTOR AND TO NOTIFY THE INSPECTION SECTION OF THE DEPARTMENT OF PUBLIC WORKS OF THE CITY THAT THE DEFECTS COMPLAINED OF HAVE BEEN REMEDIED AND THAT THE EXCAVATION IS READY FOR ADDITIONAL INSPECTION. IN THE EVENT AN OPERATOR FAILS TO REMEDY THE DEFECTS COMPLAINED OF BY THE INSPECTING OFFICIAL, SAID OFFICIAL SHALL NOTIFY THE ZONING AND PLANNING COMMISSION OF THE VIOLATIONS DISCOVERED AND REQUEST THAT A HEARING BE SET FOR A REVOCATION OF SAID OPERATOR'S EXCAVATION PERMIT. A CONTINUATION OF WORK OR OPERATION OF THE EXCAVATION, OTHER THAN TO REMEDY THE DEFECTS COMPLAINED OF, AFTER WRITTEN NOTICE HAS BEEN RECEIVED BY THE OPERATOR TO CEASE THE EXCAVATION OPERATIONS SHALL CONSTITUTE A VIOLATION OF THIS ORDINANCE.

SECTION 14. REVOCATION OF EXCAVATION PERMITS: ANY EXCAVATION PERMIT ISSUED UNDER THIS ORDINANCE WHERE A NOTICE TO CEASE OPERATIONS THEREUNDER IS ISSUED BY AN INSPECTION OFFICIAL MAY BE REVOKED BY THE ZONING AND PLANNING COMMISSION OF THE CITY AFTER NOTICE AND HEARING FOR:

- (1) VIOLATION OF ANY CONDITION OF THE EXCAVATION PERMIT;
- (2) VIOLATION OF ANY PROVISION OF THIS ORDINANCE OR ANY OTHER APPLICABLE ORDINANCE OR LAW RELATING TO EXCAVATIONS;
- (3) THE EXISTENCE OF ANY CONDITION OR THE DOING OF ANY ACT CONSTITUTING OR CREATING A NUISANCE OR ENDANGERING THE LIVES OR PROPERTY OF OTHERS.

WRITTEN NOTICE OF THE TIME AND PLACE OF SUCH HEARING SHALL BE SERVED UPON THE PERSON TO WHOM THE PERMIT WAS GRANTED AT LEAST THREE (3) DAYS PRIOR TO THE DATE SET FOR SUCH HEARING. SUCH NOTICE SHALL ALSO CONTAIN A BRIEF STATEMENT OF THE GROUNDS TO BE RELIED UPON FOR REVOKING SUCH EXCAVATION PERMIT. NOTICE OF THE HEARING MAY BE GIVEN BY PERSONAL DELIVERY THEREOF TO THE PERSON TO BE NOTIFIED OR BY DEPOSIT IN THE UNITED STATES MAIL IN A SEALED ENVELOPE WITH POSTAGE PREPAID, ADDRESSED TO SUCH PERSON TO BE NOTIFIED AT THE ADDRESS APPEARING IN HIS APPLICATION. IN THE EVENT ANY APPEAL IS TAKEN FROM THE DECISION OF THE ZONING AND PLANNING COMMISSION, IN THE MANNER PRESCRIBED BY THIS ORDINANCE, ALL WORK SHALL BE STOPPED AT THE EXCAVATION WHILE THE APPEAL IS PENDING.

SECTION 15. APPEAL FROM REVOCATION OF EXCAVATION PERMIT: ANY

PERSON WHO HAS BEEN ISSUED AN EXCAVATION PERMIT WHO IS AGGRIEVED BY ITS REVOCATION BY THE ZONING AND PLANNING COMMISSION OF THE CITY, MAY APPEAL TO THE CITY COUNCIL BY FILING WITH THE CITY SECRETARY A WRITTEN NOTICE THEREOF WITHIN FIVE (5) DAYS FROM THE DATE OF THE REVOCATION OF THE EXCAVATION PERMIT. THE AGGRIEVED PERSON SHALL BE GIVEN A HEARING BEFORE THE CITY COUNCIL, IN DUE ORDER OF BUSINESS, AFTER WHICH THE CITY COUNCIL MAY BY MAJORITY VOTE SUSTAIN, OR BY TWO-THIRDS VOTE OF ITS QUORUM PRESENT, MODIFY OR OVERRULE THE ZONING AND PLANNING COMMISSION'S DECISION.

SECTION 16. TRANSFER, SALE OR ASSIGNMENT OF PERMITS: No EXCAVATION PERMIT ISSUED UNDER THE TERMS OF THIS ORDINANCE TO ANY PERSON SHALL EVER BE TRANSFERRED, SOLD, ASSIGNED OR OTHERWISE DISPOSED OF IN ANY MANNER TO ANY OTHER PERSON WITHOUT THE WRITTEN CONSENT OF THE CITY COUNCIL.

SECTION 17. PROHIBITED EXCAVATION LOCATIONS: No EXCAVATION PERMIT SHALL BE ISSUED FOR THE COMMENCING OF AN EXCAVATION WHICH IS LOCATED NEARER THAN ONE HUNDRED FIFTY (150) FEET OF ANY RESIDENCE, BUILDING OR STRUCTURE WITHOUT THE APPLICANT HAVING FIRST SECURED WRITTEN PERMISSION OF THE OWNER OR OWNERS THEREOF. No EXCAVATION PERMIT SHALL BE ISSUED FOR THE COMMENCING OF AN EXCAVATION WHICH IS LOCATED NEARER THAN THREE HUNDRED FIFTY (350) FEET TO ANY EXTERIOR PROPERTY LINE BOUNDARY OF LANDS UTILIZED FOR A PUBLIC OR PAROCHIAL SCHOOL, A COLLEGE, A UNIVERSITY, A HOSPITAL, A CHURCH, A PUBLIC BUILDING, A CEMETERY OR WITHIN AN AREA WHERE THERE IS OF PUBLIC RECORD RESTRICTIONS OR COVENANTS PROHIBITING EXCAVATIONS.

THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, THROUGH THE ZONING AND PLANNING COMMISSION OF THE CITY, SHALL HAVE THE POWER, AND RESERVES THE AUTHORITY, TO REFUSE ANY APPLICATION FOR AN EXCAVATION PERMIT AT ANY PARTICULAR LOCATION WITHIN THE CITY LIMITS OF THE OF THE CITY OF CORPUS CHRISTI, TEXAS, BY REASON OF SUCH PARTICULAR LOCATION AND THE CHARACTER AND VALUE OF THE PERMANENT IMPROVEMENTS ALREADY ERECTED ON OR APPROXIMATELY ADJACENT TO THE PARTICULAR LOCATION IN QUESTION, AND THE USE TO WHICH THE LAND AND SURROUNDINGS ARE ADOPTED FOR...

*add reference
location
retract
flood
control*

SCHOOL, COLLEGE, UNIVERSITY, HOSPITAL, PARK, CIVIC PURPOSES, OR FOR HEALTH AND SAFETY REASONS, OR ANY OF THEM, WHEN IN THE ZONING AND PLANNING COMMISSIONS' OPINION THE EXCAVATING OR OPERATION OF AN EXCAVATION ON SUCH PARTICULAR LOCATION MIGHT CONSTITUTE A NUISANCE, BE INJURIOUS TO PUBLIC HEALTH, A PUBLIC HAZARD OR A DISADVANTAGE TO THE CITY IN ITS PLANNED GROWTH, OR TO ITS INHABITANTS AS A WHOLE, OR TO A SUBSTANTIAL NUMBER OF ITS INHABITANTS OR VISITORS AS A GROUP.

SECTION 18. EXCLUSIONS: NOTHING IN THIS ORDINANCE SHALL BE CONSTRUED TO EFFECT OR APPLY TO ANY PERSON ENGAGED IN NORMAL AGRICULTURAL, INDUSTRIAL, HORTICULTURAL AND RESIDENTIAL ENJOYMENT AND USE OF PROPERTY. THE PROVISIONS OF THIS ORDINANCE SHALL NOT APPLY TO NOR EFFECT A PERSON IN EXCAVATING TO INSTALL, CONSTRUCT OR COMPLETE A STRUCTURE, BUILDING OR FACILITY OF ANY KIND WHEN THE PLANS AND SPECIFICATIONS FOR SUCH OBJECTIVE HAVE BEEN SUBMITTED AND APPROVED BY THE DEPARTMENT OF PUBLIC WORKS OR ZONING AND PLANNING COMMISSION OF THE CITY OR FOR WHICH A PERMIT HAS BEEN ISSUED BY THE INSPECTION SECTION OF THE DEPARTMENT OF PUBLIC WORKS OF THE CITY OF CORPUS CHRISTI, TEXAS, PROVIDED THAT THE PROGRESS ON SAID FACILITY OR PROJECT IS NOT DELAYED FOR A PERIOD OF MORE THAN TWO WEEKS EXCEPTING DELAYS ATTRIBUTABLE TO ACTS OF NATURE AND FURTHER PROVIDING THAT SUCH EXCAVATION OR EXCAVATIONS CREATED ARE NOT OF A PERMANENT NATURE AND WILL NOT BE LEFT OPEN AND UNCOVERED ON THE COMPLETION OF SAID PROJECT WITHOUT AUTHORIZATION OF SUCH PERMIT. THE PROVISIONS OF THIS ORDINANCE SHALL NOT APPLY TO NOR AFFECT THE EXCAVATION OPERATIONS OF PRIVATE UTILITY CONCERNS CONSTRUCTING FACILITIES BY VIRTUE OF A FRANCHISE OR A SPECIAL PERMIT ISSUED BY THE CITY OF CORPUS CHRISTI, TEXAS, PROVIDED THAT THE PROGRESS ON SAID PRIVATE UTILITY PROJECT OR FACILITY IS NOT DELAYED FOR A PERIOD OF MORE THAN TWO WEEKS, EXCEPTING DELAYS ATTRIBUTABLE TO ACTS OF NATURE, AND FURTHER PROVIDING THAT SUCH EXCAVATION OR EXCAVATIONS CREATED ARE NOT OF A PERMANENT NATURE AND WILL NOT BE LEFT OPEN AND UNCOVERED ON THE COMPLETION OF THE FACILITY OR PROJECT. THIS ORDINANCE SHALL NOT APPLY NOR EFFECT THE OPERATIONS OF THE UNITED STATES OF AMERICA, THE STATE OF TEXAS NOR ANY POLITICAL SUBDIVISION OF EITHER THEREOF.

*Re
written
date
change
fee*

SECTION 19. NON-REPEAL OF CERTAIN ORDINANCES: THIS ORDINANCE SHALL NOT BE CONSTRUED AS REPEALING, ALTERING OR OTHERWISE AFFECTING THE

VALIDITY AND BINDING FORCE OF ANY ORDINANCE PERTAINING TO FIRE PREVENTION, HEALTH, SANITATION, NUISANCE, OR SAFETY OF PERSONS OR PROPERTY HERETOFORE ENACTED AND NOW IN EFFECT BY THE CITY OF CORPUS CHRISTI, TEXAS.

SECTION 20. SEVERABILITY: IF FOR ANY REASON ANY SECTION, PARAGRAPH, SUBDIVISION, CLAUSE, PHASE OR PROVISION OF THIS ORDINANCE SHALL BE HELD INVALID, IT SHALL NOT AFFECT ANY VALID PROVISIONS OF THIS OR ANY OTHER ORDINANCE OF THE CITY OF CORPUS CHRISTI TO WHICH THESE RULES AND REGULATIONS RELATE.

SECTION 21. AMENDMENT: THIS ORDINANCE MAY BE CHANGED, ALTERED, MODIFIED OR REPEALED, IN WHOLE OR IN PART AT ANY TIME BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS.

SECTION 22. REPEAL OF CONFLICTING ORDINANCES: ALL ORDINANCES AND PARTS OF ORDINANCES EXCEPT THOSE AS PROVIDED IN SECTION 19 ABOVE IN CONFLICT WITH ANY OF THE PROVISIONS OF THIS ORDINANCE ARE HEREBY EXPRESSLY REPEALED.

SECTION 23. PENALTY: IT SHALL BE UNLAWFUL AND AN OFFENSE FOR ANY PERSON TO VIOLATE OR NEGLECT TO COMPLY WITH ANY PROVISION HEREOF IRRESPECTIVE OF WHETHER OR NOT THE VERBAGE OF EACH SECTION HEREOF CONTAINS THE SPECIFIC LANGUAGE THAT SUCH VIOLATION OR NEGLECT IS UNLAWFUL AND IS AN OFFENSE. ANY PERSON WHO SHALL VIOLATE ANY OF THE PROVISIONS OF THIS ORDINANCE, OR ANY OF THE PROVISIONS OF THE EXCAVATION PERMIT ISSUED PURSUANT HERETO, SHALL BE DEEMED GUILTY OF A MISDEMEANOR AND SHALL ON CONVICTION THEREOF, BE FINED IN ANY SUM NOT LESS THAN \$5.00 NOR MORE THAN \$200.00 AND THE VIOLATION OF EACH SEPARATE PROVISION OF THIS ORDINANCE, AND OF SAID EXCAVATION PERMIT, SHALL BE CONSIDERED A SEPARATE OFFENSE, AND EACH DAYS VIOLATION ON EACH SEPARATE PROVISION THEREOF SHALL BE CONSIDERED A SEPARATE OFFENSE. IN CASE A CORPORATION IS THE OPERATOR OR MAINTAINER OF ANY EXCAVATION IN VIOLATION OF ANY PROVISION OF THIS ORDINANCE, THE PRESIDENT, VICE PRESIDENT, SECRETARY, TREASURER, MANAGER AND/OR AGENT OR EMPLOYEE IN CHARGE OF OR OPERATING THE EXCAVATION SHALL BE SEVERALLY LIABLE FOR THE PENALTIES HEREIN PRESCRIBED.

SECTION 24. PUBLICATION: THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER ITS PUBLICATION ONE TIME IN THE OFFICIAL PUBLICATION OF THE CITY OF CORPUS CHRISTI, WHICH PUBLICATION SHALL CONTAIN THE CAPTION STATING IN SUMMARY THE PURPOSE OF THE ORDINANCE AND PENALTY FOR VIOLATION THEREOF.

INDEXED: 7/28/58

AN ORDINANCE

AMENDING ORDINANCE NO. 4416, HERETOFORE ADOPTED BY THE CITY COUNCIL ON THE 14TH DAY OF DECEMBER, 1955, BY AMENDING THE FIRST SENTENCE OF SECTION 18 THEREOF SO AS TO BETTER DEFINE THE EXEMPTIONS AND EXCLUSIONS IN SAID ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, THE POSSIBILITY EXISTS THAT SECTION 18 OF ORDINANCE NO. 4416, GENERALLY REFERRED TO AS THE EXCAVATION ORDINANCE, MIGHT BE SUBJECT TO BEING CONSTRUED TO AN EFFECT CONTRARY TO THE INTENTION OF THE CITY COUNCIL ADOPTING SAID ORDINANCE, AND IT IS DESIRED TO MORE SPECIFICALLY SPECIFY THE EXEMPTIONS AND EXCLUSIONS INTENDED TO BE PERMITTED UNDER THE TERMS OF SAID ORDINANCE BY A REWORDING OF SAID SECTION 18;

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

SECTION 1. THAT ORDINANCE NO. 4416, HERETOFORE ADOPTED BY THE CITY COUNCIL ON THE 14TH DAY OF DECEMBER, 1955, BE AMENDED BY AMENDING THE FIRST SENTENCE OF SECTION 18 THEREOF SO THAT THE FIRST SENTENCE SHALL HEREAFTER READ AS FOLLOWS:

SECTION 18. EXCLUSIONS AND EXEMPTIONS: NOTHING IN THIS ORDINANCE SHALL BE CONSTRUED TO AFFECT OR APPLY TO THE USUAL OPERATIONS OF ANY PERSON OR PERSONS ENGAGED IN NORMAL AGRICULTURAL, HORTICULTURAL AND RESIDENTIAL ENJOYMENT AND USE OF PROPERTY SO USED FOR AGRICULTURAL, HORTICULTURAL AND/OR RESIDENTIAL ENJOYMENT AND USE, AND THIS ORDINANCE SHALL NOT BE CONSTRUED TO APPLY TO INDUSTRIAL OPERATIONS OR INDUSTRIAL USES OF A NATURE NOT GENERALLY OR USUALLY INVOLVING THE REMOVAL OF THE EXCAVATED MATERIAL FROM THE PREMISES OF THE INDUSTRY MAKING SUCH EXCAVATION.

