

DR 78-19 - Possible Amendment to
County Zoning Resolution, Re:
Repair, reconstruction and expansion
of nonconforming uses.

Resolution.

ACTION

COMMITTEE _____ DATE _____
M.A.P.C. *Approved sent to* 7/6/78
minor amendment.
B.C.C./B. CO. C. *Approved* 8-2-78

Closed

B. Co. Com. *Approved amended* 8-30-78
resolution.

DR 78-12 - Possible Amendment to
County Zoning Resolution, Re:
Repair, reconstruction and expansion of nonconforming uses.

LEGAL PUBLICATION

Published in the Wichita Beacon on September 11, 1978.

RESOLUTION
A RESOLUTION AMENDING THE ZONING RESOLUTION OF SEDGWICK COUNTY, KANSAS, ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS AND EFFECTIVE AFTER MARCH 3, 1958, WITH AMENDMENTS TO DECEMBER 24, 1977, FOR THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS, BY AMENDING SECTION 12 OF THE SEDGWICK COUNTY, KANSAS ZONING RESOLUTION, ALL BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

SECTION I That upon the recommendation of the Wichita Sedgwick County Metropolitan Area Planning Commission on July 6, 1978, after notice and public hearing as provided by law under authority granted by Section 14-C of the Sedgwick County Zoning Resolution as amended March 3, 1958 and subsequently amended, SECTION 12, "EXCEPTIONS", subsection B, "USE, NONCONFORMING" shall be amended to read as follows:

B. NONCONFORMING USES:

1. **Registration of Nonconforming Uses.** A complete record of the location of all nonconforming uses shall be made and kept by the Sedgwick County Zoning Administrator.

2. **Continued Existence.** Any use made nonconforming by the provisions of this resolution, any use made nonconforming by a subsequent amendment to this resolution, or a use which was nonconforming at the time of adoption of this resolution may continue indefinitely.

3. **Loss from Natural Disaster.** Any nonconforming use structure damaged or destroyed by fire, wind, tornado, flood, earthquake or other natural disaster may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences), or floor area or liquid coverage (for nonresidential uses); provided, however, rebuilding may permit expansion which such expansion complies with the limitations as is hereinafter set forth. The structure shall be rebuilt closer to the property line than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.

4. **Repair or Alteration of Original Structure.** Any structure which is a part of a nonconforming use may be repaired or altered under the same terms as set forth in Paragraph 2.

5. **Expansion of Nonconforming Uses.** Nonconforming uses may be repaired or expanded under the terms of this section as follows:

a) **Expansion of Buildings.** The total area contained herein shall be the total allowable floor area included in all such separate additions or enlargements, based on the floor area contained in said building or structure at the time of the adoption of the zoning resolution, or at the time said building or structure became nonconforming. Expansion of open land uses permitted by the provisions contained herein shall be the total allowable land area included in all such enlargements, based on that land area being used at the time of the adoption of the zoning resolution, or at the time said use became nonconforming.

b) Nonconforming uses in Residential Districts

(1) Does not increase the number of dwelling units, when residential.

(2) Does not exceed 50 percent of the floor area of the original use or, if not a structure, not over 50 percent of the lot area originally used; provided, however, that after providing notice as per Section 11, the Board of Zoning Appeals may allow an expansion of not more than 100 percent providing a finding is made that such expansion does not endanger the continued well-being and quality of life of the residential area in which it is located.

(3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.

(4) Provides for off-street parking and loading as required by Section 11.

(5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.

c) Nonconforming uses in nonresidential areas

When the use:

(1) Does not exceed 100 percent of the floor area, or if a structure is not involved not over 100 percent of the lot area involved; provided, however, that after providing notice as per Section 11, the Board of Zoning Appeals may allow expansion of not more than 200 percent when the Board determines such action would not be detrimental to the area or community at large as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, availability of adequate utilities and drainage facilities, and the ability to provide adequate fire protection and police service.

(2) Does not intrude into a residential zoning district.

(3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.

(4) Provides for off-street parking and loading as required by section 11.

(5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.

d) **Office, Commercial or Industrial uses** shall provide a (6) six foot high screening fence to be constructed of masonry, wood, or other similar materials, along any interior side or rear property line that is within or adjacent to a residential zoning district; provided, however, when the adjacent property is being utilized for office, commercial or industrial use, said screening fence shall not be

required. This screening shall be used to protect the existing and future development from light, noise, and blowing debris, and to protect adjacent property values. Whenever said screening fence extends into a required front yard setback, it shall be reduced to (3) three feet in height.

a) **Conversion to Other Uses.** A nonconforming use may be changed in any new use provided that the new use shall be of the same general character as a more restricted character as determined by the zoning administrator based on the use lists and limitations of the zoning districts. This shall not be deemed to permit the conversion of a structure to residential purposes in any district wherein such use would require a conditional use permit.

f) Abandonment of Nonconforming Uses

a) A nonconforming use shall be considered to be abandoned when any of the following shall occur:

(1) The owner shall have in writing or by public statement indicated intent to abandon the building, structure or use.

(2) A more restrictive use shall have supplanted the original nonconforming use.

(3) The building or structure shall have been removed as a result of condemnation as an unsafe structure.

(4) The owner shall have changed physically the building or structure or its permanent equipment in such a manner, as to clearly indicate an abandonment of the nonconforming use.

(5) The property is vacant for 24 consecutive months and the owner has failed to maintain said property as required by Sedgwick County codes.

b) Any nonconforming use in an abandoned building or structure shall not be reused unless the new use shall conform to the district requirements in which it is located.

c) Any use of land having only incidental or accessory structures such as salvage yards, automobile sales lots, parking lots, trailer parks or mobile home parks, extraction of gravel or similar uses when such are abandoned or discontinued for over 24 months shall not be used except for uses permitted by the district in which it is located.

d) Nonconforming billboards shall be completely removed from any premises not later than 3 years from the effective date of this resolution, or from the date of any subsequent amendment to this Resolution, that would cause any billboard to become nonconforming, if at least three residential units are constructed within two hundred (200) feet in any direction of a billboard. Until such condition does occur, such billboard may continue indefinitely.

SECTION II. This resolution shall take effect and be enforced from and after its adoption and publication in the official County paper.

PA - D AND ADOPTED THIS 20th day of August, 1978.

EVERETT PATRICK, CHAIRMAN
JOHN HALE, COMMISSIONER
TOM SCOTT, COMMISSIONER

ATTEST:
Dorothy K. White, County Clerk
(SEAL)

APPROVED AS TO FORM BY:
James W. Pattison, Assistant for Theodore H. Hill, County Counselor

9-11
Layle
Edie
Ranky

nonconforming

by

R.#136-1977) Published in the Wichita Beacon on _____

RESOLUTION

A RESOLUTION AMENDING THE ZONING RESOLUTION OF SEDGWICK COUNTY, KANSAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS AND EFFECTIVE AFTER MARCH 3, 1958, WITH AMENDMENTS TO DECEMBER 28, 1977, FOR THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS; BY AMENDING SECTION 12 OF THE SEDGWICK COUNTY, KANSAS ZONING RESOLUTION; ALL IN ACCORDANCE WITH THE AUTHORITY GRANTED IN SECTION 14.C THEREOF.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

SECTION I. That upon the recommendation of the Wichita-Sedgwick County Metropolitan Area Planning Commission on July 6, 1978, after notice and public hearing as provided by law under authority granted by Section 14.C of the Sedgwick County Zoning Resolution as adopted March 3, 1958 and subsequently amended, SECTION 12 - "EXCEPTIONS": Subsection B. "USE NONCONFORMING" shall be amended to read as follows:

B. NONCONFORMING USES:

1. Registration of Nonconforming Uses. A complete record of the location of all nonconforming uses shall be made and kept by the Sedgwick County Zoning Administrator.
2. Continued Existence. Any use made nonconforming by the provisions of this resolution, any use made nonconforming by a subsequent amendment to this resolution, or a use which was nonconforming at the time of adoption of this resolution may continue indefinitely.
3. Loss from Natural Disaster. Any nonconforming use structure damaged or destroyed by fire, wind, tornado, flood, earthquake or other natural disaster may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences); or floor areas or ground coverage (for nonresidential uses); provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property line, than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.
4. Repair or Alteration of Original Structure: Any structure which is a part of a nonconforming use may be repaired or altered under the same terms as set forth in Paragraph 3.
5. Expansion of Nonconforming Uses. Nonconforming uses may be replaced or expanded under the terms of this section as follows:

Sent to page 9-8-78

- a) expansion of buildings permitted by the provisions contained herein shall be the total aggregate floor area included in all such separate additions or enlargements, based on the floor area contained in said building or structure at the time of the adoption of the zoning resolution, or at the time said building or structure became nonconforming. Expansion of open land uses permitted by the provisions contained herein shall be the total aggregate land area included in all such enlargements, based on the land area being used at the time of the adoption of the zoning resolution, or at the time said use became nonconforming.
- b) Nonconforming uses in Residential Districts when the use:
- (1) Does not increase the number of dwelling units, when residential.
 - (2) Does not exceed 50 percent of the floor area of the original use or if not a structure, not over 50 percent of the lot area originally used; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow an expansion of not more than 100 percent providing a finding is made that such expansion does not endanger the continued well-being and quality of life of the residential area in which it is located.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.
 - (4) Provides for off-street parking and loading as required by Section 11.
 - (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.
- c) Nonconforming uses in nonresidential areas when the use:
- (1) Does not exceed 100 percent of the floor area, or if a structure is not involved not over 100 percent of the land area involved; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow expansion of not more than 200 percent when the Board determines such action would not be detrimental to the area or community at-large as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, availability of adequate utilities and drainage facilities, and the ability to provide adequate fire protection and police service.
 - (2) Does not intrude into a residential zoning district.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.

- (4) Provides for off-street parking and loading as required by Section 11.
 - (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.
- d) Office, Commercial or Industrial uses shall provide a (6) six foot high screening fence to be constructed of masonry, wood, or other similar materials, along any interior side or rear property line that is within or adjacent to a residential zoning district; provided, however, when the adjacent property is being utilized for office, commercial or industrial use, said screening fence shall not be required. This screening shall be used to protect the existing and future development from light, noise, and blowing debris, and to protect adjacent property values. Whenever said screening fence extends into a required front yard setback, it shall be reduced to (3) three feet in height.
6. Conversion to Other Uses. A nonconforming use may be changed to any new use provided that the new use shall be of the same general character, or of a more restricted character as determined by the zoning administrator based on the use lists and limitations of the zoning districts. This shall not be deemed to permit the conversion of a structure to residential purposes in any district wherein such use would require a conditional use permit.

7. Abandonment of Nonconforming Uses.


- a) A nonconforming use shall be considered to be abandoned when any of the following shall occur:
- (1) The owner shall have in writing or by public statement indicated intent to abandon the building, structure or use.
 - (2) A more restrictive use shall have supplanted the original nonconforming use.
 - (3) The building or structure shall have been removed as a result of condemnation as an unsafe structure.
 - (4) The owner shall have changed physically the building or structure or its permanent equipment in such a manner, as to clearly indicate an abandonment of the nonconforming use.
 - (5) The property is vacant for 24 consecutive months and the owner has failed to maintain said property as required by applicable County codes.

- b) Any nonconforming use in an abandoned building or structure shall not be reused unless the new use shall conform to the district requirements in which it is located.
- c) Any use of land having only incidental or accessory structures such as salvage yards, automobile sales lots, parking lots, trailer parks or mobile home parks, extraction of gravel or similar uses when such are abandoned or discontinued for over 24 months shall not be used except for uses permitted by the district in which it is located.
- d) Nonconforming billboards shall be completely removed from any premises not later than 2 years from the effective date of this resolution, or from the date of any subsequent amendment to this Resolution that would cause any billboard to become nonconforming, if at least three residential units are constructed within two hundred (200) feet in any direction of a billboard. Until such condition does occur, such billboard may continue indefinitely.

SECTION II. This resolution shall take affect and be enforced from and after its adoption and publication in the official County paper.

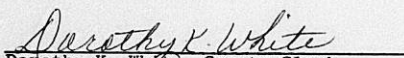
PASSED AND ADOPTED this 30th day of August, 1978.


EVERETT PATRICK, CHAIRMAN


JOHN HALE, COMMISSIONER


TOM SCOTT, COMMISSIONER

ATTEST:


Dorothy K. White, County Clerk

(SEAL)

APPROVED AS TO FORM BY:


Theodore H. Hill, County Counselor

August 22, 1978

Board of County Commissioners

Robert A. Lakin, Director of Planning

DR 78-19 - Amendment to County Zoning Resolution/
Repair, Reconstruction, Expansion and Change of
Nonconforming Uses.

On August 2, 1978, the Board of County Commissioners approved subject amendment to the County Zoning Resolution as recommended by the Metropolitan Area Planning Commission. However, a phrase was inadvertently omitted from the official resolution approved by the Board of County Commissioners and subsequently published in the official paper.

Section 12.B.7.c should read as follows:

Any use of land having only incidental or accessory structures such as salvage yards, automobile sales lots, parking lots, trailer parks or mobile home parks, extraction of gravel or similar uses when such are abandoned or discontinued for over 24 months shall not be used except for uses permitted by the district in which it is located.

The underlining is added to show the phrase that was omitted from the official resolution.

The delineated copy of the amendment considered by the MAPC was correctly stated and therefore it is necessary only to adopt a corrected resolution and rescind the previous resolution (No. 123-1978).

This matter should be scheduled for consideration at your regular meeting of August 30, 1978.

Robert A. Lakin
Director of Planning

RAL:LD:rms

cc: Theodore H. Hill, County Counselor
Dorothy K. White, County Clerk
Syd Werbin, County Zoning Administrator

R # 123-1978

M.A.P.D.

(unrevised) Published in the Wichita Beacon on Aug. 10, 1978.

RESOLUTION

A RESOLUTION AMENDING THE ZONING RESOLUTION OF SEDGWICK COUNTY, KANSAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS AND EFFECTIVE AFTER MARCH 3, 1958, WITH AMENDMENTS TO DECEMBER 28, 1977, FOR THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS; BY AMENDING SECTION 12 OF THE SEDGWICK COUNTY, KANSAS ZONING RESOLUTION; ALL IN ACCORDANCE WITH THE AUTHORITY GRANTED IN SECTION 14.C THEREOF.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

SECTION I. That upon the recommendation of the Wichita-Sedgwick County Metropolitan Area Planning Commission on July 6, 1978, after notice and public hearing as provided by law under authority granted by Section 14.C of the Sedgwick County Zoning Resolution as adopted March 3, 1958 and subsequently amended, SECTION 12 - "EXCEPTIONS": Subsection B. "USE NONCONFORMING" shall be amended to read as follows:

B. NONCONFORMING USES:

1. Registration of Nonconforming Uses. A complete record of the location of all nonconforming uses shall be made and kept by the Sedgwick County Zoning Administrator.
2. Continued Existence. Any use made nonconforming by the provisions of this resolution, any use made nonconforming by a subsequent amendment to this resolution, or a use which was nonconforming at the time of adoption of this resolution may continue indefinitely.
3. Loss from Natural Disaster. Any nonconforming use structure damaged or destroyed by fire, wind, tornado, flood, earthquake or other natural disaster may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences); or floor areas or ground coverage (for nonresidential uses); provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property line, than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.
4. Repair or Alteration of Original Structure: Any structure which is a part of a nonconforming use may be repaired or altered under the same terms as set forth in Paragraph 3.
5. Expansion of Nonconforming Uses. Nonconforming uses may be replaced or expanded under the terms of this section as follows:


- a) expansion of buildings permitted by the provisions contained herein shall be the total aggregate floor area included in all such separate additions or enlargements, based on the floor area contained in said building or structure at the time of the adoption of the zoning resolution, or at the time said building or structure became nonconforming. Expansion of open land uses permitted by the provisions contained herein shall be the total aggregate land area included in all such enlargements, based on the land area being used at the time of the adoption of the zoning resolution, or at the time said use became nonconforming.
- b) Nonconforming uses in Residential Districts when the use:
- (1) Does not increase the number of dwelling units, when residential.
 - (2) Does not exceed 50 percent of the floor area of the original use or if not a structure, not over 50 percent of the lot area originally used; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow an expansion of not more than 100 percent providing a finding is made that such expansion does not endanger the continued well-being and quality of life of the residential area in which it is located.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.
 - (4) Provides for off-street parking and loading as required by Section 11.
 - (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.
- c) Nonconforming uses in nonresidential areas when the use:
- (1) Does not exceed 100 percent of the floor area, or if a structure is not involved not over 100 percent of the land area involved; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow expansion of not more than 200 percent when the Board determines such action would not be detrimental to the area or community at-large as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, availability of adequate utilities and drainage facilities, and the ability to provide adequate fire protection and police service.
 - (2) Does not intrude into a residential zoning district.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.