SECTION 2. THE NECESSITY FOR REWORDING SECTION 18 OF ORDINANCE NO. 4416, GENERALLY REFERRED TO AS THE EXCAVATION ORDINANCE, TO MORE SPECIFICALLY SPECIFY THE EXEMPTIONS AND EXCLUSIONS INTENDED TO BE PERMITTED UNDER THE TERMS OF SAID ORDINANCE CREATES A PUBLIC EMERGENCY AND AN IMPERATIVE PUBLIC NECESSITY REQUIRING THE SUSPENSION OF THE CHARTER RULE THAT NO ORDINANCE OR RESOLUTION SHALL BE PASSED FINALLY ON THE DATE BY IS INTRODUCED, AND THAT SUCH ORDINANCE OR RESOLUTION SHALL BE READ AT THREE SEVERAL MEETINGS OF THE CITY COUNCIL, AND THE MAYOR, HAVING DECLARED THAT SUCH PUBLIC EMERGENCY AND IMPERATIVE

#4959

NECESSITY EXIST, AND HAVING REQUESTED THE SUSPENSION OF SUCH CHARTER RULE,
AND THAT THIS ORDINANCE BE PASSED FINALLY ON THE DATE OF ITS INTRODUCTION,
AND TAKE EFFECT AND BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE,
IT IS ACCORDINGLY SO ORDAINED.

PASSED AND APPROVED, THIS THE _____ DAY OF JANUARY, 1958.

MAYOR

THE CITY OF CORPUS CHRISTI, TEXAS

ATTEST:

CITY SECRETARY

APPROVED AS TO LEGAL FORM THIS
THE _____ DAY OF JANUARY, 1958:

CITY ATTORNEY

AN ORDINANCE 6881



AMENDING SECTION 14-5 OF THE CORPUS CHRISTI CITY CODE, 1958, SO AS TO PROVIDE FOR PUBLIC HEARING BEFORE THE ZONING AND PLANNING COMMISSION UPON RECEIPT OF APPLICATION FOR AN EXCAVATION PERMIT; AMENDING SECTION 14-5 OF THE CORPUS CHRISTI CITY CODE, 1958, SO AS TO PROVIDE FOR APPEAL TO THE CITY COUNCIL FROM THE RULINGS OF THE ZONING AND PLANNING COMMISSION AND PROVIDING FOR A PUBLIC HEARING BEFORE THE CITY COUNCIL AND NOTICE OF SAID PUBLIC HEARING; PROVIDING FOR PUBLICATION; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. That Section 14-5 of the Corpus Christi City Code, 1958, BE AND THE SAME IS HEREBY AMENDED TO HEREAFTER READ AS FOLLOWS:

"Section 14-5. PERMIT-APPLICATION-REVIEW BY ZONING AND PLANNING COMMISSION.

UPON RECEIPT OF AN APPLICATION FOR AN EXCAVATION PERMIT, THE ZONING AND PLANNING COMMISSION OF THE CITY SHALL SET THE SAME DOWN FOR PUBLIC HEARING. WRITTEN NOTICE OF SAID PUBLIC HEARING BEFORE THE ZONING AND PLANNING COMMISSION SHALL BE SENT TO THE OWNERS OF REAL PROPERTY LOCATED WITHIN 400' OF THE PROPERTY ON WHICH THE EXCAVATION IS PROPOSED. SAID NOTICE IS TO BE GIVEN AT LEAST FIVE DAYS BEFORE THE HEARING BY MAILING SAID NOTICE TO THE OWNERS WHO HAVE RENDERED THEIR PROPERTY FOR CITY TAXES, AS THE OWNERSHIP APPEARS ON THE LAST APPROVED CITY TAX ROLL. WHEN A PORTION OF THE PROPERTY LOCATED WITHIN 400' OF THE PROPERTY UPON WHICH THE EXCAVATION IS PROPOSED IS LOCATED OUTSIDE THE CITY LIMITS OR WHICH WAS ANNEXED TO THE CITY AFTER THE FINAL DATE FOR MAKING THE RENDITIONS WHICH ARE INCLUDED ON THE LAST APPROVED CITY TAX ROLL, THEN NOTICE TO SUCH OWNERS SHALL BE GIVEN BY PUBLICATION AS SET FORTH BELOW. IN ADDITION TO THE NOTICE HEREIN PROVIDED, NOTICE OF SAID PUBLIC HEARING SHALL BE PUBLISHED ONCE IN THE OFFICIAL PUBLICATION OF THE CITY, AT LEAST FIVE DAYS PRIOR TO THE DATE OF SAID PUBLIC HEARING. UPON CONCLUSION OF THE HEARING, THE ZONING AND PLANNING COMMISSION SHALL SUBMIT ITS RECOMMENDATION TO THE DEPARTMENT OF PUBLIC WORKS WHICH SHALL GRANT OR REFUSE THE PERMIT IN ACCORDANCE WITH SUCH RECOMMENDATION."

SECTION 2. THAT SECTION 14-9 OF THE CORPUS CHRISTI CITY CODE,
1958, BE AND THE SAME IS HEREBY AMENDED TO HEREAFTER READ AS FOLLOWS:

SECTION 14-9. PERMIT--APPEALS TO CITY COUNCIL.

IN THE EVENT AN APPLICANT IS REFUSED AN EXCAVATION PERMIT, HE MAY NOT LATER THAN TEN DAYS FROM THE DATE OF RECEIVING NOTICE OF SUCH REFUSAL, APPEAL TO THE CITY COUNCIL FOR A PUBLIC HEARING ON THE REFUSAL, BY DIRECTING A LETTER TO THE CITY COUNCIL SETTING FORTH THEREIN THE DATE OF DENIAL OF THE EXCAVATION PERMIT AND THE REASONS WHY THE APPLICANT FEELS HE HAS BEEN WRONGED IN BEING REFUSED THE PERMIT. IN THE EVENT THE ZONING AND PLANNING COMMISSION OF THE CITY RECOMMENDS TO THE DEPARTMENT OF PUBLIC WORKS THAT THE PERMIT BE GRANTED, ANY PERSON MAY WITHIN TEN DAYS OF THE RECOMMENDATION TO GRANT THE PERMISSION BY THE ZONING AND PLANNING COMMISSION, APPEAL TO THE CITY COUNCIL FOR A PUBLIC HEARING ON THE QUESTION OF THE GRANTING OR REFUSAL, AS THE CASE MAY BE, OF THE PERMIT, BY DIRECTING A LETTER TO THE CITY COUNCIL ADDRESSED TO THE OFFICE OF THE CITY SECRETARY, AT THE CITY HALL, CORPUS CHRISTI, TEXAS, SETTING FORTH THEREIN THE DATE OF THE RECOMMENDATION OF THE ZONING AND PLANNING COMMISSION, AND THE REASONS WHY THE PERSON SO APPEALING FEELS THAT HE HAS BEEN OR WILL BE INJURED BY THE ACTION FROM WHICH HE IS TAKING SUCH APPEAL. UPON THE FILING OF SAID APPEAL, THE RIGHT TO OPERATE UNDER ANY SUCH EXCAVATION PERMIT SHALL BE SUSPENDED UNTIL FINAL DETERMINATION BY THE CITY COUNCIL AND THEN IN ACCORDANCE WITH THE FINAL DECISION OF THE CITY COUNCIL. THE CITY COUNCIL SHALL, ON RECEIVING SUCH NOTICE OF APPEAL, DIRECT THE CITY SECRETARY TO PLACE IT ON THE CITY COUNCIL'S WORK AGENDA TO BE CONSIDERED IN THE DUE ORDER OF CITY BUSINESS. THE CITY SECRETARY SHALL THEN NOTIFY THE APPELLANT AS TO THE DATE AND PLACE WHERE THE CITY COUNCIL WILL CONSIDER THE APPEAL, AND PUBLISH A NOTICE ONE TIME IN THE OFFICIAL NEWSPAPER AT LEAST FIVE DAYS BEFORE THE DATE WHEN THE CITY COUNCIL WILL CONSIDER THE APPEAL. THE CITY COUNCIL ON CONDUCTING THE PUBLIC HEARING REGARDING THE APPEAL MAY, BY MAJORITY VOTE OF ALL OF THE COUNCIL, EITHER GRANT OR REFUSE TO GRANT THE PERMIT. IN THE EVENT THE PERMIT IS GRANTED, PERMIT SHALL BE ISSUED BY THE DIRECTOR OF PUBLIC WORKS IN ACCORDANCE WITH THE DIRECTION OF THE CITY COUNCIL."

SECTION 3. PUBLICATION SHALL BE MADE IN THE OFFICIAL PUBLICATION OF THE CITY OF CORPUS CHRISTI, ONE TIME, WHICH PUBLICATION SHALL CONTAIN THE CAPTION STATING IN SUBSTANCE THE PURPOSE OF THE ORDINANCE.

SECTION 4. THE NECESSITY FOR IMMEDIATELY PROVIDING A METHOD OF PUBLIC HEARING AND APPEAL, AS HEREINAFORE PROVIDED, CREATES A PUBLIC EMERGENCY AND AN IMPERATIVE PUBLIC NECESSITY REQUIRING THE SUSPENSION OF THE CHARTER RULE THAT NO ORDINANCE OR RESOLUTION SHALL BE PASSED FINALLY ON THE DATE OF ITS INTRODUCTION AND THAT SUCH ORDINANCE OR RESOLUTION SHALL BE READ AT THREE SEVERAL MEETINGS OF THE CITY COUNCIL, AND THE MAYOR HAVING DECLARED SUCH EMERGENCY AND NECESSITY TO EXIST, HAVING REQUESTED THE SUSPENSION

OF SAID CHARTER RULE AND THAT THIS ORDINANCE BE PASSED FINALLY ON THE DATE
OF ITS INTRODUCTION AND TAKE EFFECT AND BE IN FULL FORCE AND EFFECT FROM
AND AFTER ITS PASSAGE AND PUBLICATION, IT IS ACCORDINGLY SO ORDAINED THIS
THE _____ DAY OF APRIL, 1963.

ATTEST:

MAYOR

THE CITY OF CORPUS CHRISTI, TEXAS

CITY SECRETARY

APPROVED AS TO LEGAL FORM THIS
THE _____ DAY OF APRIL, 1963:

CITY ATTORNEY

File
LRC
OK as far as I'm concerned
AK

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING STANDARDS OF PUBLIC SAFETY AND REQUIRING THE FENCING OF BORROW PITS, SAND PITS AND GRAVEL PITS WITHIN THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1: DEFINITIONS. Unless otherwise specified herein, the following officers, parties and terms shall be defined as follows:

- (1) "City" shall mean the City of Wichita, Sedgwick County, Kansas.
- (2) "Superintendent of Central Inspection" shall mean the Superintendent of the Division of Central Inspection of the Department of Public Works of the City of Wichita, Kansas, or his duly authorized representative.
- (3) "Person" shall mean a natural person, legal entity or organization including, but not limited to, an individual, firm, association, joint stock company, syndicate, joint venture, partnership or corporation.
- (4) "Owner" shall mean any person, who, alone, or jointly or severally with others:
 - (a) Shall have record legal title to any premises presently or in the future being operated as a borrow pit, sand pit or gravel pit, with or without accompanying actual possession thereof; or,

- (b) Shall have charge of any such premises as owner, agent of the owner, executor, administrator, trustee, or guardian of the estate of the owner, lessee, tenant or anyone having the right of use of such borrow pit, sand pit, or gravel pit under authority of the legal titleholder.
- (5) "Premises" shall mean a lot, plot or parcel of land being operated as, or previously operated as, a site for the operation of a borrow pit, sand pit or gravel pit.
- (6) "Borrow Pit" shall mean a pit or bank from which material is taken, or has been taken, for use in filling or embanking or other similar uses.
- (7) "Sand-Gravel Pit" shall mean an excavation from which sand or gravel is removed, or has been removed.

SECTION 2: REGULATION OF BORROW PITS, SAND PITS AND GRAVEL

PITS. It is hereby declared to be unlawful for any person to operate or maintain within the City of Wichita any borrow pit, sand pit or gravel pit unless the following conditions of operation, maintenance and public protection are established and maintained by the owner of such premises:

- (1) A good and sufficient fence shall be constructed so as to completely enclose said borrow pit, sand pit or gravel pit.
- (2) In no case shall the construction of the fence be within 15 feet of the actual excavation at all points of said excavation and such fence may provide for reasonable access gates installed at the

height of the fence, which gates shall be locked except during working hours when the pit is being used for the removal of sand, gravel or filling material or other business activity. Such fence shall be maintained in good repair.

- (3) Such fences shall be a minimum height of fifty-eight inches (58") and shall be of the following types construction:
- (a) A 58" V-mesh wire fence; or,
 - (b) A 48" V-mesh wire fence with two or more strands of barbed wire; or,
 - (c) A solid metal or solid masonry fence; or,
 - (d) A wood fence which may have cracks or openings not in excess of five percent (5%) of the area of such fence.
- (4) Provided, however, that fences existing at the time of the taking effect of this ordinance shall be inspected by the Superintendent of Central Inspection and approved or disapproved by him, or he shall make requirements to have substantial compliance with the above section (3), a, b, c, and d. In such cases the owners shall have the right to appeal the decision of the Superintendent of Central Inspection, and approval of existing facilities by either said Superintendent of Central Inspection or a majority of the City Commissioners shall be deemed compliance with this ordinance.

SECTION 3: Any violation of this ordinance is to be deemed a misdemeanor.

SECTION 4: Any continued violation of the foregoing provisions of this ordinance shall be regarded as a public nuisance and in addition to the remedy of prosecution as provided in this ordinance, the Superintendent of Central Inspection is hereby authorized, empowered and directed to abate or suppress any such nuisance

(1) For the purpose of carrying out the provisions of this section, the Superintendent of Central Inspection is hereby authorized to enter into or upon any premises occupied by a borrow pit, sand pit or gravel pit, for the purpose of making an examination and to determine whether or not a nuisance exists.

(2) If, upon investigation, the Superintendent of Central Inspection determines that a nuisance does exist, he shall, after giving proper notice as provided in Section 5 of this ordinance, proceed to cause the nuisance to be abated or suppressed in order that the site comply with the requirements of Section 2 of this ordinance, and to tax the cost thereof against the lot or tract of ground upon which the nuisance is located and maintained as provided by law.

SECTION 5: Whenever the Superintendent of Central Inspection shall determine that there has been a continuing violation of any provisions of this ordinance constituting a public nuisance, he shall give notice of such alleged violation to the person or persons responsible therefor, as hereinafter provided. Such notices shall conform to the following:

- (1) They shall be in writing;
- (2) The violations alleged to exist or to have been committed shall be itemized;
- (3) They shall provide time for correction of the violation, such time not to exceed thirty (30) days;
- (4) They shall be addressed to and served upon the owner and occupants of the premises, if there be any such occupants.
- (5) Provided, that such notices shall be deemed properly served upon such owner, operator, or occupant if a copy thereof is sent by certified mail to his last known address; provided further, if the notice cannot be conveniently served by the aforescribed method of service, service of the notice is to be made upon such person or persons by at least one publication in the official newspaper of the City of Wichita, Kansas, such publication to contain the conditions of notice.

SECTION 6: Any person who shall, without the consent of the owner or occupant, enter upon the premises after all gates of such fence have been closed and locked, shall be guilty of a misdemeanor.

SECTION 7: This ordinance shall be in force and effect from and after its passage, approval and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this ____ day of _____, 1963.

MAYOR

ATTEST:

City Clerk

MAY 16, 1963

JOHN DEKKER, ASSISTANT CITY ATTORNEY

ROBERT A. LAKIN, SENIOR PLANNER

ORDINANCE ESTABLISHING STANDARDS OF SAFETY -
BORROW PITS; SAND AND GRAVEL PITS

IF IT IS THE COMMISSION'S DESIRE TO ADOPT AN ORDINANCE REGULATING SAND AND BORROW PITS, I WOULD SUGGEST THAT SUBSECTION (B) ON PAGE 3 OF THE DRAFT BE CHANGED TO READ AS FOLLOWS:

- (b) EXCAVATION WITHIN SAID PREMISES SHALL NOT APPROACH NEARER THAN:
- (1) _____ FEET TO ANY RESIDENTIALLY ZONED DISTRICT.
 - (2) 125 FEET TO A SECTION LINE OR TO THE CENTER LINE OF A SECTION-LINE ROAD OR A MAJOR TRAFFIC STREET AS DEFINED IN THE MASTER PLAN FOR THOROFARES AND SUBSEQUENT AMENDMENTS THERETO.
 - (3) 100 FEET TO A HALF-SECTION LINE.
 - (4) 60 FEET TO THE CENTER LINE OF ANY OTHER STREET, ALLEY OR PUBLIC WAY.

THE SUGGESTED DISTANCES ARE ONES WHICH WE USED IN APPROVING BORROW PITS FOR THE CONSTRUCTION OF I-235. THE EXCEPTION TO THIS IS THE DISTANCE TO A RESIDENTIAL DISTRICT. WE DID NOT USE SUCH A PROVISION AT THAT TIME. OUR REPORT ON FLOODING (IN WHICH A PROTO-TYPE ZONING REGULATION WAS PROPOSED) SUGGESTED THAT THE DISTANCE BE ESTABLISHED AT 500 FEET. I AM A LITTLE DOUBTFUL THAT THIS COULD BE SUPPORTED AS A REASONABLE REQUIREMENT. PERHAPS THE DISTANCE OF A SHORT CITY BLOCK, I.E. 300 FEET, WOULD BE MORE APPROPRIATE.

ALTHOUGH I DO NOT BELIEVE IT SHOULD BE BROUGHT UP IN PUBLIC MEETING AT THIS TIME SINCE WE ARE NOT PREPARED TO PROVIDE THE NECESSARY REGULATION, THE MATTER OF PLANNING A RE-USE FOR THESE AREAS SHOULD BE KEPT IN MIND. I BELIEVE I HAVE MENTIONED THIS IN EARLIER MEMORANDUMS. I THINK THIS IS A MATTER FOR THE PLANNING DEPARTMENT TO CONSIDER IN CONJUNCTION WITH WHATEVER NEW ZONING REGULATIONS IT IS ABLE TO DEVELOP IN THE NEAR FUTURE.

ROBERT A. LAKIN
SENIOR PLANNER

RAL:MM

*March
File*

AN ORDINANCE ESTABLISHING STANDARDS OF PUBLIC SAFETY IN THE OPERATION AND MAINTENANCE OF BORROW PITS, SAND PITS, AND GRAVEL PITS WITHIN THE CITY OF WICHITA, KANSAS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. DEFINITIONS: Unless otherwise specified herein, the following officers, parties and terms shall be defined as follows:

- (1) CITY shall mean, Wichita, Sedgwick County, Kansas;
- (2) DIRECTOR OF PUBLIC WORKS shall mean the Director of the department of Public Works of the City of Wichita, Kansas, or his authorized representative.
- (3) PERSON shall mean a natural person or a legal entity such as, but not limited to, an individual, firm, association, joint stock company, syndicate, joint venture, partnership or corporation.
- (4) OWNER shall mean any person, who, alone or jointly, or severally with others:
 - (a) Shall have record legal title to any premises presently or in the future being operated as a borrow pit, sand pit, or gravel pit, with or without accompanying actual possession thereof; or
 - (b) Shall have charge of any such premises as owner, or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.
- (5) PREMISES shall mean a lot, plot or parcel of land being operated as or proposed as a site for the operation of a borrow pit, sand pit or gravel pit.
- (6) BORROW PIT shall mean a pit or bank from which material is taken for use in filling or embanking.

*Source
Wichita*

- (7) SAND-GRAVEL PIT shall mean an excavation from which sand or gravel is removed for commercial use.

SECTION 2. ENFORCEMENT OFFICER: The Director of Public Works shall be responsible for the enforcement of this ordinance and is hereby authorized to make such investigations, issue notices, orders and directions as are necessary for the enforcement of the provisions of this ordinance.

SECTION 3. NOTICES: Whenever the Director of Public Works determines that there has been a violation of any provision of this ordinance, he shall give notice of such alleged violation to the person or persons responsible therefor, as hereinafter provided. Such notices shall:

- (a) Be in writing;
- (b) Particularize the violations alleged to exist or to have been committed;
- (c) Provide a reasonable time for correction of the violation particularized;
- (d) Be addressed to and served upon the owner and/or occupants of the premises;
- (e) Provided, that such notices shall be deemed properly served upon such owner, operator, or occupant, if a copy thereof is served upon him personally or a copy thereof is sent by certified mail to his last known address; provided further, if the notice cannot be conveniently served by the aforescribed method of service, service of the notice is to be made upon such person or persons by at least one publication in the official newspaper of the City of Wichita, Kansas, such publication to contain the conditions of notice.

SECTION 4. REGULATION OF BORROW PITS, SAND PITS AND GRAVEL PITS: It is hereby declared to be unlawful for any person to operate or maintain within the City of Wichita, Kansas, any borrow pit, sand pit or gravel pit accessible to members of the public, unless the following conditions of operation, maintenance and public protection are established and maintained by the owner of such

premises:

- (a) A 58 inch V-mesh wire fence on 7-foot steel posts spaced 16 feet apart shall be constructed around the premises being operated and maintained as a borrow pit, sand pit or gravel pit. Construction of such fence shall be upon the property line and may provide for reasonable access gates installed at the height of the fence, which gates shall be locked except when in use *(allow during working hours etc)*
- (b) Excavation within said premises shall not approach nearer than 15 feet to the property line.

Any continued violation of the foregoing provisions shall be regarded as a public nuisance and in addition to the remedy of prosecution and enforcement as provided in this ordinance, the Director of Public Works is hereby authorized, empowered, and directed on proper notice to abate or suppress any such nuisance and for the purpose of carrying out the provisions of this section the Director of Public Works is hereby authorized to enter into or upon any premises operated as a borrow pit, sand pit or gravel pit for the purpose of making an examination and to determine whether or not a nuisance exists. If, upon investigation, the Director of Public Works determines that a nuisance does exist, he shall, after giving the proper notice to the owner and/or occupant of the premises upon which the nuisance is located, proceed to cause the nuisance to be abated or suppressed and to tax the cost thereof against the lot or tract of ground upon which the nuisance is located and maintained as provided by law.

SECTION 5. This Ordinance shall be in force and effect from and after its passage, approval and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this ___ day of _____, 1963

ATTEST:

Mayor

City Clerk

WICHITA-SEDGWICK COUNTY

DATE

April 29, 1963

METROPOLITAN AREA PLANNING DEPARTMENT

TO John Dekker, Assistant City Attorney
FROM Robert A. Lakin, Senior Planner
SUBJECT DR 60-5 - Borrow and Sand and Gravel Pits, Private Lakes, etc.

You have asked for information concerning regulation of sand and borrow pits in the Wichita area. This matter has been one of concern to the Planning staff and Commission over the past several years. In addition to certain material which we are sending on loan to you, I am also enclosing a memo to the Planning Commission from the staff dated March 16, 1960 and a copy of a memo from Lawrence Curfman to the Department concerning that proposed amendment.

Eugene Pirtle was also concerned with this matter last year at which time we loaned him some of these same reports. I do not know if he prepared anything on it or even had time to work on the matter. A copy of our letter of transmittal to him is also included.

Your attention is particularly invited to our report on Flooding in which we have set out a prototype regulation governing borrow pits and sand pits from a zoning standpoint. There is also an excellent report prepared by the National Sand and Gravel Association concerning rehabilitation of these areas. It is my opinion, as I mentioned to you before, that this is an extremely important facet of sand pit regulation in an urban area. The British reports are a little heavy I think, however, there are some comments worth reading in Part 1, page 30 concerning matters of "Damaged Amenity" and on page 35 "Conflict with Other Forms of Land Use". Part 18 of the British reports does contain some discussion of after treatment or reclamation of mined out areas. Also included is a Planning Advisory Service Report No. 49 on the regulation of quarries. You might find some material in this as to how other areas are handling this problem. I will be happy to discuss any of these matters with you at your convenience if you deem it advisable.

Robert A. Lakin

Robert A. Lakin
Senior Planner

RAL:an
Attachments (listed on page 2)

April 29, 1963

Attachments:

P.A.S. Report 49
Report of the Advisory Committee on Sand and Gravel, Parts 1 and 2,
Ministry of Town and Country Planning
Report of the Advisory Committee on Sand and Gravel, Parts 11, 12
and 13, Ministry of Housing and Local Government
Report of the Advisory Committee on Sand and Gravel, Part 18,
Ministry of Housing and Local Government
Evaluation of Dust and Noise Condition at Typical Sand & Gravel
Plants by the Industrial Hygiene Foundation of America, Inc.
The Urban Future by Dennis O'Harrow
Case Histories: Rehabilitation of Worked-out Sand and Gravel
Deposits by the National Sand and Gravel Association
Flooding by the Wichita Metropolitan Area Planning Department
Copy of a letter to Eugene Pirtle, Assistant City Attorney
Memo to Planning Commission dated March 16, 1960; Subject: DR 60-5
Memo from Lawrence Curfman dated June 17, 1960; Subject: DR 60-5

DR60-5~~8~~

April 16, 1963

Robert K. Lister, Planner II
Robert A. Lakin, Senior Planner

Sand Pits and Borrow Pits

John Dekker of the Legal Department has been asked to prepare an ordinance which will control the operation of borrow pits and sand pits within the city. We have done some preliminary work on this when we had all of the borrow pits for the West Bypass. Included in this preliminary work were standards for fencing, standards for nearness of excavations to existing or proposed roads and standards for levies when the area was located near to the Flood Control and where the excavations could cause a failure in the structure.

Please hunt up for Dekker from the material that we have on this subject. Among the material that we have is a letter which we wrote to the Manager either as a DR or a direct communication regarding standards for borrow pits, etc. Also survey some of the DR's which may provide general standards for borrow pits and CU's on specific borrow pits. Check the latter CU cases as to standards evolved over a period of time. Also check in the library for any material; I believe there are some publications from England on sand pits and also a brochure or two from the National Sand and Gravel Association regarding redevelopment of said pits. When you have this material together, bring it in and we'll see what we want to send to Dekker.

Robert A. Lakin
Senior Planner

RAL:mm

DR 60-5

EUGENE PIRTLE
CHIEF ASSISTANT CITY ATTORNEY
ROBERT A. LAKIN
SENIOR PLANNER

JULY 2, 1962

SAND AND GRAVEL EXCAVATION REGULATIONS

ATTACHED ARE SEVERAL REPORTS AND PUBLICATIONS CONCERNING THE REGULATION OF SAND AND GRAVEL PITS. THE LATEST AMONG THESE IS THE PLANNING DEPARTMENT REPORT ON FLOODING. ON PAGE 66, THERE APPEARS A PROTOTYPE REGULATION WHICH, AT THE TIME OF THE WRITING OF THIS REPORT, WE FELT WOULD BE APPROPRIATE FOR OUR LOCAL SITUATION. THIS PARTICULAR REGULATION HAS NOT BEEN APPROVED BY THE LEGAL DEPARTMENT. ALSO ATTACHED IS A PROPOSED REGULATION WHICH WE CONSIDERED EARLIER IN 1960 IN WHICH MR. CURFMAN FELT THAT WE WOULD BE ENDANGERING THE ZONING ORDINANCE. THIS MATTER WAS DROPPED AT THAT TIME.

ALSO ATTACHED IS A NEW REPORT FROM THE ASPO PLANNING ADVISORY SERVICE CONCERNING THE SURFACE EXTRACTION OF MINERALS. PLEASE NOTE THAT THE NEXT ISSUE WILL BE A FOLLOW UP ON THIS REPORT CONCERNING STANDARDS OF OPERATION AND MAINTENANCE OF RECLAMATION FOR MINED OVER AREAS. I AM ALSO SENDING TWO REPORTS FROM THE MINISTRY OF TOWN AND COUNTRY PLANNING IN ENGLAND ON SAND AND GRAVEL. IN A SECTION OF PART I, PAGE 30, THERE ARE SEVERAL INTERESTING POINTS MADE ON "DAMAGED AMENITY" AND ON PAGE 35, "CONFLICT WITH OTHER FORMS OF LAND USE". PART 18 OF THE REPORT CONTAINS A RATHER TECHNICAL DISCUSSION OF AFTER TREATMENT OR RECLAMATION OF MINED OUT AREAS. AS A FINAL ITEM, I AM SENDING A COPY OF PLANNING ADVISORY SERVICE REPORT #49, THE REGULATION OF QUARRIES. THIS CONTAINS A RATHER THOROUGH DISCUSSION OF THE PROVISIONS IN EXISTING ORDINANCES AND CONSIDERATIONS GIVEN CONSTRUCTION OF THOSE ORDINANCES. THE LAST PAGE OF THIS REPORT CONTAINS A SUMMARY OF REGULATIONS IN TABULAR FORM.

I THINK THE REGULATIONS CONTAINED IN OUR REPORT ARE A FAIRLY GOOD SET, HOWEVER, THERE IS ONE MAJOR WEAKNESS. THIS IS THE LACK OF A PROVISION REQUIRING ANYONE ENGAGED IN THE EXTRACTION OF SURFACE MINERALS TO SUBMIT AND HAVE APPROVED A REDEVELOPMENT OR RECLAMATION PLAN PRIOR TO THE INITIAL REMOVAL OF THE MINERALS. THERE IS NO REASONABLE POSITION WHICH CAN BE TAKEN TO JUSTIFY THE LEAVING OF SCARRED AND DAMP HOLES IN THE GROUND. THESE AREAS CAN BE AND SHOULD BE RECLAIMED TO PROVIDE EITHER RECREATIONAL AREAS, COMMERCIAL AMUSEMENT AREAS AND/OR NEW DEVELOPMENT SITES OR FARMING AREAS WHEN REFILLED OR WHEN A DRY-TYPE EXCAVATION HAS BEEN USED.

- 2 -

IF YOU WOULD LIKE TO DISCUSS THESE ITEMS WITH US, I WOULD BE
HAPPY TO COME OVER AND SEE WHAT WE CAN WORK OUT.

ROBERT A. LAKIN
SENIOR PLANNER

RAL:MM

ATTACHMENTS: MAPC REPORT FLOODING
PAS REPORT #49 - REGULATING QUARRIES
ASPO REPORT #153 - LAND USE CONTROL IN THE
SURFACE EXTRACTION OF MINERALS, PART I
REPORT OF THE ADVISORY COMMITTEE ON SAND AND
GRAVEL, PARTS 1 AND 2; AND PART 1B

P.S. - PLEASE RETURN THE ASPO REPORTS AND THE BRITISH REPORTS
WHEN YOU HAVE FINISHED WITH THEM.

COPY

THE CITY OF WICHITA

OFFICE OF Assistant City Attorney

DATE June 17, 1960

TO Leland R. Edmonds, Assistant Planning Director
FROM Lawrence E. Curfman

SUBJECT DR 60-5 Proposed Amendments
to Zoning Ordinance re Borrow
Pits, Private Lakes, etc.

I have your letter of June 9 (which was received in the mail of June 16), subject as above.

I have gone over the proposed amendments to the zoning ordinance. I am not sure just how Mr. Aley feels, but it is my own opinion that conditional uses of any kind are of doubtful legality under the statutes authorizing city zoning.

I would suggest that you can accomplish what the Planning Commission seeks to accomplish by creating another zone, such zone to be a borrow pit zone or perhaps two zones--one to be a borrow pit zone and the other a lake zone. There is no question about the authority of the City to divide its territory into any number of zones.