- (4) Provides for off-street parking and loading as required by Section 11.
 - (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.
- d) Office, Commercial or Industrial uses shall provide a (6) six-foot high screening fence to be constructed of masonry, wood, or other similar materials, along any interior side or rear property line that is within or adjacent to a residential zoning district; provided, however, when the adjacent property is being utilized for office, commercial or industrial use, said screening fence shall not be required. This screening shall be used to protect the existing and future development from light, noise, and blowing debris, and to protect adjacent property values. Whenever said screening fence extends into a required front yard setback, it shall be reduced to (3) three feet in height.
6. Conversion to Other Uses. A nonconforming use may be changed to any new use provided that the new use shall be of the same general character, or of a more restricted character as determined by the zoning administrator based on the use lists and limitations of the zoning districts. This shall not be deemed to permit the conversion of a structure to residential purposes in any district wherein such use would require a conditional use permit.
7. Abandonment of Nonconforming Uses.
- a) A nonconforming use shall be considered to be abandoned when any of the following shall occur:
 - (1) The owner shall have in writing or by public statement indicated intent to abandon the building, structure or use.
 - (2) A more restrictive use shall have supplanted the original nonconforming use.
 - (3) The building or structure shall have been removed as a result of condemnation as an unsafe structure.
 - (4) The owner shall have changed physically the building or structure or its permanent equipment in such a manner, as to clearly indicate an abandonment of the nonconforming use.
 - (5) The property is vacant for 24 consecutive months and the owner has failed to maintain said property as required by applicable County codes.

- b) Any nonconforming use in an abandoned building or structure shall not be reused unless the new use shall conform to the district requirements in which it is located.
- c) Any use of land having only incidental or accessory structures such as salvage yards, automobile sales lots, parking lots, trailer parks or mobile home parks, extraction of gravel or similar uses permitted by the district in which it is located.
- d) Nonconforming billboards shall be completely removed from any premises not later than 2 years from the effective date of this resolution, or from the date of any subsequent amendment to this Resolution that would cause any billboard to become nonconforming, if at least three residential units are constructed within two hundred (200) feet in any direction of a billboard. Until such condition does occur, such billboard may continue indefinitely.

SECTION II. This resolution shall take affect and be enforced from and after its adoption and publication in the official County paper.

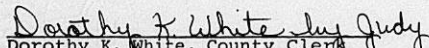
PASSED AND ADOPTED this 2nd day of August, 1978.


EVERETT PATRICK, CHAIRMAN

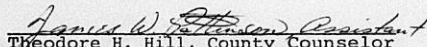
JOHN HALE, COMMISSIONER


TOM SCOTT, COMMISSIONER

ATTEST:


Dorothy K. White, County Clerk
Smith, Deputy County Clerk
(SEAL)

APPROVED AS TO FORM BY:


Theodore H. Hill, County Counselor

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

July 20, 1978

TO Board of County Commissioners
FROM Robert A. Lakin, Director of Planning

SUBJECT DR-78-19-Amendment to County Zoning Resolution--
Re: Repair, reconstruction, expansion and change of
non-conforming uses.

Attached hereto is a resolution amending the Sedgwick County Zoning Resolution that was advertised and considered by the Wichita-Sedgwick County Metropolitan Area Planning Commission at a public hearing on Thursday, July 6, 1978. Also attached is a delineated copy of the proposed amendment showing the additions and deletions to the zoning resolution.

Just for 2-1 Hale
SUMMARY

This amendment provides the following changes to the regulations applicable to non-conforming uses.

1. Eliminates the provision when a non-conforming use structure is damaged to the extent of more than 75 percent of its structural value that it may not be rebuilt. This revision will allow such a structure that is totally destroyed by a disaster to be rebuilt, provided however, structures in flood hazard areas must conform to the Sedgwick County Building Codes related to construction in flood hazard areas.
2. Allows for expansion of non-conforming uses as a use by right subject to the following:
 - (a) Provides for off-street parking and off-street loading on the same basis as a conforming use.
 - (b) Such expansion shall comply with setback and height limitations of the zoning district.
 - (c) When the use is an office, commercial or industrial use, it shall provide screening from any adjacent residential property.
 - (d) Such expansion of a non-conforming use in a residential district shall be limited to 50 percent of the original area, and when in a non-residential district, the expansion shall be limited to 100 percent; provided, however, the Board of Zoning Appeals would have the authority to grant expansions up to 100 percent in residential districts and 200 percent in non-residential districts.

3. Defines what constitutes abandonment of a non-conforming use.
4. Eliminates the termination of a non-conforming use of land unless such use is abandoned.

RECOMMENDATION

It was recommended by the Wichita-Sedgwick County Metropolitan Area Planning Commission by a 9-0 vote that this resolution be adopted.

It is further recommended by the staff that the following change be made to paragraph B(3) related to the rebuilding of non-conforming structures damaged or destroyed by disaster to clarify intent.

3. Loss from Natural Disaster. Any nonconforming use structure damaged or destroyed by fire, wind, tornado, flood, earthquake or other natural disaster ~~except flooding~~ may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences); or floor areas or ground coverage (for nonresidential uses); provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property lines, than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures located in flood hazard areas destroyed or damaged by flooding may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.


Robert A. Lakin
Director of Planning

RAL:GL:ch
Attachments

cc Ted Hill, County Counselor
Grover McLure, Sedgwick County Division of Public Works
Syd Werbin, Director of Building, Planning and Zoning
Wichita Area Builders Association
Wichita Board of Realtors

() Published in the Wichita Beacon on _____.

RESOLUTION

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BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

SECTION I. That upon the recommendation of the Wichita-Sedgwick County Metropolitan Area Planning Commission on July 6, 1978, after notice and public hearing as provided by law under authority granted by Section 14.C of the Sedgwick County Zoning Resolution as adopted March 3, 1958 and subsequently amended, SECTION 12 - "EXCEPTIONS": Subsection B. "USE NONCONFORMING" shall be amended to read as follows:

B. NONCONFORMING USES:

1. Registration of Nonconforming Uses. A complete record of the location of all nonconforming uses shall be made and kept by the Sedgwick County Zoning Administrator.
2. Continued Existence. Any use made nonconforming by the provisions of this resolution, any use made nonconforming by a subsequent amendment to this resolution, or a use which was nonconforming at the time of adoption of this resolution may continue indefinitely.
3. Loss from Natural Disaster. Any nonconforming use structure damaged or destroyed by fire, wind, tornado, flood, earthquake or other natural disaster may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences); or floor areas or ground coverage (for nonresidential uses); provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property line, than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.
4. Repair or Alteration of Original Structure: Any structure which is a part of a nonconforming use may be repaired or altered under the same terms as set forth in Paragraph 3.
5. Expansion of Nonconforming Uses. Nonconforming uses may be replaced or expanded under the terms of this section as follows:

- a) expansion of buildings permitted by the provisions contained herein shall be the total aggregate floor area included in all such separate additions or enlargements, based on the floor area contained in said building or structure at the time of the adoption of the zoning resolution, or at the time said building or structure became nonconforming. Expansion of open land uses permitted by the provisions contained herein shall be the total aggregate land area included in all such enlargements, based on the land area being used at the time of the adoption of the zoning resolution, or at the time said use became nonconforming.
- b) Nonconforming uses in Residential Districts when the use:
- (1) Does not increase the number of dwelling units, when residential.
 - (2) Does not exceed 50 percent of the floor area of the original use or if not a structure, not over 50 percent of the lot area originally used; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow an expansion of not more than 100 percent providing a finding is made that such expansion does not endanger the continued well-being and quality of life of the residential area in which it is located.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.
 - (4) Provides for off-street parking and loading as required by Section 11.
 - (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.
- c) Nonconforming uses in nonresidential areas when the use:
- (1) Does not exceed 100 percent of the floor area, or if a structure is not involved not over 100 percent of the land area involved; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow expansion of not more than 200 percent when the Board determines such action would not be detrimental to the area or community at-large as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, availability of adequate utilities and drainage facilities, and the ability to provide adequate fire protection and police service.
 - (2) Does not intrude into a residential zoning district.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.

- (4) Provides for off-street parking and loading as required by Section 11.
 - (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.
- d) Office, Commercial or Industrial uses shall provide a (6) six foot high screening fence to be constructed of masonry, wood, or other similar materials, along any interior side or rear property line that is within or adjacent to a residential zoning district; provided, however, when the adjacent property is being utilized for office, commercial or industrial use, said screening fence shall not be required. This screening shall be used to protect the existing and future development from light, noise, and blowing debris, and to protect adjacent property values. Whenever said screening fence extends into a required front yard setback, it shall be reduced to (3) three feet in height.
6. Conversion to Other Uses. A nonconforming use may be changed to any new use provided that the new use shall be of the same general character, or of a more restricted character as determined by the zoning administrator based on the use lists and limitations of the zoning districts. This shall not be deemed to permit the conversion of a structure to residential purposes in any district wherein such use would require a conditional use permit.
7. Abandonment of Nonconforming Uses.
- a) A nonconforming use shall be considered to be abandoned when any of the following shall occur:
 - (1) The owner shall have in writing or by public statement indicated intent* to abandon the building, structure or use.
 - (2) A more restrictive use shall have supplanted the original nonconforming use.
 - (3) The building or structure shall have been removed as a result of condemnation as an unsafe structure.
 - (4) The owner shall have changed physically the building or structure or its permanent equipment in such a manner, as to clearly indicate an abandonment of the nonconforming use.
 - (5) The property is vacant for 24 consecutive months and the owner has failed to maintain said property as required by applicable County codes.