I have visited with you about this matter before in connection with the light commercial zoning, suggesting that perhaps there should be one zone for filling station and liquor store uses and another zone for other light commercial uses. I think the planning staff should give more consideration to this idea and put the numerous limitations which you have in mind into the ordinance instead of making them conditions to the use of the property in the form of a conditional use permit.

This whole matter is one of considerable importance, and I would prefer that you not advise the Planning Commission on the basis of this letter unless and until you get Mr. Aley's concurrence. I do want to go on record, however, as saying that the constitutionality of the zoning ordinance is jeopardized by any conditional use section.

LAWRENCE E. CURFMAN
Assistant City Attorney

LEC:ta

cc: Fred W. Aley
Thomas A. Wood

THE CITY OF WICHITA

OFFICE OF Assistant City Attorney

DATE

June 17, 1960

File

TO Leland R. Edmonds, Assistant Planning Director

FROM Lawrence E. Curfman

SUBJECT DR 60-5 Proposed Amendments
to Zoning Ordinance re Borrow
Pits, Private Lakes, etc.

I have your letter of June 9 (which was received in the mail of June 16), subject as above.

I have gone over the proposed amendments to the zoning ordinance. I am not sure just how Mr. Aley feels, but it is my own opinion that conditional uses of any kind are of doubtful legality under the statutes authorizing city zoning.

I would suggest that you can accomplish what the Planning Commission seeks to accomplish by creating another zone, such zone to be a borrow pit zone or perhaps two zones--one to be a borrow pit zone and the other a lake zone. There is no question about the authority of the City to divide its territory into any number of zones.

I have visited with you about this matter before in connection with the light commercial zoning, suggesting that perhaps there should be one zone for filling station and liquor stores and another zone for other light commercial uses. I think the planning staff should give more consideration to this idea and put the numerous limitations which you have in mind into the ordinance instead of making them conditions to the use of the property in the form of a conditional use permit.

This whole matter is one of considerable importance, and I would prefer that you not advise the Planning Commission on the basis of this letter unless and until you get Mr. Aley's concurrence. I do want to go on record, however, as saying that the constitutionality of the zoning ordinance is jeopardized by any conditional use section.

LAWRENCE E. CURFMAN
Assistant City Attorney

LEGit

cc: Fred W. Aley
Thomas A. Wood

LAWRENCE E. CURFMAN, ASSISTANT
CITY ATTORNEY
LELAND R. EDMONDS, ASSISTANT PLANNING DIRECTOR

JUNE 9, 1960

DR 60-5 PROPOSED AMENDMENTS TO ZONING ORDINANCE RE BORROW PITS,
PRIVATE LAKES, ETC.

SOME DAYS AGO, PRIOR TO THE PLANNING COMMISSION MEETING OF JUNE 2, WE DISCUSSED WITH YOU THE LEGALITY AND VALIDITY OF THE PROPOSED AMENDMENT TO THE ZONING ORDINANCE TO PROVIDE FOR EXTRACTION OF SAND AND GRAVEL, BORROW PITS, PRIVATE LAKES, ETC., AS CONDITIONAL USES. WE ALSO DISCUSSED THE GENERAL PROPOSAL TO ADD A CONDITIONAL USE SECTION TO THE ZONING ORDINANCE AS A PART OF SECTION 28.04.160 WHERE NO SUCH GENERAL SECTION EXISTS AT THIS TIME.

I UNDERSTOOD FROM CONVERSATION THAT THERE IS NO BASIC OBJECTION FROM THE DEPARTMENT OF LAW TO PROVIDING FOR SUCH USES AS CONDITIONAL USES OR TO INCLUDING A SECTION WHICH WILL PERMIT CONDITIONAL USES AS SUCH WITHIN THE ZONING ORDINANCE. I FURTHER UNDERSTOOD THAT THE BASIC OBJECTION OF THE DEPARTMENT OF LAW WAS THAT THE PROPOSED AMENDMENT DID NOT ESTABLISH THE CONDITIONS OR RESTRICTIONS UNDER WHICH THE GIVEN USES MIGHT BE PERMITTED AS CONDITIONAL USES. I UNDERSTAND THAT THE DEPARTMENT OF LAW GENERALLY BELIEVES THAT THE ZONING ORDINANCE SHOULD PROVIDE THE MAXIMUM CONDITIONS OR RESTRICTIONS WHICH COULD BE ATTACHED TO ANY PARTICULAR CONDITIONAL USE APPROVED UNDER THIS PROCEDURE AS PROPOSED.

ON THE BASIS OF THE DISCUSSION WHICH WE HAD PRIOR TO THE PLANNING COMMISSION MEETING, THE PLANNING DEPARTMENT REQUESTED OF THE COMMISSION THAT THERE BE A DEFERRAL OF ONE MONTH TO ALLOW FURTHER STUDY BY THE DEPARTMENT AND THE DEPARTMENT OF LAW BEFORE ACTION WAS TAKEN ON THE PROPOSAL BY THE PLANNING COMMISSION. THE PLANNING COMMISSION APPROVED THE DEPARTMENTAL REQUEST FOR DEFERRAL AND THE NEXT HEARING ON THIS MATTER WILL BE ON JULY 7, 1960.

ATTACHED TO THIS MEMORANDUM IS A REVISION OF THE AMENDMENT AS PROPOSED. THIS IS AN ATTEMPT TO PROVIDE THE RESTRICTIONS WHICH HAVE BEEN WORKED OUT OVER A PERIOD OF A NUMBER OF MONTHS OF EXPERIENCE WITH BORROW PITS, ETC. AND MAKE THOSE RESTRICTIONS OR CONDITIONS AN INTEGRAL PART OF THE ZONING ORDINANCE. MAY WE PLEASE HAVE THE COMMENTS OF YOUR OFFICE AT YOUR EARLIEST CONVENIENCE SO THAT APPROPRIATE FURTHER REVISIONS MAY BE MADE IF NECESSARY BEFORE PRESENTING THIS MATTER TO THE PLANNING COMMISSION AGAIN ON JULY 7?

WE WOULD BE PLEASED TO DISCUSS THIS WITH YOU IN YOUR OFFICE AT ANYTIME, IF YOU SO DESIRE.

LRE:BER
cc: FRED ALEY


LELAND R. EDMONDS
ASSISTANT PLANNING DIRECTOR

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN THAT ON THE _____ DAY OF _____, 1960, THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT 2 P.M. WILL CONSIDER THE FOLLOWING CHANGES TO TITLE 28 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

1. TO SECTION 28.04.020 (DEFINITIONS) - ADD DEFINITIONS AS FOLLOWS:

COMMISSION - THE WICHITA SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION.

CONDITIONAL USES - ANY SPECIFIC USE APPROVED AS TO LOCATION AND TYPE OF OPERATION ON A SPECIFIC TRACT OF LAND, SUBJECT TO SUCH CONDITIONS AND RESTRICTIONS AS MAY BE CONSIDERED APPROPRIATE AND NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, WELFARE, CONVENIENCE AND PROSPERITY FROM ADVERSE INFLUENCES TO SUCH CONDITIONAL USE AND AS MAY BE SPECIFIED IN SUBSEQUENT SECTIONS OF THIS CHAPTER OF TITLE 28 OF THE CODE OF THE CITY OF WICHITA.

2. TO SECTION 28.04.040 ("AA" ONE FAMILY DWELLING DISTRICT):
TO SECTION 28.04.050 ("A" TWO FAMILY DWELLING DISTRICT):
TO SECTION 28.04.100 ("C" COMMERCIAL DISTRICT):
TO SECTION 28.04.120 ("E" LIGHT INDUSTRIAL DISTRICT):
TO SECTION 28.04.130 ("F" HEAVY INDUSTRIAL DISTRICT):

ADD TO EACH OF THE ABOVE THE FOLLOWING:

CONDITIONAL USES: THE FOLLOWING USES MAY ALSO BE PERMITTED IF THE USE AND ITS LOCATION IS FIRST APPROVED AS PROVIDED FOR IN SECTION 28.04.160.K OF THIS TITLE.

- A. EXTRACTION OF RAW MATERIAL SUCH AS ROCK, GRAVEL, SAND, EARTH, PROVIDED THAT THE FOLLOWING CONDITIONS TO SUCH USE SHALL BE ESTABLISHED:

1. NO EXCAVATION SHALL APPROACH NEARER THAN ¹²⁵75 FEET TO A SECTION LINE OR TO THE CENTER LINE OF A SECTION LINE STREET, MAJOR TRAFFIC STREET OR MAJOR THOROFARE; NOR NEARER THAN ¹⁰⁰65 FEET TO A HALF SECTION LINE OR TO THE CENTER LINE OF A HALF SECTION LINE STREET; NOR NEARER THAN 55 FEET TO THE CENTER LINE OF ANY OTHER STREET.
2. A FIFTY-EIGHT (58) INCH V-MESH FENCE ON NO LESS THAN SEVEN (7) FOOT STEEL POSTS WITH THE POSTS AT NO MORE THAN SIXTEEN (16) FOOT INTERVALS, SHALL BE CONSTRUCTED ON THE PROPERTY LINE AND MAY PROVIDE FOR REASONABLE ACCESS GATES INSTALLED AT THE HEIGHT OF THE FENCE, WHICH GATES SHALL BE KEPT LOCKED EXCEPT WHEN IN USE.

3. ^{deduct} ALONG ANY BOUNDARY FACING RESIDENTIAL AREAS THERE SHALL BE INSTALLED A SHELTER BELT CONSISTING OF TWO (2) ROWS OF PLANTINGS, AND THE INSTALLATION AND COMPOSITION OF SAID SHELTER BELT SHALL BE IN ACCORDANCE WITH SPECIFICATIONS OF THE SOIL CONSERVATION SERVICE.
4. THE SIDE SLOPE OF THE EXCAVATION SHALL BE NO MORE STEEP THAN THREE HORIZONTAL TO ONE VERTICAL; AND IF THE LENGTH OF THE SLOPE IS GREATER THAN 10 FEET, A SLOPE OF FOUR HORIZONTAL TO ONE VERTICAL SHALL BE MAINTAINED.
5. A VEGETATIVE COVER FOR SLOPES SHALL CONSIST OF A SHORT PERENNIAL DROUGHT RESISTANT GRASS OR COMBINATION OF GRASSES WHICH WILL PERMIT THE ESTABLISHMENT OF A GOOD SOD COVER.
6. NO EXCAVATION SHALL APPROACH NEARER THAN 50 FEET TO ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT.
7. IF THE PROPOSED EXCAVATION ^{is} SHALL BE MORE THAN 50 FEET BUT LESS THAN 500 FEET FROM ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT, A LOOP LEVEE SHALL BE REQUIRED TO BE CONSTRUCTED IN ACCORDANCE WITH SPECIFICATIONS AS PREPARED BY THE MAINTENANCE DIVISION OF THE DEPARTMENT OF PUBLIC WORKS OF THE CITY OF WICHITA.
8. IF EXCAVATION IS MORE THAN 500 FEET FROM ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT, A LOOP LEVEE MAY BE REQUIRED, PROVIDED SUCH LOOP LEVEE IS RECOMMENDED BY THE MAINTENANCE DIVISION OF THE DEPARTMENT OF PUBLIC WORKS OF THE CITY OF WICHITA.
9. IF A LOOP LEVEE IS REQUIRED TO BE CONSTRUCTED AS PROVIDED IN ITEMS 7 AND 8 ABOVE, THEN THERE SHALL BE EXECUTED AND RECORDED, A COVENANT RUNNING WITH THE LAND TO PROVIDE FOR THE CONSTRUCTION AND MAINTENANCE OF SUCH LOOP LEVEE, SUCH COVENANT TO BE APPROVED AS TO FORM BY THE DEPARTMENT OF LAW OF THE CITY OF WICHITA.
10. A PERFORMANCE BOND SHALL BE REQUIRED IN SUCH AN AMOUNT AND FOR SUCH LENGTH OF TIME AS MAY BE DETERMINED BY THE GOVERNING BODY OF THE CITY OF WICHITA TO BE NECESSARY TO GUARANTEE EXCAVATION IN ACCORDANCE WITH PROVISIONS 1 THROUGH 9 SET FORTH ABOVE; PROVIDED FURTHER THAT THE CONDITIONS LISTED AS 1 THROUGH 9 ABOVE SHALL CONSTITUTE THE MAXIMUM CONDITIONS WHICH MAY BE ESTABLISHED IN ANY SUCH APPROVAL; AND PROVIDED FURTHER THAT THE GOVERNING BODY MAY AT ITS DISCRETION AND IN SUCH MANNER AS IS CONSISTENT WITH THE PUBLIC HEALTH, SAFETY, MORALS, PROSPERITY,

CONVENIENCE AND WELFARE, MODIFY OR WAIVE ANY OF THE CONDITIONS LISTED IN 1 THROUGH 9 ABOVE IF IT CAN BE CLEARLY DEMONSTRATED THAT SUCH CONDITIONS ARE NOT REQUIRED TO PROTECT THE MORALS, HEALTH, SAFETY, PROSPERITY, CONVENIENCE, AND GENERAL WELFARE; PROVIDED FURTHER THAT SUCH CONDITIONAL USE PROVISIONS SHALL NOT BE APPLICABLE TO THE NORMAL EXCAVATION NECESSARY FOR THE CONSTRUCTION OF A BASEMENT OR ANY STRUCTURE FOR WHICH A BUILDING PERMIT HAS BEEN LAWFULLY OBTAINED.

B. PRIVATE OR PUBLIC LAKES, PROVIDED THAT THE FOLLOWING CONDITIONS TO SUCH USE SHALL BE ESTABLISHED:

1. THE APPLICANT SHALL FIRST SUBMIT TO THE COMMISSION A DEVELOPMENT PLAN FOR THE PREPARATION OF SUCH LAKE, WHICH PLAN SHALL INCLUDE BUT SHALL NOT BE LIMITED TO DETAILED DESCRIPTIONS OF METHODS TO BE USED TO PREVENT ACCUMULATION OF STAGNANT WATER; A LEGAL SURVEY OF THE BOUNDARIES OF THE LAKE AND THE TOTAL PROPERTY WITHIN WHICH IT IS SITUATED; THE DETAILS OF EXCAVATION PROPOSED FOR SUCH LAKES; CROSS SECTION DETAILS AND CONSTRUCTION SPECIFICATIONS OF DAMS AND LEVEES PROPOSED TO BE INCORPORATED IN THE DEVELOPMENT; LANDSCAPING AND SHORE LINE DEVELOPMENT PROPOSED; PUBLIC AND/OR PRIVATE ROADS PROPOSED AS A PART OF THE LAKE DEVELOPMENT;
2. A FIFTY-EIGHT (58) INCH V-MESH FENCE ON NO LESS THAN SEVEN (7) FOOT STEEL POSTS WITH THE POSTS AT NO MORE THAN SIXTEEN (16) FOOT SPACING SHALL BE CONSTRUCTED ALONG THE PERIMETER BOUNDARIES OF EACH LAKE DEVELOPMENT. PROVISION FOR REASONABLE ACCESS GATES SHALL BE MADE IN ACCORDANCE WITH THE PLAN OF DEVELOPMENT REQUIRED IN B.1 ABOVE.
3. THE SLOPE OF THE SHORE LINE OF THE LAKE SHALL BE NO MORE STEEP THAN FIVE HORIZONTAL TO ONE VERTICAL AND ALL SHORE LINE SLOPE SHALL BE COVERED WITH A VEGETATION CONSISTING OF A SHORT PERENNIAL DROUGHT RESISTANT GRASS OR A COMBINATION OF GRASSES WHICH WILL PERMIT THE ESTABLISHMENT OF A GOOD SOD COVER.
4. NO LAKE SHALL BE DEVELOPED NEARER THAN 50 FEET TO ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT.
5. IF A LAKE IS TO BE DEVELOPED MORE THAN 50 FEET BUT LESS THAN 500 FEET FROM ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT, A LOOP LEVEE SHALL BE REQUIRED TO BE CONSTRUCTED TO THE SPECIFICATIONS AS ESTABLISHED BY THE MAINTENANCE DIVISION OF THE DEPARTMENT OF PUBLIC WORKS OF THE CITY OF WICHITA.

6. IF A LAKE IS PROPOSED TO BE LOCATED MORE THAN 500 FEET FROM ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT, A LOOP LEVEE MAY BE REQUIRED PROVIDED THAT SUCH LOOP LEVEE IS RECOMMENDED BY THE MAINTENANCE DIVISION OF THE DEPARTMENT OF PUBLIC WORKS OF THE CITY OF WICHITA.
 7. IF A LOOP LEVEE IS REQUIRED UNDER THE TERMS OF 5 AND/OR 6 ABOVE, THEN THERE SHALL BE EXECUTED AND RECORDED A RESTRICTIVE COVENANT RUNNING WITH THE LAND TO PROVIDE FOR THE CONSTRUCTION AND MAINTENANCE OF SUCH LOOP LEVEE; SAID RESTRICTIVE COVENANT TO BE APPROVED BY THE DEPARTMENT OF LAW OF THE CITY OF WICHITA.
 8. THE DEVELOPMENT PLAN REQUIRED TO BE SUBMITTED IN No. 1 ABOVE SHALL BE SUBJECT TO APPROVAL BY THE GOVERNING BODY; AND SHALL, AFTER APPROVAL BY THE GOVERNING BODY, BE PLACED OF RECORD AND SHALL RUN WITH THE LAND AREA INVOLVED AND SHALL BE BINDING UPON THE APPLICANTS, THEIR HEIRS, SUCCESSORS AND ASSIGNS.
 9. ALL OF CONDITIONS 1 THROUGH 8 ABOVE SHALL BE SUBJECT TO A PERFORMANCE BOND OF SUCH AMOUNT AND FOR SUCH PERIOD OF TIME AS THE GOVERNING BODY OF THE CITY OF WICHITA MAY DETERMINE TO BE APPROPRIATE TO ASSURE THE CONSTRUCTION AND DEVELOPMENT OF THE LAND IN ACCORDANCE WITH THE CONDITIONS ESTABLISHED HEREUNDER; AND PROVIDED FURTHER THAT THE CONDITIONS LISTED IN Nos. 1 THROUGH 8 ABOVE SHALL CONSTITUTE THE MAXIMUM CONDITIONS WHICH MAY BE ESTABLISHED IN THE CONDITIONAL APPROVAL OF ANY LAND; AND PROVIDED FURTHER THAT THE GOVERNING BODY OF THE CITY OF WICHITA MAY MODIFY OR WAIVE ANY OF THE ABOVE CONDITIONS LISTED AS Nos. 1 THROUGH 8 ABOVE IF IT FIRST DETERMINES THAT THE CONDITIONS ARE NOT REQUIRED ADEQUATELY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, CONVENIENCE, PROSPERITY OR GENERAL WELFARE; AND PROVIDED FURTHER THAT NOTHING IN THE FOREGOING SHALL BE CONSTRUED AS TO PERMIT APPROVAL FOR RETAIL SALES, BOAT RENTALS OR COMMERCIAL ACTIVITIES IN ASSOCIATION WITH PUBLIC OR PRIVATE LAKES. (NOTE: IN THE "C", "E", AND "F" SECTIONS, DELETE THE IMMEDIATELY FOREGOING SENTENCE).
3. TO SECTION 28.04.160 (GENERAL REGULATIONS) - ADD AS FOLLOWS:
- K. CONDITIONAL USE PERMITS
1. THE GOVERNING BODY MAY BY APPROPRIATE RESOLUTION AND SUBJECT TO PROTECTIVE RESTRICTIONS AS IT DEEMS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, WELFARE, CONVENIENCE, AND PROSPERITY, GRANT A CONDITIONAL USE PERMIT AS MAY BE SPECIFICALLY AUTHORIZED IN ANY OF THE ZONING DISTRICT CLASSIFICATIONS CONTAINED IN THIS TITLE; PROVIDED, HOWEVER, THAT NO SUCH PERMITS SHALL BE GRANTED UNTIL AFTER A PUBLIC

HEARING SHALL HAVE BEEN HELD BEFORE THE METROPOLITAN AREA PLANNING COMMISSION AS PROVIDED IN SECTION 28.04.210 OF THIS TITLE.

2. ANY USE WHICH SHALL PROPERLY COME UNDER THE PROVISIONS OF THIS TITLE AS A CONDITIONAL USE AND WHICH IS IN EXISTENCE AT THE TIME OF THE ADOPTION OF ANY SECTION OF THIS TITLE PERMITTING CONDITIONAL USES, MAY BE CONTINUED FOR A PERIOD OF TEN YEARS; PROVIDED, HOWEVER, THAT AT THE END OF SUCH PERIOD OF TIME A CONDITIONAL USE PERMIT MUST BE OBTAINED TO CONTINUE SUCH OPERATION OR USE; AND FURTHER PROVIDED THAT ANY ENLARGEMENT OF SUCH USE OR USES EXISTING AT THE TIME OF ADOPTION OF ANY SECTION OF THIS TITLE PROVIDING FOR A CONDITIONAL USE PERMIT, SHALL REQUIRE A CONDITIONAL USE PERMIT.
 3. WRITTEN APPLICATIONS FOR THE APPROVAL OF THE USES REFERRED TO IN THIS SECTION SHALL BE FILED IN THE OFFICE OF THE COMMISSION UPON FORMS PRESCRIBED FOR THAT PURPOSE BY THE COMMISSION. APPLICATIONS MUST BE ACCOMPANIED BY A CERTIFIED LIST OF PROPERTY OWNERS OF RECORD AND THEIR ADDRESSES, IF AVAILABLE, AND IN CASES WHERE NOT AVAILABLE, THEN THE ADDRESS OF THE OCCUPANT OF THE PREMISES IF TENANTED, IN ALL DIRECTIONS FROM THE SUBJECT PROPERTY FOR A DISTANCE OF 200 FEET.
 4. THE PROCEDURE FOR HOLDING PUBLIC HEARING SHALL BE THE SAME AS SET FORTH AND REQUIRED BY SECTION 28.04.210 OF THIS TITLE.
 5. IN APPROVING THE USES REFERRED TO IN THIS SECTION, THE GOVERNING BODY SHALL HAVE AUTHORITY TO IMPOSE SUCH CONDITIONS AS IT DEEMS NECESSARY TO PROTECT THE SURROUNDING PROPERTY OF THE NEIGHBORHOOD AND TO PROTECT THE HEALTH, SAFETY, MORALS, CONVENIENCE, AND PROSPERITY OF THE PUBLIC.
 6. NO CONDITIONAL USE PERMIT SHALL BE GRANTED UNLESS SPECIFICALLY PROVIDED FOR IN THE ZONING DISTRICT CLASSIFICATIONS OF THIS TITLE.
4. TO SECTION 28.04.210 (CHANGES IN ZONING CLASSIFICATIONS OR DISTRICTS - Add AS FOLLOWS:

CONDITIONAL USE PERMIT - \$60 FILING AND PUBLICATION FEE.

THE PROPOSED AMENDMENTS WILL THERE BE DISCUSSED AND CONSIDERED BY THE SAID WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, AND THAT ALL PERSONS INTERESTED IN SAID MATTER WILL BE HEARD AT THIS TIME CONCERNING THEIR VIEWS AND WISHES IN THE PREMISES, AND ANY PROTEST AGAINST ANY OF THE PROVISIONS OF THE PROPOSED CHANGE TO THE REVISED ZONING ORDINANCE WILL BE CONSIDERED BY THE COMMISSION AS BY LAW PROVIDED.

WITNESS MY HAND AND SEAL ON THIS _____ DAY OF _____,
1960.

(SEAL)

L.L. LITTLE, SECRETARY
WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING
COMMISSION

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN THAT ON THE _____ DAY OF _____, 1960, THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT 2 P.M. WILL CONSIDER THE FOLLOWING CHANGES TO TITLE 28 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

1. To SECTION 28.04.020 (DEFINITIONS) - ADD DEFINITIONS AS FOLLOWS:

COMMISSION - THE WICHITA SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION.

CONDITIONAL USES - ANY SPECIFIC USE APPROVED AS TO LOCATION AND TYPE OF OPERATION ON A SPECIFIC TRACT OF LAND, SUBJECT TO SUCH CONDITIONS AND RESTRICTIONS AS MAY BE CONSIDERED APPROPRIATE AND NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, WELFARE, CONVENIENCE AND PROSPERITY FROM ADVERSE INFLUENCES TO SUCH CONDITIONAL USE AND AS MAY BE SPECIFIED IN SUBSEQUENT SECTIONS OF THIS CHAPTER OF TITLE 28 OF THE CODE OF THE CITY OF WICHITA.

2. TO SECTION 28.04.040 ("AA" ONE FAMILY DWELLING DISTRICT):
TO SECTION 28.04.050 ("A" TWO FAMILY DWELLING DISTRICT):
TO SECTION 28.04.100 ("C" COMMERCIAL DISTRICT):
TO SECTION 28.04.120 ("E" LIGHT INDUSTRIAL DISTRICT):
TO SECTION 28.04.130 ("F" HEAVY INDUSTRIAL DISTRICT):

ADD TO EACH OF THE ABOVE THE FOLLOWING:

CONDITIONAL USES: THE FOLLOWING USES MAY ALSO BE PERMITTED IF THE USE AND ITS LOCATION IS FIRST APPROVED AS PROVIDED FOR IN SECTION 28.04.160.K OF THIS TITLE:

A. EXTRACTION OF RAW MATERIAL SUCH AS ROCK, GRAVEL, SAND, EARTH, PROVIDED THAT THE FOLLOWING CONDITIONS TO SUCH USE SHALL BE ESTABLISHED:

1. NO EXCAVATION SHALL APPROACH NEARER THAN 75 FEET ^{within line or to} TO THE CENTER LINE OF A SECTION LINE STREET, MAJOR TRAFFIC STREET OR MAJOR THOROFARE,

~~2.~~ NO EXCAVATION SHALL APPROACH ^{near} NEARER THAN 65 FEET ^{which matches dimension to} TO THE CENTER LINE OF A HALF SECTION LINE STREET,

~~3.~~ NO EXCAVATION SHALL APPROACH ^{near} NEARER THAN 55 FEET TO THE CENTER LINE OF ANY OTHER STREET.

~~4.~~ A FIFTY-EIGHT (58) INCH V-MESH FENCE ON NO LESS THAN SEVEN (7) FOOT STEEL POSTS WITH THE POSTS AT NO MORE THAN SIXTEEN (16) FOOT INTERVALS, SHALL BE CONSTRUCTED ON THE PROPERTY LINE AND MAY PROVIDE FOR REASONABLE ACCESS GATES INSTALLED AT THE HEIGHT OF THE FENCE, WHICH GATES SHALL BE KEPT LOCKED EXCEPT WHEN IN USE.

~~5.~~ ALONG ANY BOUNDARY FACING RESIDENTIAL AREAS ^{on public way or thorofare,} THERE SHALL BE INSTALLED A SHELTER BELT CONSISTING OF TWO (2) ROWS OF PLANTINGS, AND THE INSTALLATION AND COMPOSITION OF SAID SHELTER BELT SHALL BE IN ACCORDANCE WITH SPECIFICATIONS OF THE SOIL CONSERVATION SERVICE.

~~6.~~ THE SIDE SLOPE OF THE EXCAVATION SHALL BE NO MORE STEEP THAN THREE HORIZONTAL TO ONE VERTICAL AND IF THE LENGTH OF THE SLOPE IS GREATER THAN 10 FEET, A SLOPE OF FOUR HORIZONTAL TO ONE VERTICAL SHALL BE MAINTAINED.

*for. Job?
to water surface*

5. A VEGETATIVE COVER FOR SLOPES SHALL CONSIST OF A SHORT PERENNIAL DROUTH RESISTANT GRASS OR COMBINATION OF GRASSES WHICH WILL PERMIT THE ESTABLISHMENT OF A GOOD SOD COVER.

6. NO EXCAVATION SHALL APPROACH NEARER THAN 50 FEET TO ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT.

7. IF THE PROPOSED EXCAVATION SHALL BE MORE THAN 50 FEET BUT LESS THAN 500 FEET FROM ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT, A LOOP LEEVE SHALL BE REQUIRED TO BE CONSTRUCTED IN ACCORDANCE WITH SPECIFICATIONS AS PREPARED BY THE MAINTENANCE DIVISION OF THE DEPARTMENT OF PUBLIC WORKS OF THE CITY OF WICHITA.

2. 8. IF EXCAVATION IS MORE THAN 500 FEET FROM ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT, NO LOOP LEEVE SHALL BE REQUIRED. ^{may be} ^{provided with loop levee} ^{such is recommended by the maintenance} ^{Division of Public Works of the C of W.}

9. IF A LOOP LEEVE IS REQUIRED TO BE CONSTRUCTED AS PROVIDED IN ITEMS 7 AND 8 ABOVE, THEN THERE SHALL BE EXECUTED AND RECORDED, A COVENANT RUNNING WITH THE LAND TO PROVIDE FOR THE CONSTRUCTION AND MAINTENANCE OF SUCH LOOP LEEVE, SUCH COVENANT TO BE APPROVED AS TO FORM BY THE DEPARTMENT OF LAW OF THE CITY OF WICHITA.

10. A PERFORMANCE BOND SHALL BE REQUIRED IN SUCH AN AMOUNT AND FOR SUCH LENGTH OF TIME AS MAY BE DETERMINED BY THE GOVERNING BODY OF THE CITY OF WICHITA TO BE NECESSARY TO GUARANTEE EXCAVATION IN ACCORDANCE WITH PROVISIONS 1 THROUGH 7 SET FORTH ABOVE; FURTHER PROVIDED THAT THE CONDITIONS LISTED AS 1 THROUGH 9 ABOVE SHALL CONSTITUTE THE MAXIMUM CONDITIONS WHICH MAY BE ESTABLISHED IN ANY SUCH APPROVAL; AND

Just J. A.

~~ADD TO SECTION 28.04.040, .050, .100, .120, AND .130, THE
FOLLOWING STATEMENT:~~

AND (FURTHER PROVIDED) THAT SUCH CONDITIONAL USE PROVISIONS
SHALL NOT BE APPLICABLE TO THE NORMAL EXCAVATION NECESSARY FOR THE
CONSTRUCTION OF A BASEMENT OR ANY STRUCTURE FOR WHICH A BUILDING
PERMIT HAS BEEN LAWFULLY OBTAINED.

FURTHER PROVIDED THAT THE GOVERNING BODY MAY AT ITS DISCRETION AND IN SUCH MANNER AS IS CONSISTENT WITH THE PUBLIC HEALTH, SAFETY, MORALS, PROSPERITY, CONVENIENCE AND WELFARE, MODIFY OR WAIVE ANY OF THE CONDITIONS LISTED IN 1 THROUGH 12 ABOVE IF IT CAN BE CLEARLY DEMONSTRATED THAT SUCH CONDITIONS ARE NOT REQUIRED TO PROTECT THE MORALS, HEALTH, SAFETY, CONVENIENCE, PROSPERITY AND GENERAL WELFARE; (Insert A)

B. PRIVATE OR PUBLIC LAKES PROVIDED THAT THE FOLLOWING CONDITIONS TO SUCH USE SHALL BE ESTABLISHED:

1. THE APPLICANT SHALL FIRST SUBMIT TO THE COMMISSION A DEVELOPMENT PLAN FOR THE PREPARATION OF SUCH LAKE, WHICH PLAN SHALL INCLUDE BUT SHALL NOT BE LIMITED TO DETAILED DESCRIPTIONS OF METHODS TO BE USED TO PREVENT ACCUMULATION OF STAGNANT WATER; A LEGAL SURVEY OF THE BOUNDARIES OF THE LAKE AND THE TOTAL PROPERTY WITHIN WHICH IT IS SITUATED; THE DETAILS OF EXCAVATION PROPOSED FOR SUCH LAKES; CROSS SECTION DETAILS OF DAMS AND LEVEES ^{and construction specifications} PROPOSED TO BE INCORPORATED IN THE DEVELOPMENT; LANDSCAPING AND SHORE LINE DEVELOPMENT PROPOSED; PUBLIC AND/OR PRIVATE ROADS PROPOSED AS A PART OF THE LAKE DEVELOPMENT;
2. EACH LAKE DEVELOPMENT SHALL BE FENCED ALONG ITS PERIMETER BOUNDARIES WITH A FIFTY-EIGHT (58) INCH V-MESH FENCE ON NO LESS THAN SEVEN (7) FOOT STEEL POSTS WITH THE POSTS AT NO MORE THAN SIXTEEN (16) FOOT SPACING. *shall be constructed along the perimeter boundaries of* PROVISION FOR REASONABLE ACCESS GATES SHALL BE MADE IN ACCORDANCE WITH THE PLAN OF DEVELOPMENT REQUIRED IN 1. ABOVE.