- b) Any nonconforming use in an abandoned building or structure shall not be reused unless the new use shall conform to the district requirements in which it is located.
- c) Any use of land having only incidental or accessory structures such as salvage yards, automobile sales lots, parking lots, trailer parks or mobile home parks, extraction of gravel or similar uses permitted by the district in which it is located.
- d) Nonconforming billboards shall be completely removed from any premises not later than 2 years from the effective date of this resolution, or from the date of any subsequent amendment to this Resolution that would cause any billboard to become nonconforming, if at least three residential units are constructed within two hundred (200) feet in any direction of a billboard. Until such condition does occur, such billboard may continue indefinitely.

SECTION II. This resolution shall take affect and be enforced from and after its adoption and publication in the official County paper.

PASSED AND ADOPTED this ____ day of _____, 1978.

EVERETT PATRICK, CHAIRMAN

JOHN HALE, COMMISSIONER

TOM SCOTT, COMMISSIONER

ATTEST:

Dorothy K. White, County Clerk

(SEAL)

APPROVED AS TO FORM BY:

Theodore H. Hill, County Counselor

June 20, 1978

DR-78-19

Possible Amendments to the
Sedgwick County Zoning Resolution Scheduled for
Public Hearing before the MAPC - Thursday, July 6, 1978

Recommended that Section 12-(B) be amended to read as follows:

B. NONCONFORMING USES:

1. Registration of Nonconforming Uses. A complete record of the location of all nonconforming uses shall be made and kept by the Sedgwick County Zoning Administrator.
2. Continued Existence. Any use made nonconforming by the provisions of this resolution, any use made nonconforming by a subsequent amendment to this resolution, or a use which was nonconforming at the time of adoption of this resolution may continue indefinitely.
3. Loss from Natural Disaster. Any nonconforming use structure destroyed by fire, wind, tornado, earthquake or other natural disaster except flooding may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences) or floor areas or ground coverage (for nonresidential uses). Provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property lines than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures destroyed or damaged by flooding may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.
4. Repair or Alteration of Original Structure: Any structure which is a part of a nonconforming use may be repaired or altered under the same terms as set forth in paragraph 3.
5. Expansion of Nonconforming Uses. Nonconforming uses may be replaced or expanded under the terms of this section as follows:
 - a) Expansion of buildings permitted by the provisions contained herein shall be the total aggregate floor area included in all such separate

additions or enlargements, based on the floor area contained in said building or structure at the time of the adoption of the zoning resolution, or at the time said building or structure became nonconforming. Expansion of nonconforming uses permitted by the provisions contained herein shall be the total aggregate floor area included in all such enlargements, based on the land area being used at the time of the adoption of the zoning resolution, or at the time said use became nonconforming.

b) Nonconforming uses in Residential Districts when the use:

- (1) Does not increase the number of dwelling units, when residential.
- (2) Does not exceed 50 percent of the floor area of the original use or if not a structure, not over 50 percent of the lot area originally used; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow an expansion of not more than 100 percent providing a finding is made that such expansion does not endanger the continued well-being and quality of life of the residential area in which it is located.
- (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.
- (4) Provides for off-street parking and loading as required by Section 11.
- (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.

c) Nonconforming uses in nonresidential areas when the use:

- (1) Does not exceed 100 percent of the floor area, or if a structure is not involved, not over 100 percent of the land area involved; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow expansion of not more than 200 percent when the Board

determines such action would not be detrimental to the area or community at-large as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, availability of adequate utilities and drainage facilities, and the ability to provide adequate fire protection and police service.

- (2) Does not intrude into a residential zoning district.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.
 - (4) Provides for off-street parking and loading as required by Section 11.
 - (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.
- d) Conversion to Other Uses. A nonconforming use may be changed to any new use provided that the new use shall be of the same general character, or of a more restricted character as determined by the zoning administrator based on the use lists and limitations of the zoning districts. This shall not be deemed to permit the conversion of a structure to residential purposes in any district wherein such use would require a conditional use permit.

6. Abandonment of Nonconforming Uses.

- a) A nonconforming use shall be considered to be abandoned when any of the following shall occur:
 - (1) The owner shall have in writing or by public statement indicated intent to abandon the building, structure or use.
 - (2) A more restrictive use shall have supplanted the original nonconforming use.
 - (3) The building or structure shall have been removed as a result of condemnation as an unsafe structure.

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(4) The owner shall have changed physically the building or structure or its permanent equipment in such a manner, as to clearly indicate an abandonment of the nonconforming use.

(5) The property is vacant for 24 consecutive months and the owner has failed to maintain said property as required by applicable regulations.

- b) Any nonconforming use in an abandoned building or structure shall not be reused unless the new use shall conform to the district requirements in which it is located.
- c) Any use of land having only incidental or accessory structures such as salvage yards, automobile sales lots, parking lots, trailer parks or mobile home parks, extraction of gravel or similar uses when such are abandoned or discontinued for over 24 months shall not be used except for uses permitted by the district in which it is located.
- d) Nonconforming billboards shall be completely removed from any premises not later than 2 years from the effective date of this resolution, or from the date of any subsequent amendment to this resolution that would cause any billboard to become nonconforming. If at least three residential units are constructed within the 400-foot (400) feet in any direction of a billboard. Until such condition does occur, such billboard may continue indefinitely.

The following is the original Section 12-(B) which shall be deleted:

B. USE-NONCONFORMING

1. Registration of Nonconforming Uses--A complete record of the location, value, nature and extent of all nonconforming uses shall be made and kept by the County Planning Commission.
2. Nonconforming Buildings
 - a) Continuance of Use--The lawful use of any building existing at the time of the adoption of this resolution may be continued, although the use of such building does not

-4-

conform to the regulations of the Zoning District in which such building is located. The lawful use of any building which becomes non-conforming by reason of a subsequent amendment of this Resolution may be continued after the date of such amendment.

- b) **Additions and Enlargements**--In accordance with procedure outlined in Section 14, the addition to or enlargement of a non-conforming building or structure may be permitted provided such addition or enlargement complies with all height and area regulations of the district in which it is located and does not add undesirable features as determined by the Board of Appeals. The total aggregate floor area included in all such separate additions or enlargements shall not exceed fifty (50) percent of the floor area contained in said building or structure, at the time of the adoption of this Resolution.
- c) **Restoration of Remained Buildings**--A non-conforming building or structure which is damaged or partially destroyed by fire, flood, windy earthquake, or other calamity or the public enemy, to the extent of not more than seventy-five (75) percent of its value at that time, may be restored and the same use or occupancy contained or resumed, provided that the total cost of such restoration does not exceed seventy-five (75) percent of the value of the building or structure at the time of such damage. Provided, further, that such restoration is started within a period of one (1) year and is diligently prosecuted to completion.
- d) **Change of Use**--The use of nonconforming buildings may not be changed to any other less restricted use as listed in the Classification of Districts.
- e) **Vacancy**--A nonconforming building or portion thereof which is or hereafter becomes vacant and remains unoccupied for a continuous period of one (1) year, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

- f) **Vacancy of trailer park or mobile home park** If use of any parcel of land as a trailer court or mobile home park is discontinued for a period longer than six (6) months, all permits for the operation of such trailer court or mobile home park shall be revoked and the owner of the land shall remove all debris and shall fill or properly cover exposed sewage facilities.

3. Nonconforming Use of Land

- a) A nonconforming use of land (where there is no permanent building being used in relation to such use at the time of the adoption of this Resolution) may be continued for a period of four (4) years from the effective date of the Resolution. All such nonconforming uses shall be discontinued after said four (4) year period. Provided, however, if such nonconforming uses creates an unhealthful or unsanitary condition as determined by the Wichita-Sedgewick County Health Department, then such nonconforming use shall be terminated within six (6) months from the date of such findings by said department.
- b) A nonconforming use of land shall not be expanded or extended into any other portion of the lot or adjoining property, nor shall the use be changed except to a conforming use.
- c) Nonconforming structures such as signs, billboards, or commercial advertising structures shall be completely removed from the premises not later than two (2) years from the effective date of this Resolution if at least three residential units occur within two hundred (200) feet in any direction of said structure. Until such condition does occur, such structure may remain.