3. THE SLOPE OF THE SHORE LINE OF THE LAKE SHALL BE NO MORE STEEP THAN FIVE HORIZONTAL TO ONE VERTICAL AND ALL SHORE LINE SLOPE SHALL BE COVERED WITH A VEGETATION CONSISTING OF A SHORT PERENNIAL DROUTH RESISTANT GRASS OR A COMBINATION OF GRASSES WHICH WILL PERMIT THE ESTABLISHMENT OF A GOOD SOD COVER.

4. NO LAKE SHALL BE DEVELOPED NEARER THAN 50 FEET TO ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT.

5. IF A LAKE IS TO BE DEVELOPED MORE THAN 50 FEET BUT LESS THAN 500 FEET FROM ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT A LOOP LEVEE SHALL BE REQUIRED TO BE CONSTRUCTED TO THE SPECIFICATIONS AS ESTABLISHED BY THE DIVISION OF MAINTENANCE OF THE DEPARTMENT OF PUBLIC WORKS OF THE CITY OF WICHITA, KANSAS.

6. IF A LAKE IS PROPOSED TO BE LOCATED MORE THAN 500 FEET FROM ANY RIGHT-OF-WAY LINE OF THE WICHITA VALLEY CENTER FLOOD CONTROL PROJECT, ^a THEN ~~NO~~ LOOP LEVEE ^{may} ~~SHALL~~ BE REQUIRED ^{provided that such loop levee is recommended by the} ~~maint. Div. of Pub. Works of the City of~~ ^{Wichita}

7. ^{such as} IF A LOOP LEVEE IS REQUIRED UNDER THE TERMS OF ~~NO~~ 5 ~~AND NO~~ 6 ABOVE, THEN THERE SHALL BE EXECUTED AND RECORDED A RESTRICTIVE COVENANT RUNNING WITH THE LAND TO PROVIDE FOR THE CONSTRUCTION AND MAINTENANCE OF SUCH LOOP LEVEE; ~~THE~~ SAID RESTRICTIVE COVENANT TO BE APPROVED BY THE DEPARTMENT OF LAW OF THE CITY OF WICHITA.

8. THE DEVELOPMENT PLAN REQUIRED TO BE SUBMITTED IN
No. 1 ABOVE SHALL ^{be subject to approval by the governing body; and shall,} AFTER APPROVAL BY THE GOVERNING
BODY, BE PLACED OF RECORD AND SHALL RUN WITH THE
LAND AREA INVOLVED AND SHALL BE BINDING UPON THE
APPLICANTS, THEIR HEIRS, SUCCESSORS AND ASSIGNS.

9. ALL OF CONDITIONS 1 THROUGH 8 ABOVE SHALL BE SUBJECT
TO A PERFORMANCE BOND OF SUCH AMOUNT AND FOR SUCH
PERIOD OF TIME AS THE GOVERNING BODY OF THE CITY OF
WICHITA MAY DETERMINE TO BE APPROPRIATE TO ASSURE THE
CONSTRUCTION AND DEVELOPMENT OF THE LAND IN ACCORDANCE
WITH THE CONDITIONS ESTABLISHED HEREUNDER;

AND FURTHER PROVIDED THAT THE CONDITIONS LISTED IN
No. 1 THROUGH 8 ABOVE SHALL CONSTITUTE THE MAXIMUM
CONDITIONS WHICH MAY BE ESTABLISHED IN THE CONDITIONAL
APPROVAL OF ANY LAKE;

AND FURTHER PROVIDED THAT THE GOVERNING BODY OF THE
CITY OF WICHITA MAY MODIFY OR WAIVE ANY OF THE ABOVE
CONDITIONS LISTED AS NOS. 1 THROUGH 8 ABOVE IF IT
FIRST DETERMINES THAT THE CONDITIONS ARE NOT
REQUIRED ADEQUATELY TO PROTECT THE PUBLIC HEALTH,
SAFETY, MORALS, COVENIENCE, PROSPERITY OR GENERAL
WELFARE.

AND FURTHER PROVIDED THAT NOTHING IN THE FOREGOING
SHALL BE CONSTRUED AS TO PERMIT APPROVAL FOR RETAIL
SALES, BOAT RENTALS OR COMMERCIAL ACTIVITIES IN
ASSOCIATION WITH PUBLIC OR PRIVATE LAKES. (NOTE:
IN THE "C", "E" AND "F" SECTIONS, DELETE THE IMMEDIATELY
FOREGOING SENTENCE).

3. TO SECTION 28.04.160 (GENERAL REGULATIONS) - ADD AS FOLLOWS:

K. CONDITIONAL USE PERMITS

1. THE GOVERNING BODY MAY BY APPROPRIATE RESOLUTION AND SUBJECT TO PROTECTIVE RESTRICTIONS AS IT DEEMS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, WELFARE, CONVENIENCE, AND PROSPERITY, GRANT A CONDITIONAL USE PERMIT AS MAY BE SPECIFICALLY AUTHORIZED IN ANY OF THE ZONING DISTRICT CLASSIFICATIONS CONTAINED IN THIS TITLE; PROVIDED, HOWEVER, THAT NO SUCH PERMITS SHALL BE GRANTED UNTIL AFTER A PUBLIC HEARING SHALL HAVE BEEN HELD BEFORE THE METROPOLITAN AREA PLANNING COMMISSION AS PROVIDED IN SECTION 28.04.210 OF THIS TITLE.

2. ANY USE WHICH SHALL PROPERLY COME UNDER THE PROVISIONS OF THIS TITLE AS A CONDITIONAL USE AND WHICH IS IN EXISTENCE AT THE TIME OF THE ADOPTION OF ANY SECTION OF THIS TITLE PERMITTING CONDITIONAL USES, MAY BE CONTINUED FOR A PERIOD OF TEN YEARS; PROVIDED, HOWEVER, THAT AT THE END OF SUCH PERIOD OF TIME A CONDITIONAL USE PERMIT MUST BE OBTAINED TO CONTINUE SUCH OPERATION OR USE; AND FURTHER PROVIDED THAT ANY ENLARGEMENT OF SUCH USE OR USES EXISTING AT THE TIME OF ADOPTION OF ANY SECTION OF THIS TITLE PROVIDING FOR A CONDITIONAL USE PERMIT, SHALL REQUIRE A CONDITIONAL USE PERMIT.

3. WRITTEN APPLICATIONS FOR THE APPROVAL OF THE USES REFERRED TO IN THIS SECTION SHALL BE FILED IN THE OFFICE OF THE COMMISSION UPON FORMS PRESCRIBED FOR THAT PURPOSE BY THE COMMISSION. APPLICATIONS MUST BE ACCOMPANIED BY A CERTIFIED LIST OF PROPERTY OWNERS OF RECORD AND THEIR ADDRESSES, IF AVAILABLE, AND IN CASES WHERE NOT AVAILABLE, THEN THE ADDRESS OF THE OCCUPANT OF THE PREMISES IF TENANTED, IN ALL DIRECTIONS FROM THE SUBJECT PROPERTY FOR A DISTANCE OF 200 FEET.
4. THE PROCEDURE FOR HOLDING PUBLIC HEARING SHALL BE THE SAME AS SET FORTH AND REQUIRED BY SECTION 28.04.210 OF THIS TITLE.
5. IN APPROVING THE USES REFERRED TO IN THIS SECTION, THE GOVERNING BODY SHALL HAVE AUTHORITY TO IMPOSE SUCH CONDITIONS AS IT DEEMS NECESSARY TO PROTECT THE SURROUNDING PROPERTY OF THE NEIGHBORHOOD AND TO PROTECT THE HEALTH, SAFETY, MORALS, CONVENIENCE, AND PROSPERITY OF THE PUBLIC.
6. NO CONDITIONAL USE PERMIT SHALL BE GRANTED UNLESS SPECIFICALLY PROVIDED FOR IN THE ZONING DISTRICT CLASSIFICATIONS OF THIS TITLE.
4. TO SECTION 28.04.210 (CHANGES IN ZONING CLASSIFICATIONS OR DISTRICTS - ADD AS FOLLOWS:
CONDITIONAL USE PERMIT - \$60 FILING AND PUBLICATION FEE.

DR60-5
74

TO WHOM IT MAY CONCERN AND NOTICE IS HEREBY GIVEN that the City of Wichita, Kansas, at its regular meeting held on the 23rd day of April, 1960, in the City Building Annex, 101 South Main, Wichita, Kansas, at 2 P.M. will consider the following changes in Title 22, the Code of the City of Wichita, Kansas:

1. TO SECTION 23.04.020 (DEPT. OF HEALTH) and definitions as follows: COMMISSION: The Wichita Planning Commission. METROPOLITAN AREA: The City of Wichita. USES: Any specific type of operation on a specific tract of land, subject to such conditions and restrictions as may be considered appropriate and necessary to protect the public health, safety, morals, welfare, convenience, and prosperity from adverse influences of such conditional use.

2. TO SECTION 23.04.100 ("A") - One Family Dwelling District (Section 23.04.100 ("A"), The City of Wichita, Kansas, and Section 23.04.100 ("B") - Two Family Dwelling District (Section 23.04.100 ("B"), The City of Wichita, Kansas, and Section 23.04.100 ("C") - Single Family Dwelling District (Section 23.04.100 ("C"), The City of Wichita, Kansas, and Section 23.04.100 ("D") - Light Industrial District (Section 23.04.100 ("D"), The City of Wichita, Kansas, and Section 23.04.100 ("E") - Heavy Industrial District (Section 23.04.100 ("E"), The City of Wichita, Kansas, and Section 23.04.100 ("F") - Add to each of the above, the following:

CONDITIONAL USES: The following uses may also be permitted if the use and its location is first approved as provided for in Section 23.04.100K of this title.

A. Extraction of raw materials such as rock, gravel, sand, etc., provided that no excavation shall approach center line of a section line or major thoroughfare street, other than 25 feet to the center line of a half section line, street, or alley, and 45 feet to the center line of any other street; provided further that no such excavation operation shall be approved without adequate bonding and material as specified by the governing body; and provided further that such excavation shall be in accordance with the normal excavation operation of a basement for any structure, for which a building permit has been lawfully obtained; and that if such extraction is recommended for approval, a bond and a surety shall be provided to guarantee performance of the conditions contained on such application for approval.

B. Private or public lakes, such lake shall be approved unless the applicant shall first have submitted to the Planning Commission a development plan for the excavation of such lake, which plan shall include, but not be limited to, detailed descriptions of methods to be used to prevent accumulation of stagnant water by the lake; to be approved by the City Health Department; a legal survey of the boundaries of the lake and the total property within which it is situated; the details of excavation proposed for such lake; cross section details of dams and levees proposed to be incorporated in the development; landscaping and/or private roads proposed; public use as a part of the development and revisions or other belts as may be proposed; and that for development, if approved by the governing body, shall become a matter of record and shall run with the land; that the applicant shall assign, within the forty-eight hours after the date of permit approval, for recording in the public records, a copy of the plan and any other documents and sections, delete correspondence.

3. TO SECTION 23.04.160 (General Regulations) - Add as follows: CONDITIONAL USE PERMITS

1. The governing body may by appropriate resolution and subject to protective restrictions as to the public health, safety, morals, welfare, convenience and prosperity, grant a conditional use permit as may be authorized in any zoning district conditional use provided, however, that no such

use shall be granted unless the applicant shall first have submitted to the Planning Commission a development plan for the excavation of such lake, which plan shall include, but not be limited to, detailed descriptions of methods to be used to prevent accumulation of stagnant water by the lake; to be approved by the City Health Department; a legal survey of the boundaries of the lake and the total property within which it is situated; the details of excavation proposed for such lake; cross section details of dams and levees proposed to be incorporated in the development; landscaping and/or private roads proposed; public use as a part of the development and revisions or other belts as may be proposed; and that for development, if approved by the governing body, shall become a matter of record and shall run with the land; that the applicant shall assign, within the forty-eight hours after the date of permit approval, for recording in the public records, a copy of the plan and any other documents and sections, delete correspondence.

2. Any use which shall be permitted under this title as a conditional use and which is in existence at the time of the adoption of any section of this title providing for a conditional use shall continue to be permitted for a period of ten years; provided, however, that at the end of such period or time a conditional use permit must be obtained or use; and further provided that any enlargement of such use or uses existing at the time of adoption of any section of this title providing for a conditional use shall require a conditional use permit.

3. Written applications for the approval of the use referred to in this section shall be filed in the office of the Commission upon forms prescribed by the Commission, and shall be accompanied by a certified list of property owners of record and their addresses, if available, and in cases where not available, then the addresses of the occupants of the premises from the subject property for a distance of 200 feet.

4. The procedure for holding public hearings shall be the same as set forth in the Code of this City, Section 23.04.210 of this title.

5. In approving the use referred to in this section, the governing body shall have authority to impose such conditions as it deems necessary to protect the surrounding property of the health, safety, morals, convenience, safety, morals, and prosperity of the public.

6. No conditional use permit shall be granted unless specifically provided for in the zoning district classifications in this title.

4. TO SECTION 23.04.210 (Change of Zoning Classifications or Districts) - Add as follows: CONDITIONAL USE PERMITS

The proposed amendments will be discussed and considered by the Planning Commission, and that persons interested in said matter shall be heard at the time of the hearing and any protest against the provisions of the proposed ordinance to the revised zoning ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal on this 23rd day of April, 1960.

(Seal) JERALD LITTLE

City Clerk

() (PUBLISHED IN THE WICHITA BEACON ON APRIL 27, 1960)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN THAT ON THE 2ND DAY OF JUNE, 1960, THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, IN ROOM 401 CITY BUILDING ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT 2 P.M. WILL CONSIDER THE FOLLOWING CHANGES TO TITLE 28, THE CODE OF THE CITY OF WICHITA, KANSAS.

1. TO SECTION 28.04.020 (DEFINITIONS) - ADD DEFINITIONS AS FOLLOWS:

COMMISSION: THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION.

CONDITIONAL USES: ANY SPECIFIC USE APPROVED AS TO LOCATION AND TYPE OF OPERATION ON A SPECIFIC TRACT OF LAND; SUBJECT TO SUCH CONDITIONS AND RESTRICTIONS AS MAY BE CONSIDERED APPROPRIATE AND NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, WELFARE, CONVENIENCE AND PROSPERITY FROM ADVERSE INFLUENCES OF SUCH CONDITIONAL USE.

2. TO SECTION 28.04.040 ("AA" ONE FAMILY DWELLING DISTRICT)
SECTION 28.04.050 ("A" TWO FAMILY DWELLING DISTRICT)
SECTION 28.04.100 ("C" COMMERCIAL DISTRICT)
SECTION 28.04.120 ("E" LIGHT INDUSTRIAL DISTRICT)
SECTION 28.04.130 ("F" HEAVY INDUSTRIAL DISTRICT)

ADD TO EACH OF THE ABOVE, THE FOLLOWING:

CONDITIONAL USES: THE FOLLOWING USES MAY ALSO BE PERMITTED IF THE USE AND ITS LOCATION IS FIRST APPROVED AS PROVIDED FOR IN SECTION 28.04.160K OF THIS TITLE.