7/6/78

(Possible Addition to DR 78-19)

5. (d) Office, Commercial or Industrial uses shall provide a (6) six foot high screening fence to be constructed of masonry, wood, or other similar materials, along any interior side or rear property line that is within or adjacent to a residential zoning district; provided, however, when the adjacent property is being utilized for office, commercial or industrial use, said screening fence shall not be required. This screening shall be used to protect the existing and future development from light, noise, and blowing debris, and to protect adjacent property values. Whenever said screening fence extends into a required front yard setback, it shall be reduced to (3) three feet in height.

(Corrections)

Paragraph 5(d) shall become Paragraph 6.

Paragraph 6 shall become Paragraph 7.

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

July 20, 1978

TO Board of County Commissioners
FROM Robert A. Lakin, Director of Planning

SUBJECT DR-78-19-Amendment to County Zoning Resolution--
Re: Repair, reconstruction, expansion and change of
non-conforming uses.

Attached hereto is a resolution amending the Sedgwick County Zoning Resolution that was advertised and considered by the Wichita-Sedgwick County Metropolitan Area Planning Commission at a public hearing on Thursday, July 6, 1978. Also attached is a delineated copy of the proposed amendment showing the additions and deletions to the zoning resolution.

SUMMARY

This amendment provides the following changes to the regulations applicable to non-conforming uses.

1. Eliminates the provision when a non-conforming use structure is damaged to the extent of more than 75 percent of its structural value that it may not be rebuilt. This revision will allow such a structure that is totally destroyed by a disaster to be rebuilt, provided however, structures in flood hazard areas must conform to the Sedgwick County Building Codes related to construction in flood hazard areas.
2. Allows for expansion of non-conforming uses as a use by right subject to the following:
 - (a) Provides for off-street parking and off-street loading on the same basis as a conforming use.
 - (b) Such expansion shall comply with setback and height limitations of the zoning district.
 - (c) When the use is an office, commercial or industrial use, it shall provide screening from any adjacent residential property.
 - (d) Such expansion of a non-conforming use in a residential district shall be limited to 50 percent of the original area, and when in a non-residential district, the expansion shall be limited to 100 percent; provided, however, the Board of Zoning Appeals would have the authority to grant expansions up to 100 percent in residential districts and 200 percent in non-residential districts.

Board of County Commissioners
July 20, 1978
Page 2

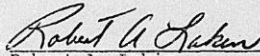
3. Defines what constitutes abandonment of a non-conforming use.
4. Eliminates the termination of a non-conforming use of land unless such use is abandoned.

RECOMMENDATION

It was recommended by the Wichita-Sedgwick County Metropolitan Area Planning Commission by a 9-0 vote that this resolution be adopted.

It is further recommended by the staff that the following change be made to paragraph B(3) related to the rebuilding of non-conforming structures damaged or destroyed by disaster to clarify intent.

3. Loss from Natural Disaster. Any nonconforming use structure damaged or destroyed by fire, wind, tornado, flood, earthquake or other natural disaster ~~except flooding~~ may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences); or floor areas or ground coverage (for nonresidential uses); provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property lines, than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures located in flood hazard areas ~~destroyed or damaged by flooding~~ may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.


Robert A. Lakin
Director of Planning

RAL:GL:ch
Attachments

cc Ted Hill, County Counselor
Grover McLure, Sedgwick County Division of Public Works
Syd Werbin, Director of Building, Planning and Zoning
Wichita Area Builders Association
Wichita Board of Realtors

() Published in the Wichita Beacon on _____.

RESOLUTION

A RESOLUTION AMENDING THE ZONING RESOLUTION OF SEDGWICK COUNTY, KANSAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS AND EFFECTIVE AFTER MARCH 3, 1958, WITH AMENDMENTS TO DECEMBER 28, 1977, FOR THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS; BY AMENDING SECTION 12 OF THE SEDGWICK COUNTY, KANSAS ZONING RESOLUTION; ALL IN ACCORDANCE WITH THE AUTHORITY GRANTED IN SECTION 14.C THEREOF.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS:

SECTION I. That upon the recommendation of the Wichita-Sedgwick County Metropolitan Area Planning Commission on July 6, 1978, after notice and public hearing as provided by law under authority granted by Section 14.C of the Sedgwick County Zoning Resolution as adopted March 3, 1958 and subsequently amended, SECTION 12 - "EXCEPTIONS": Subsection B. "USE NONCONFORMING" shall be amended to read as follows:

B. NONCONFORMING USES:

1. Registration of Nonconforming Uses. A complete record of the location of all nonconforming uses shall be made and kept by the Sedgwick County Zoning Administrator.
2. Continued Existence. Any use made nonconforming by the provisions of this resolution, any use made nonconforming by a subsequent amendment to this resolution, or a use which was nonconforming at the time of adoption of this resolution may continue indefinitely.
3. Loss from Natural Disaster. Any nonconforming use structure damaged or destroyed by fire, wind, tornado, flood, earthquake or other natural disaster may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences); or floor areas or ground coverage (for nonresidential uses); provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property line, than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.
4. Repair or Alteration of Original Structure: Any structure which is a part of a nonconforming use may be repaired or altered under the same terms as set forth in Paragraph 3.
5. Expansion of Nonconforming Uses. Nonconforming uses may be replaced or expanded under the terms of this section as follows:

- a) expansion of buildings permitted by the provisions contained herein shall be the total aggregate floor area included in all such separate additions or enlargements, based on the floor area contained in said building or structure at the time of the adoption of the zoning resolution, or at the time said building or structure became nonconforming. Expansion of open land uses permitted by the provisions contained herein shall be the total aggregate land area included in all such enlargements, based on the land area being used at the time of the adoption of the zoning resolution, or at the time said use became nonconforming.
- b) Nonconforming uses in Residential Districts when the use:
- (1) Does not increase the number of dwelling units, when residential.
 - (2) Does not exceed 50 percent of the floor area of the original use or if not a structure, not over 50 percent of the lot area originally used; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow an expansion of not more than 100 percent providing a finding is made that such expansion does not endanger the continued well-being and quality of life of the residential area in which it is located.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.
 - (4) Provides for off-street parking and loading as required by Section 11.
 - (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.
- c) Nonconforming uses in nonresidential areas when the use:
- (1) Does not exceed 100 percent of the floor area, or if a structure is not involved not over 100 percent of the land area involved; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow expansion of not more than 200 percent when the Board determines such action would not be detrimental to the area or community at-large as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, availability of adequate utilities and drainage facilities, and the ability to provide adequate fire protection and police service.
 - (2) Does not intrude into a residential zoning district.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.

- (4) Provides for off-street parking and loading as required by Section 11.
 - (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.
- d) Office, Commercial or Industrial uses shall provide a (6) six foot high screening fence to be constructed of masonry, wood, or other similar materials, along any interior side or rear property line that is within or adjacent to a residential zoning district; provided, however, when the adjacent property is being utilized for office, commercial or industrial use, said screening fence shall not be required. This screening shall be used to protect the existing and future development from light, noise, and blowing debris, and to protect adjacent property values. Whenever said screening fence extends into a required front yard setback, it shall be reduced to (3) three feet in height.
6. Conversion to Other Uses. A nonconforming use may be changed to any new use provided that the new use shall be of the same general character, or of a more restricted character as determined by the zoning administrator based on the use lists and limitations of the zoning districts. This shall not be deemed to permit the conversion of a structure to residential purposes in any district wherein such use would require a conditional use permit.
7. Abandonment of Nonconforming Uses.
- a) A nonconforming use shall be considered to be abandoned when any of the following shall occur:
 - (1) The owner shall have in writing or by public statement indicated intent* to abandon the building, structure or use.
 - (2) A more restrictive use shall have supplanted the original nonconforming use.
 - (3) The building or structure shall have been removed as a result of condemnation as an unsafe structure.
 - (4) The owner shall have changed physically the building or structure or its permanent equipment in such a manner, as to clearly indicate an abandonment of the nonconforming use.
 - (5) The property is vacant for 24 consecutive months and the owner has failed to maintain said property as required by applicable County codes.

- b) Any nonconforming use in an abandoned building or structure shall not be reused unless the new use shall conform to the district requirements in which it is located.
- c) Any use of land having only incidental or accessory structures such as salvage yards, automobile sales lots, parking lots, trailer parks or mobile home parks, extraction of gravel or similar uses permitted by the district in which it is located.
- d) Nonconforming billboards shall be completely removed from any premises not later than 2 years from the effective date of this resolution, or from the date of any subsequent amendment to this Resolution that would cause any billboard to become nonconforming, if at least three residential units are constructed within two hundred (200) feet in any direction of a billboard. Until such condition does occur, such billboard may continue indefinitely.

SECTION II. This resolution shall take affect and be enforced from and after its adoption and publication in the official County paper.

PASSED AND ADOPTED this _____ day of _____, 1978.

EVERETT PATRICK, CHAIRMAN

JOHN HALE, COMMISSIONER

TOM SCOTT, COMMISSIONER

ATTEST:

Dorothy K. White, County Clerk

(SEAL)

APPROVED AS TO FORM BY:

Theodore H. Hill, County Counselor

DR-78-19

June 20, 1978

Possible Amendments to the
Sedgwick County Zoning Resolution Scheduled for
Public Hearing before the MACP - Thursday, July 6, 1978

Recommended that Section 12-(B) be amended to read as follows:

B. NONCONFORMING USES:

1. Registration of Nonconforming Uses. A complete record of the location of all nonconforming uses shall be made and kept by the Sedgwick County Zoning Administrator.
2. Continued Existence. Any use made nonconforming by the provisions of this resolution, any use made nonconforming by a subsequent amendment to this resolution, or a use which was nonconforming at the time of adoption of this resolution may continue indefinitely.
3. Loss from Natural Disaster. Any nonconforming use structure destroyed by fire, wind, tornado, earthquake or other natural disaster except flooding may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residential) or floor areas or ground coverage (for nonresidential) used; provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property lines than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures destroyed or damaged by flooding may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.
4. Repair or Alteration of Original Structure: Any structure which is a part of a nonconforming use may be repaired or altered under the same terms as set forth in paragraph 3.
5. Expansion of Nonconforming Uses. Nonconforming uses may be replaced or expanded under the terms of this section as follows:
 - a) Expansion of buildings permitted by the provisions contained herein shall be the total aggregate floor area included in all such separate

additions or enlargements, based on the floor area contained in said building or structure at the time of the adoption of the zoning resolution, or at the time said building or structure became nonconforming. Expansion of open lot uses permitted by the provisions contained herein shall be the total aggregate floor area included in all such enlargements, based on the land area being used at the time of the adoption of the zoning resolution, or at the time said use became nonconforming.

b) Nonconforming uses in Residential Districts when the use:

- (1) Does not increase the number of dwelling units, when residential.
- (2) Does not exceed 50 percent of the floor area of the original use or, if not a structure, not over 50 percent of the lot area originally used; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow an expansion of not more than 100 percent providing a finding is made that such expansion does not endanger the continued well-being and quality of life of the residential area in which it is located.
- (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.
- (4) Provides for off-street parking and loading as required by Section 11.
- (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.

c) Nonconforming uses in nonresidential areas when the use:

- (1) Does not exceed 100 percent of the floor area, or if a structure is not involved, not over 100 percent of the land area involved; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow expansion of not more than 200 percent when the Board

determines such action would not be detrimental to the area or community at-large as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, availability of adequate utilities and drainage facilities, and the ability to provide adequate fire protection and police service.

- (2) Does not intrude into a residential zoning district.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.
 - (4) Provides for off-street parking and loading as required by Section 11.
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- d) Conversion to Other Uses. A nonconforming use may be changed to any new use provided that the new use shall be of the same general character, or of a more restricted character as determined by the zoning administrator based on the use lists and limitations of the zoning districts. This shall not be deemed to permit the conversion of a structure to residential purposes in any district wherein such use would require a conditional use permit.

6. Abandonment of Nonconforming Uses.

- a) A nonconforming use shall be considered to be abandoned when any of the following shall occur:
 - (1) The owner shall have in writing or by public statement indicated intent to abandon the building, structure or use.
 - (2) A more restrictive use shall have supplanted the original nonconforming use.
 - (3) The building or structure shall have been removed as a result of condemnation as an unsafe structure.

- (4) The owner shall have changed physically the building or structure or its permanent equipment in such a manner, as to clearly indicate an abandonment of the nonconforming use.
 - (5) The property is vacant for 24 consecutive months and the owner has failed to maintain said property as required by applicable regulations.
- b) Any nonconforming use in an abandoned building or structure shall not be reused unless the new use shall conform to the district requirements in which it is located.
- c) Any use of land having only incidental or accessory structures such as salvage yards, automobile sales lots, parking lots, trailer parks or mobile home parks, extraction of gravel or similar uses when such are abandoned or discontinued for over 24 months shall not be used except for uses permitted by the district in which it is located.
- d) Nonconforming billboards shall be completely removed from any premises not later than 2 years from the effective date of this resolution, or from the date of any subsequent amendment to this resolution that would cause any billboard to become nonconforming, if at least three residential units are constructed within two hundred (200) feet in any direction of a billboard. Until such condition does occur, such billboard may continue indefinitely.

The following is the original Section 12-(B) which shall be deleted:

B. USE-NONCONFORMING

1. Registration of Nonconforming Uses.—A complete record of the location, value, nature and extent of all nonconforming uses shall be made and kept by the County Planning Commission.
2. Nonconforming Buildings
 - a) Continuance of Use.—The lawful use of any building existing at the time of the adoption of this resolution may be continued, although the use of such building does not

conform to the regulations of the Zoning District in which such building is located. The lawful use of any building which becomes non-conforming by reason of a subsequent amendment of this Resolution may be continued after the date of such amendment.

- b) **Additions and Enlargements**--In accordance with procedure outlined in Section 14, the addition to or enlargement of a non-conforming building or structure may be permitted, provided such addition or enlargement complies with all height and area regulations of the district in which it is located and does not add undesirable features as determined by the Board of Appeals. The total aggregate floor area included in all such separate additions or enlargements shall not exceed fifty (50) percent of the floor area contained in said building or structure at the time of the adoption of this Resolution.
- c) **Restoration of Damaged Buildings**--A non-conforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity or the public enemy, to the extent of not more than seventy-five (75) percent of its value at that time, may be restored and the same use or occupancy contained or resumed, provided that the total cost of such restoration does not exceed seventy-five (75) percent of the value of the building or structure at the time of such damage. Provided, further, that such restoration is started within a period of one (1) year and is diligently prosecuted to completion.
- d) **Change of Use**--The use of nonconforming buildings may not be changed to any other less restricted use as listed in the Classification of Districts.
- e) **Vacancy**--A nonconforming building or portion thereof, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one (1) year, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

f) **Vacancy of trailer park or mobile home park**--If use of any parcel of land as a trailer court or mobile home park is discontinued for a period longer than six (6) months, all permits for the operation of such trailer court or mobile home park shall be revoked and the owner of the land shall remove all debris and shall fill or properly cover exposed sewage facilities.

3. **Nonconforming Use of Land**

- a) A nonconforming use of land (where there is no nonconforming building being used in relation to such use at the time of the adoption of this Resolution) may be continued for a period of four (4) years from the effective date of the Resolution. All such nonconforming uses shall be discontinued after said four (4) year period. Provided, however, if such nonconforming uses creates an unhealthful or unsanitary condition as determined by the Wichita-Sedwick County Health Department, then such nonconforming use shall be terminated within six (6) months from the date of such findings by said department.
- b) A nonconforming use of land shall not be expanded or extended into any other portion of the lot or adjoining property, nor shall the use be changed except to a conforming use.
- c) Nonconforming structures such as signs, billboards, or commercial advertising structures shall be completely removed from the premises not later than two (2) years from the effective date of this Resolution if at least three residential units occur within two hundred (200) feet in any direction of said structure, unless such condition does occur, such structure may remain.

7/6/78

(Possible Addition to DR 78-19)

5. (d) Office, Commercial or Industrial uses shall provide a (6) six foot high screening fence to be constructed of masonry, wood, or other similar materials, along any interior side or rear property line that is within or adjacent to a residential zoning district; provided, however, when the adjacent property is being utilized for office, commercial or industrial use, said screening fence shall not be required. This screening shall be used to protect the existing and future development from light, noise, and blowing debris, and to protect adjacent property values. Whenever said screening fence extends into a required front yard setback, it shall be reduced to (3) three feet in height.

(Corrections)

Paragraph 5(d) shall become Paragraph 6.

Paragraph 6 shall become Paragraph 7.

July 20, 1978

Board of County Commissioners

Robert A. Lakin, Director of Planning

DR-78-19-Amendment to County Zoning Resolution--
Re: Repair, reconstruction, expansion and change of
non-conforming uses.

Attached hereto is a resolution amending the Sedgwick County Zoning Resolution that was advertised and considered by the Wichita-Sedgwick County Metropolitan Area Planning Commission at a public hearing on Thursday, July 6, 1978. Also attached is a delineated copy of the proposed amendment showing the additions and deletions to the zoning resolution.

SUMMARY

This amendment provides the following changes to the regulations applicable to non-conforming uses.