- A. EXTRACTION OF RAW MATERIALS SUCH AS ROCK, GRAVEL, SAND, EARTH, ETC., PROVIDED THAT NO EXCAVATION SHALL APPROACH NEARER THAN 75 FEET TO THE CENTER LINE OF A SECTION LINE STREET, MAJOR TRAFFIC STREET, OR MAJOR THOROPFARE; NOR CLOSER THAN 65 FEET TO THE CENTER LINE OF A HALF SECTION LINE STREET; NOR CLOSER THAN 55 FEET TO THE CENTER LINE OF ANY OTHER STREET; PROVIDED FURTHER, THAT NO SUCH EXCAVATION OPERATION SHALL BE APPROVED WITHOUT ADEQUATE FENCING OF SUCH TYPE, SIZE, AND MATERIAL AS SPECIFIED BY THE GOVERNING BODY; AND PROVIDED FURTHER, THAT SUCH CONDITIONAL USE PROVISIONS SHALL NOT BE APPLICABLE TO THE NORMAL EXCAVATION NECESSARY FOR THE CONSTRUCTION OF A BASEMENT FOR ANY STRUCTURE FOR WHICH A BUILDING PERMIT HAS BEEN LAWFULLY OBTAINED; AND THAT IF

SUCH EXTRACTION BE RECOMMENDED FOR APPROVAL, A BOND OR WARRANTY OF SUCH AMOUNT AND NATURE SHALL BE REQUIRED TO GUARANTEE PERFORMANCE OF THE CONDITIONS IMPOSED ON SUCH APPLICATION APPROVAL.

- B. PRIVATE OR PUBLIC LAKES, PROVIDED, HOWEVER, THAT NO SUCH LAKE SHALL BE APPROVED UNLESS THE APPLICANT SHALL FIRST HAVE SUBMITTED TO THE PLANNING COMMISSION A DEVELOPMENT PLAN FOR THE PREPARATION OF SUCH LAKE; WHICH PLAN SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, DETAILED DESCRIPTIONS OF METHODS TO BE USED TO PREVENT ACCUMULATION OF STAGNANT WATER, SUCH METHODS TO BE APPROVED BY THE WICHITA-SEDGWICK COUNTY HEALTH DEPARTMENT; A LEGAL SURVEY OF THE BOUNDARIES OF THE LAKE AND THE TOTAL PROPERTY WITHIN WHICH IT IS SITUATED; THE DETAILS OF EXCAVATION PROPOSED FOR SUCH LAKE; CROSS SECTION DETAILS OF DAMS AND LEVEES PROPOSED TO BE INCORPORATED IN THE DEVELOPMENT; LANDSCAPING AND SHORE LINE DEVELOPMENT PROPOSED; PUBLIC AND/OR PRIVATE ROADS PROPOSED AS A PART OF THE LAKE DEVELOPMENT AND PROVISIONS FOR FENCING, SCREENING, AND/OR SHELTER BELTS AS MAY BE PROPOSED. SAID PLAN FOR DEVELOPMENT, IF APPROVED BY THE GOVERNING BODY, SHALL BECOME A MATTER OF RECORD AND SHALL RUN WITH THE LAND AREA INVOLVED AND SHALL BE BINDING UPON THE APPLICANTS, THEIR HEIRS, SUCCESSORS AND ASSIGNS. NOTHING IN THE FOREGOING SHALL BE CONSTRUED AS TO PERMIT APPROVAL FOR RETAIL SALES, BOAT RENTALS OR COMMERCIAL ACTIVITIES. (NOTE: IN "C", "E", AND "F" SECTIONS, DELETE FOREGOING SENTENCE).

3. TO SECTION 28.04.160 (GENERAL REGULATIONS) - ADD AS FOLLOWS:

K. CONDITIONAL USE PERMITS

1. THE GOVERNING BODY MAY BY APPROPRIATE RESOLUTION AND SUBJECT TO PROTECTIVE RESTRICTIONS AS IT DEEMS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, WELFARE, CONVENIENCE, AND PROSPERITY, GRANT A CONDITIONAL USE PERMIT AS MAY BE SPECIFICALLY AUTHORIZED IN ANY OF THE ZONING DISTRICT CLASSIFICATIONS CONTAINED IN THIS TITLE; PROVIDED, HOWEVER, THAT NO SUCH PERMITS SHALL BE GRANTED UNTIL AFTER A PUBLIC HEARING SHALL HAVE BEEN HELD BEFORE THE METROPOLITAN AREA PLANNING COMMISSION AS PROVIDED IN SECTION 28.04.210 OF THIS TITLE.
2. ANY USE WHICH SHALL PROPERLY COME UNDER THE PROVISIONS OF THIS TITLE AS A CONDITIONAL USE AND WHICH IS IN EXISTENCE AT THE TIME OF THE ADOPTION OF ANY SECTION OF THIS TITLE PERMITTING CONDITIONAL USES, MAY BE CONTINUED FOR A PERIOD OF TEN YEARS; PROVIDED, HOWEVER, THAT AT THE END OF

SUCH PERIOD OF TIME A CONDITIONAL USE PERMIT MUST BE OBTAINED TO CONTINUE SUCH OPERATION OR USE; AND FURTHER PROVIDED THAT ANY ENLARGEMENT OF SUCH USE OR USES EXISTING AT THE TIME OF ADOPTION OF ANY SECTION OF THIS TITLE PROVIDING FOR A CONDITIONAL USE PERMIT, SHALL REQUIRE A CONDITIONAL USE PERMIT.

3. WRITTEN APPLICATIONS FOR THE APPROVAL OF THE USES REFERRED TO IN THIS SECTION SHALL BE FILED IN THE OFFICE OF THE COMMISSION UPON FORMS PRESCRIBED FOR THAT PURPOSE BY THE COMMISSION. APPLICATIONS MUST BE ACCOMPANIED BY A CERTIFIED LIST OF PROPERTY OWNERS OF RECORD AND THEIR ADDRESSES, IF AVAILABLE, AND IN CASES WHERE NOT AVAILABLE, THEN THE ADDRESS OF THE OCCUPANT OF THE PREMISES IF TENANTED, IN ALL DIRECTIONS FROM THE SUBJECT PROPERTY FOR A DISTANCE OF 200 FEET.
4. THE PROCEDURE FOR HOLDING PUBLIC HEARING SHALL BE THE SAME AS SET FORTH AND REQUIRED BY SECTION 28.04.210 OF THIS TITLE.
5. IN APPROVING THE USES REFERRED TO IN THIS SECTION, THE GOVERNING BODY SHALL HAVE AUTHORITY TO IMPOSE SUCH CONDITIONS AS IT DEEMS NECESSARY TO PROTECT THE SURROUNDING PROPERTY OF THE NEIGHBORHOOD AND TO PROTECT THE HEALTH, SAFETY, MORALS, CONVENIENCE, AND PROSPERITY OF THE PUBLIC.
6. NO CONDITIONAL USE PERMIT SHALL BE GRANTED UNLESS SPECIFICALLY PROVIDED FOR IN THE ZONING DISTRICT CLASSIFICATIONS OF THIS TITLE.

4. TO SECTION 28.04.210 (CHANGES IN ZONING CLASSIFICATIONS OR DISTRICTS -
ADD AS FOLLOWS:

CONDITIONAL USE PERMIT - \$60 FILING AND PUBLICATION FEE.

THE PROPOSED AMENDMENTS WILL THERE BE DISCUSSED AND CONSIDERED BY THE SAID WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, AND THAT ALL PERSONS INTERESTED IN SAID MATTER WILL BE HEARD AT THIS TIME CONCERNING THEIR VIEWS AND WISHES IN THE PREMISES, AND ANY PROTEST AGAINST ANY OF THE PROVISIONS OF THE PROPOSED CHANGE TO THE REVISED ZONING ORDINANCE WILL BE CONSIDERED BY THE COMMISSION AS BY LAW PROVIDED.

WITNESS MY HAND AND SEAL ON THIS 25TH DAY OF APRIL, 1960.

L. L. LITTLE, SECRETARY
WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING
COMMISSION

(SEAL)

(1-T)

DRAFT OF PROPOSED NOTICE OF HEARING

1. ADD DEFINITIONS AS FOLLOWS:

COMMISSION: THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION.

CONDITIONAL USES: ANY SPECIFIC USE APPROVED AS TO LOCATION AND TYPE OF OPERATION ON A SPECIFIC TRACT OF LAND; SUBJECT TO SUCH CONDITIONS AND RESTRICTIONS AS MAY BE CONSIDERED APPROPRIATE AND NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, WELFARE, CONVENIENCE AND PROSPERITY FROM ADVERSE INFLUENCES OF SUCH CONDITIONAL USE.

2. TO THE "AA", "A", "C", "E", AND "F" DISTRICTS ADD AS FOLLOWS:

CONDITIONAL USES: THE FOLLOWING USES MAY ALSO BE PERMITTED IF THE USE AND ITS LOCATION IS FIRST APPROVED AS PROVIDED FOR IN SECTION 21-21-K OF THIS ARTICLE:

- A. EXTRACTION OF RAW MATERIALS SUCH AS ROCK, GRAVEL, SAND, EARTH, ETC., PROVIDED THAT NO EXCAVATION SHALL APPROACH NEARER THAN 75 FEET TO THE CENTER LINE OF A SECTION LINE STREET, MAJOR TRAFFIC STREET, OR MAJOR THOROFARE; NOR CLOSER THAN 65 FEET TO THE CENTER LINE OF A HALF SECTION LINE STREET; NOR CLOSER THAN 55 FEET TO THE CENTER LINE OF ANY OTHER STREET; PROVIDED FURTHER, THAT NO SUCH EXCAVATION OPERATION SHALL BE APPROVED WITHOUT ADEQUATE FENCING OF SUCH TYPE, SIZE, AND MATERIAL AS SPECIFIED BY THE GOVERNING BODY; AND PROVIDED FURTHER, THAT SUCH CONDITIONAL USE PROVISIONS SHALL NOT BE APPLICABLE TO THE NORMAL EXCAVATION NECESSARY FOR THE CONSTRUCTION OF A BASEMENT FOR ANY STRUCTURE FOR WHICH A BUILDING PERMIT HAS BEEN LAWFULLY OBTAINED; AND THAT IF SUCH EXTRACTION BE RECOMMENDED FOR APPROVAL, A BOND OR WARRANTY OF SUCH AMOUNT AND NATURE SHALL BE REQUIRED TO GUARANTEE PERFORMANCE OF THE CONDITIONS IMPOSED ON SUCH APPLICATION APPROVAL
- B. PRIVATE OR PUBLIC LAKES, PROVIDED, HOWEVER, THAT NO SUCH LAKE SHALL BE APPROVED UNLESS THE APPLICANT SHALL FIRST HAVE SUBMITTED TO THE PLANNING COMMISSION A DEVELOPMENT PLAN FOR THE PREPARATION OF SUCH LAKE; WHICH PLAN SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, DETAILED DESCRIPTIONS OF METHODS TO BE USED TO PREVENT ACCUMULATION OF STAGNANT WATER, SUCH METHODS TO BE APPROVED BY THE WICHITA-SEDGWICK COUNTY HEALTH DEPARTMENT; A LEGAL SURVEY OF THE BOUNDARIES OF THE LAKE AND THE TOTAL PROPERTY WITHIN WHICH IT IS SITUATED; THE DETAILS OF EXCAVATION PROPOSED FOR SUCH LAKE; CROSS-SECTION DETAILS OF DAMS AND LEVEES PROPOSED TO BE INCORPORATED IN THE DEVELOPMENT; LANDSCAPING AND SHORELINE DEVELOPMENT PROPOSED; PUBLIC AND/OR PRIVATE ROADS PROPOSED AS A PART OF THE LAKE DEVELOPMENT AND PROVISIONS FOR FENCING, SCREENING, AND/OR SHELTER BELTS AS MAY BE PROPOSED. ⁽ⁱ⁾ SAID PLAN FOR DEVELOPMENT, IF APPROVED BY THE GOVERNING BODY, SHALL BECOME A MATTER OF RECORD AND SHALL RUN WITH THE LAND AREA INVOLVED AND SHALL BE BINDING UPON THE APPLICANTS, THEIR HEIRS, SUCCESSORS AND ASSIGNS. NOTHING IN THE FOREGOING SHALL BE CONSTRUED AS TO PERMIT APPROVAL FOR RETAIL SALES, BOAT RENTALS OR COMMERCIAL ACTIVITIES. (IN "C", "E", AND "F" SECTIONS, DELETE FOREGOING SENTENCE).

3. TO THE SECTION TITLED GENERAL REGULATIONS, ADD AS FOLLOWS:

K. CONDITIONAL USE PERMITS

1. THE GOVERNING BODY MAY BY APPROPRIATE RESOLUTION AND SUBJECT TO PROTECTIVE RESTRICTIONS AS IT DEEMS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, WELFARE, CONVENIENCE, AND PROSPERITY, GRANT A CONDITIONAL USE PERMIT AS MAY BE SPECIFICALLY AUTHORIZED IN ANY OF THE ZONING DISTRICT CLASSIFICATIONS CONTAINED IN THIS ARTICLE; PROVIDED, HOWEVER, THAT NO SUCH PERMITS SHALL BE GRANTED UNTIL AFTER A PUBLIC HEARING SHALL HAVE BEEN HELD BEFORE THE METROPOLITAN AREA PLANNING COMMISSION AS PROVIDED IN SECTION 21-26 OF THIS ARTICLE.
2. ANY USE WHICH SHALL PROPERLY COME UNDER THE PROVISIONS OF THIS ARTICLE AS A CONDITIONAL USE AND WHICH IS IN EXISTENCE AT THE TIME OF THE ADOPTION OF ANY SECTION OF THIS ARTICLE PERMITTING CONDITIONAL USES, MAY BE CONTINUED FOR A PERIOD OF TEN YEARS; PROVIDED, HOWEVER, THAT AT THE END OF SUCH PERIOD OF TIME A CONDITIONAL USE PERMIT MUST BE OBTAINED TO CONTINUE SUCH OPERATION OR USE; AND FURTHER PROVIDED THAT ANY ENLARGEMENT OF SUCH USE OR USES EXISTING AT THE TIME OF ADOPTION OF ANY SECTION OF THIS ARTICLE PROVIDING FOR A CONDITIONAL USE PERMIT, SHALL REQUIRE A CONDITIONAL USE PERMIT.
3. WRITTEN APPLICATIONS FOR THE APPROVAL OF THE USES REFERRED TO IN THIS SECTION SHALL BE FILED IN THE OFFICE OF THE COMMISSION UPON FORMS PRESCRIBED FOR THAT PURPOSE BY THE COMMISSION. APPLICATIONS MUST BE ACCOMPANIED BY A CERTIFIED LIST OF PROPERTY OWNERS OF RECORD AND THEIR ADDRESSES, IF AVAILABLE, AND IN CASES WHERE NOT AVAILABLE, THEN THE ADDRESS OF THE OCCUPANT OF THE PREMISES IF TENANTED, IN ALL DIRECTIONS FROM THE SUBJECT PROPERTY FOR A DISTANCE OF 200 FEET.
4. THE PROCEDURE FOR HOLDING PUBLIC HEARING SHALL BE THE SAME AS SET FORTH AND REQUIRED BY SECTION 21-26 OF THIS ARTICLE.
5. IN APPROVING THE USES REFERRED TO IN THIS SECTION, THE GOVERNING BODY SHALL HAVE AUTHORITY TO IMPOSE SUCH CONDITIONS AS IT DEEMS NECESSARY TO PROTECT THE SURROUNDING PROPERTY OF THE NEIGHBORHOOD AND TO PROTECT THE HEALTH, SAFETY, MORALS, CONVENIENCE, AND PROSPERITY OF THE PUBLIC.
6. NO CONDITIONAL USE PERMIT SHALL BE GRANTED UNLESS SPECIFICALLY PROVIDED FOR IN THE ZONING DISTRICT CLASSIFICATIONS OF THIS ARTICLE.

4. TO THE SECTION ON FEES ADD AS FOLLOWS:

CONDITIONAL USE PERMIT - \$60 FILING AND PUBLICATION FEE.

METROPOLITAN PLANNING

APRIL 6, 1960

FRED W. ALEY, CITY ATTORNEY

L. L. LITTLE, DIRECTOR OF PLANNING

DR60-5 - BORROW PITS, PRIVATE
LAKES, ETC.