1. Eliminates the provision when a non-conforming use structure is damaged to the extent of more than 75 percent of its structural value that it may not be rebuilt. This revision will allow such a structure that is totally destroyed by a disaster to be rebuilt, provided however, structures in flood hazard areas must conform to the Sedgwick County Building Codes related to construction in flood hazard areas.
2. Allows for expansion of non-conforming uses as a use by right subject to the following:
 - (a) Provides for off-street parking and off-street loading on the same basis as a conforming use.
 - (b) Such expansion shall comply with setback and height limitations of the zoning district.
 - (c) When the use is an office, commercial or industrial use, it shall provide screening from any adjacent residential property.
 - (d) Such expansion of a non-conforming use in a residential district shall be limited to 50 percent of the original area, and when in a non-residential district, the expansion shall be limited to 100 percent; provided, however, the Board of Zoning Appeals would have the authority to grant expansions up to 100 percent in residential districts and 200 percent in non-residential districts.

Board of County Commissioners
July 20, 1978
Page 2

3. Defines what constitutes abandonment of a non-conforming use.
4. Eliminates the termination of a non-conforming use of land unless such use is abandoned.

RECOMMENDATION

It was recommended by the Wichita-Sedgwick County Metropolitan Area Planning Commission by a 9-0 vote that this resolution be adopted.

It is further recommended by the staff that the following change be made to paragraph B(3) related to the rebuilding of non-conforming structures damaged or destroyed by disaster to clarify intent.

3. Loss from Natural Disaster. Any nonconforming use structure damaged or destroyed by fire, wind, tornado, flood, earthquake or other natural disaster except flooding may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences); or floor areas or ground coverage (for nonresidential uses); provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property lines, than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures located in flood hazard areas destroyed or damaged by flooding may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.

Robert A. Lakin
Director of Planning

RAL:GL:ch
Attachments

cc Ted Hill, County Counselor
Grover McLure, Sedgwick County Division of Public Works
Syd Werbin, Director of Building, Planning and Zoning
Wichita Area Builders Association
Wichita Board of Realtors

July 7, 1978

Mr. Syd Werbin, Division Head
Bldg., Planning & Inspection
Sedgwick County Courthouse
525 North Main
Wichita, Kansas 67203

Re: DR-78-19 - Amendment to
Sedgwick County Zoning Resolution:
Re: Repair, reconstruction and ex-
pansion of nonconforming uses

Dear Syd:

I wanted you and Mr. McClure to be advised that the Planning Commission considered the above-captioned case at its regular meeting of July 6, 1978. The Planning Commission recommended that the proposed amendment be approved as previously forwarded to you with the additional change as found on the attached sheet.

This amendment will be scheduled for consideration by the Board of County Commissioners at their regular meeting of August 2, 1978, and should either of you have any comments concerning this proposed amendment, we would appreciate hearing from you prior to the County Commission meeting.

If you have any questions, please call.

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:bh
Attach.

cc: Grover C. McLure, Director of Public Works, Sedgwick
County Courthouse, 525 N. Main, 67203

7/6/78

(Possible Addition to DR 78-19)

5. (d) Office, Commercial or Industrial uses shall provide a (6) six foot high screening fence to be constructed of masonry, wood, or other similar materials, along any interior side or rear property line that is within or adjacent to a residential zoning district; provided, however, when the adjacent property is being utilized for office, commercial or industrial use, said screening fence shall not be required. This screening shall be used to protect the existing and future development from light, noise, and blowing debris, and to protect adjacent property values. Whenever said screening fence extends into a required front yard setback, it shall be reduced to (3) three feet in height.

(Corrections)

Paragraph 5(d) shall become Paragraph 6.
Paragraph 6 shall become Paragraph 7.

(Published in The Wichita Beacon on June 20, 1978)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on July 6, 1978, the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at 1:30 p.m., will consider the following changes to the Zoning Resolution of Sedgwick County, Kansas:

That Section 12 (EXCEPTIONS) be amended to allow repair, reconstruction and expansion of nonconforming structures and nonconforming uses of land subject to certain limitations.

That Section 11 (SUPPLEMENTAL REGULATIONS) be amended to allow the placement of a mobile home as a temporary second dwelling as a variance from the limitation of one main residential structure on a lot.

That Section 11 (SUPPLEMENTAL REGULATIONS) be amended to allow parking within the required front yard setback of the "R", "R-1" and "AA" Residential zoning districts, and to modify the standards for the surfacing of off street parking and loading areas.

Copies of the proposed amendments are available upon request from the Wichita-Sedgwick County Metropolitan Area Planning Department, Tenth Floor, 455 North Main, Wichita, Kansas.

The proposed amendment will there be discussed and considered by the said Wichita-Sedgwick County Metropolitan Area Planning Commission, and all persons interested in said matter will be heard at this time concerning their views and wishes, and any protest against any of the provisions of the proposed changes to the Sedgwick County Zoning Resolution will be considered by the Commission as by law provided.

WITNESS my hand and seal this 16th day of June, 1978.

Robert A. Lakin, Secretary
Wichita-Sedgwick County Metro-
politan Area Planning Commission

(SEAL)

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

June 29, 1978

TO Wichita-Sedgwick County Metropolitan Planning Commission

FROM Glen E. Lytle, Special Assistant for Zoning

SUBJECT DR-78-19-Possible amendment to the Sedgwick County Zoning Resolution. Re: Repair, reconstruction and expansion of nonconforming uses.

The attached delineated amendment to the Sedgwick County Zoning Resolution has been advertised for public hearing before the Planning Commission at the meeting of July 6, 1978.

BACKGROUND

The Board of County Commissioners originally adopted the zoning regulations in February 1958. The nonconforming use provisions of the original resolution has remained intact since that date with the exception of the one provision (Section B-2.(f)) which had been added. Many of the original nonconforming uses have either been annexed into the City of Wichita, or other communities. With each annexation the 3 mile ring is extended and we continue to bring new uses into the area regulated by zoning that were established outside of the zoning jurisdiction. When this happens, some of these uses become nonconforming and are subject to the zoning regulations which requires that open land uses (where no structures are involved) to terminate in four years. Realistically this does not happen. Either the zoning provision is not enforced, or the owner requests a change of zoning to become a conforming use in order to remain and expand. Uses where structures are involved are permitted 50% expansion under the existing resolution by the County Board of Zoning Appeals.

SUMMARY

The attached amendment will provide for the following:


1. Allow a nonconforming use to continue indefinitely unless such use is abandoned.
2. Allow a nonconforming use that is destroyed by fire, wind, tornado, earthquake or other natural disaster to be rebuilt no matter to what extent it may be damaged, with one exception. Structures in a flood hazard area must be rebuilt to conform to the Sedgwick County Building Code regulations regarding building in flood hazard areas.

Re: DR-78-19
June 29, 1978
Page Two

3. Nonconforming uses may be repaired, remodeled or expanded with expansion limited as follows:
 - (a) Nonconforming uses in residential districts may be expanded up to 50% as a use-by-right, and up to 100% when approved by the Board of Zoning Appeals.
 - (b) Nonconforming uses in nonresidential districts may be expanded up to 100% as a use-by-right, and up to 200% when approved by the Board of Zoning Appeals.
4. Nonconforming uses may be converted to other uses of the same general character, or of a more restricted character.
5. Defines what constitutes the abandonment of a nonconforming use. The fact that a building remains vacant for a long period of time does not cause the structure to lose its nonconforming use rights.

RECOMMENDATION

Make whatever changes the MAPC deems in the public interest, and forward a recommendation to the Board of County Commissioners.