ON MARCH 21, 1960, WE FORWARDED TO YOU A DRAFT OF A PROPOSED NOTICE OF HEARING BY WHICH THE ZONING ORDINANCE MIGHT BE AMENDED AS IT RELATES TO BORROW PITS, PRIVATE LAKES, ETC. THIS DRAFT PROPOSED THAT THESE USES WOULD BE PERMITTED IN CERTAIN ZONING CLASSIFICATIONS AS CONDITIONAL USES.

WE HAVE RE-SCHEDULED THE ANTICIPATED PUBLICATION DATE FOR THIS NOTICE OF HEARING. WE HAVE NOW TENTATIVELY ESTABLISHED APRIL 15 AS THE PUBLICATION DATE FOR THIS NOTICE, SO THAT A PUBLIC HEARING MAY BE HELD ON MAY 19, 1960.

WE WILL APPRECIATE THE COMMENTS OF YOUR OFFICE AT YOUR EARLIEST CONVENIENCE SO THAT THE APPROPRIATE HEARING MAY BE HELD IN ACCORDANCE WITH THE WISHES OF THE PLANNING COMMISSION.

L. L. LITTLE
DIRECTOR OF PLANNING

LLL:LRE:BER

METROPOLITAN PLANNING

MARCH 21, 1960

FRED W. ALEY, CITY ATTORNEY

L. L. LITTLE, DIRECTOR OF PLANNING

DR 60-5 BORROW PITS,
PRIVATE LAKES, ETC.

AT ITS MEETING OF MARCH 17, 1960, THE METROPOLITAN AREA PLANNING COMMISSION CONSIDERED CERTAIN CHANGES TO THE ZONING RESOLUTION IN REGARD TO BORROW PITS, PRIVATE LAKES, ETC. AS CONDITIONAL USES IN CERTAIN ZONING DISTRICTS. THE PLANNING COMMISSION DIRECTED THE STAFF TO ADVERTISE THE PROPOSED CHANGES FOR CONSIDERATION AT A PUBLIC HEARING AT THE EARLIEST PRACTICABLE DATE. THESE CHANGES ARE SET FORTH IN THE ATTACHED DRAFT OF PROPOSED NOTICE OF HEARING.

WILL YOU PLEASE EXAMINE THE SUBJECT CHANGES TO THE ZONING ORDINANCE AND MAKE SUCH CHANGES AS ARE NECESSARY TO MAKE IT CORRECT AND PROPER FROM THE LEGAL POINT OF VIEW. WE WILL APPRECIATE YOUR NOTING YOUR COMMENTS ON ONE COPY OF THE DRAFT AND RETURNING THAT COPY TO THIS OFFICE AT YOUR EARLIEST CONVENIENCE.

WE HAVE TENTATIVELY SCHEDULED THIS FOR PUBLICATION ON APRIL 1, 1960, FOR A PUBLIC HEARING TO BE HELD ON MAY 5, 1960.

IF YOU HAVE ANY QUESTIONS REGARDING THESE CHANGES, OR IF WE MAY BE OF ASSISTANCE IN ANY WAY, PLEASE DO NOT HESITATE TO CALL.

L. L. LITTLE
DIRECTOR OF PLANNING

LLL:RALISER
cc: LAWRENCE CURFMAN

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

OFFICE OF METROPOLITAN PLANNING

MARCH 16, 1960

TO: MEMBERS OF METROPOLITAN AREA PLANNING COMMISSION

FROM: L. L. LITTLE, DIRECTOR OF PLANNING

SUBJECT: DR 60-5 - DEPARTMENTAL
REPORT - ZONING ORDINANCE
PROVISIONS FOR BORROW PITS

AT ITS MEETING OF MARCH 3, 1960, THE METROPOLITAN AREA PLANNING COMMISSION DIRECTED THE DEPARTMENT TO SUGGEST A METHOD BY WHICH THE CITY ZONING ORDINANCE COULD BE AMENDED TO PROVIDE ADEQUATELY FOR THE LOCATION OF BORROW PITS AND SIMILAR LAND USE OPERATIONS. THE DEPARTMENT HAS MADE A PRELIMINARY STUDY OF THIS PROBLEM AND SUBMITS THE FOLLOWING REPORT ON THE BASIS OF THAT STUDY.

IT WOULD APPEAR THAT ANY ACTION TAKEN CONCERNING REGULATION OF BORROW PITS AS SUCH, SHOULD ALSO BE MADE APPLICABLE TO SUCH USES AS SAND AND GRAVEL EXTRACTION OPERATIONS, EXCAVATION AND/OR CONSTRUCTION OF PRIVATE LAKES, EXCAVATION AND/OR CONSTRUCTION OF PRIVATE RESERVOIRS. AT THE PRESENT TIME THERE IS NO SPECIFIC CONTROL OF ANY OF THESE USES EXCEPT THE SINGLE PROVISION IN THE ZONING ORDINANCE WHICH ALLOWS THE BOARD OF CITY COMMISSIONERS TO GRANT A SPECIAL PERMIT FOR THE EXTRACTION OF SAND AND GRAVEL FROM EITHER OF THE RIVERS WITHIN THE CITY LIMITS. (SECTION 21-23-A-9, VOLUME 1).

THE PLANNING COMMISSION HAS EXPRESSED THE BELIEF THAT THE CITY AND COUNTY ZONING REGULATIONS SHOULD BE MADE COMPATIBLE WHENEVER PRACTICAL AND FEASIBLE. THE COUNTY ZONING RESOLUTION PROVIDES FOR SUCH USES OF LAND AS ARE LISTED ABOVE AS CONDITIONAL USES IN SEVERAL ZONING DISTRICTS; SUCH CONDITIONAL USES TO BE SUBJECT TO THE SPECIFIC RECOMMENDATION OF THE METROPOLITAN AREA PLANNING COMMISSION AND SUBJECT TO THE SPECIFIC APPROVAL OF THE BOARD OF COUNTY COMMISSIONERS. IT IS SUGGESTED, THEREFORE, THAT APPROPRIATE CONDITIONAL USE PROVISIONS SHOULD BE INCORPORATED INTO THE CITY ZONING ORDINANCE WHERE APPLICATIONS FOR SUCH USES SHALL BE DECIDED BY THE GOVERNING BODIES SUBSEQUENT TO A HEARING ON THE APPLICATIONS BY THE METROPOLITAN AREA PLANNING COMMISSION.

IT IS SUGGESTED BY THE PLANNING DEPARTMENT THAT THE FOLLOWING AMENDMENTS TO THE CITY ZONING ORDINANCE WILL BE NECESSARY IF IT IS THE WISH OF THE COMMISSION TO PROVIDE FOR SUCH CONDITIONAL USES:

1. ADD DEFINITIONS AS FOLLOWS:

COMMISSION: THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION.

CONDITIONAL USES: ANY SPECIFIC USE APPROVED AS TO LOCATION AND TYPE OF OPERATION ON A SPECIFIC TRACT OF LAND; SUBJECT TO SUCH CONDITIONS AND RESTRICTIONS AS MAY BE CONSIDERED APPROPRIATE AND NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, WELFARE, CONVENIENCE AND PROSPERITY FROM ADVERSE INFLUENCES OF SUCH CONDITIONAL USE.

2. TO THE "AA", "A", "C", "E" AND "F" DISTRICTS ADD AS FOLLOWS:

CONDITIONAL USES: THE FOLLOWING USES MAY ALSO BE PERMITTED IF THE USE AND ITS LOCATION IS FIRST APPROVED AS PROVIDED FOR IN SECTION 21-21-K OF THIS ARTICLE:

- A. EXTRACTION OF RAW MATERIALS SUCH AS ROCK, GRAVEL, SAND, EARTH, ETC. PROVIDED THAT NO EXCAVATION SHALL APPROACH NEARER THAN 75 FEET TO THE CENTER LINE OF A SECTION LINE STREET, MAJOR TRAFFIC STREET, OR MAJOR THOROFARE; NOR CLOSER THAN 65 FEET TO THE CENTER LINE OF A HALF SECTION LINE STREET; NOR CLOSER THAN 55 FEET TO THE CENTER LINE OF ANY OTHER STREET; PROVIDED FURTHER, THAT NO SUCH EXCAVATION OPERATION SHALL BE APPROVED WITHOUT ADEQUATE FENCING OF SUCH TYPE, SIZE, AND MATERIAL AS SPECIFIED BY THE GOVERNING BODY; AND PROVIDED FURTHER, THAT SUCH CONDITIONAL USE PROVISIONS SHALL NOT BE APPLICABLE TO THE NORMAL EXCAVATION NECESSARY FOR THE CONSTRUCTION OF A BASEMENT FOR ANY STRUCTURE FOR WHICH A BUILDING PERMIT HAS BEEN LAWFULLY OBTAINED.
- B. PRIVATE OR PUBLIC LAKES, PROVIDED, HOWEVER, THAT NO SUCH LAKE SHALL BE APPROVED UNLESS THE APPLICANT SHALL FIRST HAVE SUBMITTED TO THE PLANNING COMMISSION A DEVELOPMENT PLAN FOR THE PREPARATION OF SUCH LAKE; WHICH PLAN SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, DETAILED DESCRIPTIONS OF METHODS TO BE USED TO PREVENT ACCUMULATION OF STAGNANT WATER, SUCH METHODS TO BE APPROVED BY THE WICHITA-SEDGWICK COUNTY HEALTH DEPARTMENT; A LEGAL SURVEY OF THE BOUNDARIES OF THE LAKE AND THE TOTAL PROPERTY WITHIN WHICH IT IS SITUATED; THE DETAILS OF EXCAVATION PROPOSED FOR SUCH LAKE; CROSS-SECTION DETAILS OF DAMS AND LEVEES PROPOSED TO BE INCORPORATED IN THE DEVELOPMENT; LANDSCAPING AND SHORELINE DEVELOPMENT PROPOSED; PUBLIC AND/OR PRIVATE ROADS PROPOSED AS A PART OF THE LAKE DEVELOPMENT AND PROVISIONS FOR FENCING, SCREENING, AND/OR SHELTER BELTS AS MAY BE PROPOSED. SAID PLAN FOR DEVELOPMENT, IF APPROVED BY THE GOVERNING BODY, SHALL BECOME A MATTER OF RECORD AND SHALL RUN WITH THE LAND AREA INVOLVED AND SHALL BE BINDING UPON THE APPLICANTS, THEIR HEIRS,

SUCCESSORS AND ASSIGNS. NOTHING IN THE FOREGOING SHALL BE CONSTRUED AS TO PERMIT APPROVAL FOR RETAIL SALES, BOAT RENTALS OR COMMERCIAL ACTIVITIES. (IN "C", "E" AND "F" SECTIONS, DELETE FOREGOING SENTENCE).

3. TO THE SECTION TITLED GENERAL REGULATIONS, ADD AS FOLLOWS:

K. CONDITIONAL USE PERMITS.

1. THE GOVERNING BODY MAY BY APPROPRIATE RESOLUTION AND SUBJECT TO PROTECTIVE RESTRICTIONS AS IT DEEMS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, MORALS, WELFARE, CONVENIENCE, AND PROSPERITY, GRANT A CONDITIONAL USE PERMIT AS MAY BE SPECIFICALLY AUTHORIZED IN ANY OF THE ZONING DISTRICT CLASSIFICATIONS CONTAINED IN THIS ARTICLE; PROVIDED, HOWEVER, THAT NO SUCH PERMITS SHALL BE GRANTED UNTIL AFTER A PUBLIC HEARING SHALL HAVE BEEN HELD BEFORE THE METROPOLITAN AREA PLANNING COMMISSION AS PROVIDED IN SECTION 21-26 OF THIS ARTICLE.
2. ANY USE WHICH SHALL PROPERLY COME UNDER THE PROVISIONS OF THIS ARTICLE AS A CONDITIONAL USE AND WHICH IS IN EXISTENCE AT THE TIME OF THE ADOPTION OF ANY SECTION OF THIS ARTICLE PERMITTING CONDITIONAL USES, MAY BE CONTINUED FOR A PERIOD OF TEN YEARS; PROVIDED, HOWEVER, THAT AT THE END OF SUCH PERIOD OF TIME A CONDITIONAL USE PERMIT MUST BE OBTAINED TO CONTINUE SUCH OPERATION OR USE; AND FURTHER PROVIDED THAT ANY ENLARGEMENT OF SUCH USE OR USES EXISTING AT THE TIME OF ADOPTION OF ANY SECTION OF THIS ARTICLE PROVIDING FOR A CONDITIONAL USE PERMIT, SHALL REQUIRE A CONDITIONAL USE PERMIT.
3. WRITTEN APPLICATIONS FOR THE APPROVAL OF THE USES REFERRED TO IN THIS SECTION SHALL BE FILED IN THE OFFICE OF THE COMMISSION UPON FORMS PRESCRIBED FOR THAT PURPOSE BY THE COMMISSION. APPLICATIONS MUST BE ACCOMPANIED BY A CERTIFIED LIST OF PROPERTY OWNERS OF RECORD AND THEIR ADDRESSES, IF AVAILABLE, AND IN CASES WHERE NOT AVAILABLE, THEN THE ADDRESS OF THE OCCUPANT OF THE PREMISES IF TENANTED, IN ALL DIRECTIONS FROM THE SUBJECT PROPERTY FOR A DISTANCE OF 200 FEET.
4. THE PROCEDURE FOR HOLDING PUBLIC HEARING SHALL BE THE SAME AS SET FORTH AND REQUIRED BY SECTION 21-26 OF THIS ARTICLE.

PAGE 4 - METROPOLITAN AREA PLANNING COMMISSION MEMBERS
MARCH 16, 1960
DR 60-5

5. IN APPROVING THE USES REFERRED TO IN THIS SECTION, THE GOVERNING BODY SHALL HAVE AUTHORITY TO IMPOSE SUCH CONDITIONS AS IT DEEMS NECESSARY TO PROTECT THE SURROUNDING PROPERTY OF THE NEIGHBORHOOD AND TO PROTECT THE HEALTH, SAFETY, MORALS, CONVENIENCE, AND PROSPERITY OF THE PUBLIC.
 6. NO CONDITIONAL USE PERMIT SHALL BE GRANTED UNLESS SPECIFICALLY PROVIDED FOR IN THE ZONING DISTRICT CLASSIFICATIONS OF THIS ARTICLE.
4. TO THE SECTION ON FEES ADD AS FOLLOWS:
CONDITIONAL USE PERMIT - \$60 FILING AND PUBLICATION FEE.

LLL:LR:BER

L. L. LITTLE
DIRECTOR OF PLANNING

THE CITY OF WICHITA, KANSAS

BOARD OF ZONING APPEALS
CITY BUILDING ANNEX
104 SOUTH MAIN
WICHITA, KANSAS

FEBRUARY 26, 1960

TO: MEMBERS OF METROPOLITAN AREA PLANNING COMMISSION
FROM: LELAND R. EDMONDS, SECRETARY, BOARD OF ZONING APPEALS

THE BOARD OF ZONING APPEALS, AT ITS REGULAR MEETING OF FEBRUARY 23, 1960, TOOK ACTION TO RECOMMEND TO THE PLANNING COMMISSION THAT STEPS BE TAKEN TO PROVIDE FOR BORROW PITS IN AN APPROPRIATE MANNER IN THE CITY ZONING ORDINANCE.

IT APPEARS THAT AT THIS TIME BORROW PITS, AS SUCH, ARE NOT PERMITTED IN ANY ZONING DISTRICT, WITH THE POSSIBLE EXCEPTION OF THE GENERAL COMMERCIAL AND INDUSTRIAL ZONES. IF IT IS INTERPRETED THAT THEY ARE PERMITTED IN GENERAL COMMERCIAL AND INDUSTRIAL ZONES, IT IS CERTAIN THAT CONDITIONS CANNOT BE ATTACHED TO THEIR OPERATION AS THEY ARE UNDER THE COUNTY ZONING RESOLUTION.

LELAND R. EDMONDS
SECRETARY

LRE:BER