Glen E. Lytle
Special Assistant for Zoning

GEL:et

cc:

Robert A. Lakin, Director of Planning
Grover McLure, Sedgwick County Director of Public Works
Syd Werbin, Director of Building, Planning & Zoning
Ted Hill, County Counselor
Vera Stevens, Administrative Assistant
Wichita Area Builders Assn., 760 North Main, Wichita, Ks 67203
Wichita Board of Realtors, 435 North Broadway, Wichita, Ks 67202

June 20, 1978

DR-78-19

Possible Amendments to the
Sedgwick County Zoning Resolution Scheduled for
Public Hearing before the MAPC - Thursday, July 6, 1978

Recommended that Section 12-(B) be amended to read as follows:

B. NONCONFORMING USES:

1. Registration of Nonconforming Uses. A complete record of the location of all nonconforming uses shall be made and kept by the Sedgwick County Zoning Administrator.
2. Continued Existence. Any use made nonconforming by the provisions of this resolution, any use made nonconforming by a subsequent amendment to this resolution, or a use which was nonconforming at the time of adoption of this resolution may continue indefinitely.
3. Loss from Natural Disaster. Any nonconforming use structure destroyed by fire, wind, tornado, earthquake or other natural disaster except flooding may be rebuilt provided such rebuilding does not increase the intensity of use as determined by the number of dwelling units (for residences); or floor areas or ground coverage (for nonresidential uses); provided, however, rebuilding may permit expansion when such expansion complies with the limitations as is hereinafter set forth. The structure shall not be rebuilt closer to the property lines, than the original structure or that of the zoning district setback lines, whichever is closer. Nonconforming structures destroyed or damaged by flooding may be rebuilt as set forth in this section, provided such reconstruction shall conform to all requirements of the Building Code of Sedgwick County related to construction in flood hazard areas.
4. Repair or Alteration of Original Structure: Any structure which is a part of a nonconforming use may be repaired or altered under the same terms as set forth in paragraph 3.
5. Expansion of Nonconforming Uses. Nonconforming uses may be replaced or expanded under the terms of this section as follows:
 - a) Expansion of buildings permitted by the provisions contained herein shall be the total aggregate floor area included in all such separate

additions or enlargements, based on the floor area contained in said building or structure at the time of the adoption of the zoning resolution, or at the time said building or structure became nonconforming. Expansion of open land uses permitted by the provisions contained herein shall be the total aggregate land area included in all such enlargements, based on the land area being used at the time of the adoption of the zoning resolution, or at the time said use became nonconforming.

b) Nonconforming uses in Residential Districts when the use:

- (1) Does not increase the number of dwelling units, when residential.
- (2) Does not exceed 50 percent of the floor area of the original use or if not a structure, not over 50 percent of the lot area originally used; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow an expansion of not more than 100 percent providing a finding is made that such expansion does not endanger the continued well-being and quality of life of the residential area in which it is located.
- (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.
- (4) Provides for off-street parking and loading as required by Section 11.
- (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.

c) Nonconforming uses in nonresidential areas when the use:

- (1) Does not exceed 100 percent of the floor area, or if a structure is not involved not over 100 percent of the land area involved; provided however, that after providing notice as per Section 13, the Board of Zoning Appeals may allow expansion of not more than 200 percent when the Board

determines such action would not be detrimental to the area or community at-large as determined by the effect of the expansion on traffic, value of adjacent and nearby properties, availability of adequate utilities and drainage facilities, and the ability to provide adequate fire protection and police service.

- (2) Does not intrude into a residential zoning district.
 - (3) Is such that the expansion does not exceed the setbacks or height limitations of the district in which the expansion occurs.
 - (4) Provides for off-street parking and loading as required by Section 11.
 - (5) Provides for advertising signs only in accordance with the requirements of the district in which the use is first a permitted or conforming use.
- d) Conversion to Other Uses. A nonconforming use may be changed to any new use provided that the new use shall be of the same general character, or of a more restricted character as determined by the zoning administrator based on the use lists and limitations of the zoning districts. This shall not be deemed to permit the conversion of a structure to residential purposes in any district wherein such use would require a conditional use permit.
6. Abandonment of Nonconforming Uses.
- a) A nonconforming use shall be considered to be abandoned when any of the following shall occur:
 - (1) The owner shall have in writing or by public statement indicated intent to abandon the building, structure or use.
 - (2) A more restrictive use shall have supplanted the original nonconforming use.
 - (3) The building or structure shall have been removed as a result of condemnation as an unsafe structure.

- (4) The owner shall have changed physically the building or structure or its permanent equipment in such a manner, as to clearly indicate an abandonment of the nonconforming use.
- (5) The property is vacant for 24 consecutive months and the owner has failed to maintain said property as required by applicable regulations.
- b) Any nonconforming use in an abandoned building or structure shall not be reused unless the new use shall conform to the district requirements in which it is located.
- c) Any use of land having only incidental or accessory structures such as salvage yards, automobile sales lots, parking lots, trailer parks or mobile home parks, extraction of gravel or similar uses when such are abandoned or discontinued for over 24 months shall not be used except for uses permitted by the district in which it is located.
- d) Nonconforming billboards shall be completely removed from any premises not later than 2 years from the effective date of this resolution, or from the date of any subsequent amendment to this Resolution that would cause any billboard to become nonconforming, if at least three residential units are constructed within two hundred (200) feet in any direction of a billboard. Until such condition does occur, such billboard may continue indefinitely.

The following is the original Section 12-(B) which shall be deleted:

B. USE-NONCONFORMING

1. Registration of Nonconforming Uses.--A complete record of the location, value, nature and extent of all nonconforming uses shall be made and kept by the County Planning Commission.*
2. Nonconforming Buildings
 - a) Continuance of Use.--The lawful use of any building existing at the time of the adoption of this Resolution may be continued, although the use of such building does not

conform to the regulations of the Zoning District in which such building is located. The lawful use of any building which becomes non-conforming by reason of a subsequent amendment of this Resolution may be continued after the date of such amendment.

- b) Additions and Enlargements:-- In accordance with procedure outlined in Section 14, the addition to or enlargement of a non-conforming building or structure may be permitted, provided such addition or enlargement complies with all height and area regulations of the district in which it is located and does not add undesirable features as determined by the Board of Appeals.-- The total aggregate floor area included in all such separate additions or enlargements shall not exceed fifty (50) percent of the floor area contained in said building or structure, at the time of the adoption of this Resolution.
- c) Restoration of Damaged Buildings:-- A non-conforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity or the public enemy, to the extent of not more than seventy-five (75) percent of its value at that time, may be restored and the same use or occupancy contained or resumed, provided that the total cost of such restoration does not exceed seventy-five (75) percent of the value of the building or structure at the time of such damage.-- Provided, further, that such restoration is started within a period of one (1) year and is diligently prosecuted to completion.
- d) Change of Use:-- The use of nonconforming buildings may not be changed to any other less restricted use as listed in the Classification of Districts.
- e) Vacancy:-- A nonconforming building or portion thereof, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one (1) year, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

f) ~~Vacancy of trailer park or mobile home park. If use of any parcel of land as a trailer court or mobile home park is discontinued for a period longer than six (6) months; all permits for the operation of such trailer court or mobile home park shall be revoked and the owner of the land shall remove all debris and shall fill or properly cover exposed sewage facilities.~~

3. Nonconforming Use of Land:

- a) ~~A nonconforming use of land (where there is no permanent building being used in relation to such use at the time of the adoption of this Resolution) may be continued for a period of four (4) years from the effective date of the Resolution. All such nonconforming uses shall be discontinued after said four (4) year period. Provided, however, if such nonconforming uses creates an unhealthful or unsanitary condition as determined by the Wichita Sedgwick County Health Department, then such nonconforming use shall be terminated within six (6) months from the date of such findings by said department.~~
- b) ~~A nonconforming use of land shall not be expanded or extended into any other portion of the lot or adjoining property; nor shall the use be changed except to a conforming use.~~
- c) ~~Nonconforming structures such as signs, billboards, or commercial advertising structures shall be completely removed from the premises not later than two (2) years from the effective date of this Resolution if at least three residential units occur within two hundred (200) feet in any direction of said structure. Until such condition does occur, such structure may remain.~~

June 29, 1978

Wichita-Sedgwick County Metropolitan Planning Commission

Glen E. Lytle, Special Assistant for Zoning

DR-78-19-Possible amendment to the Sedgwick County Zoning Resolution. Re: Repair, reconstruction and expansion of nonconforming uses.

The attached delineated amendment to the Sedgwick County Zoning Resolution has been advertised for public hearing before the Planning Commission at the meeting of July 6, 1978.

BACKGROUND

The Board of County Commissioners originally adopted the zoning regulations in February 1958. The nonconforming use provisions of the original resolution has remained intact since that date with the exception of the one provision (Section B-2.(f)) which had been added. Many of the original nonconforming uses have either been annexed into the City of Wichita, or other communities. With each annexation the 3 mile ring is extended and we continue to bring new uses into the area regulated by zoning that were established outside of the zoning jurisdiction. When this happens, some of these uses become nonconforming and are subject to the zoning regulations which requires that open land uses (where no structures are involved) to terminate in four years. Realistically this does not happen. Either the zoning provision is not enforced, or the owner requests a change of zoning to become a conforming use in order to remain and expand. Uses where structures are involved are permitted 50% expansion under the existing resolution by the County Board of Zoning Appeals.

SUMMARY

The attached amendment will provide for the following:

1. Allow a nonconforming use to continue indefinitely unless such use is abandoned.
2. Allow a nonconforming use that is destroyed by fire, wind, tornado, earthquake or other natural disaster to be rebuilt no matter to what extent it may be damaged, with one exception. Structures in a flood hazard area must be rebuilt to conform to the Sedgwick County Building Code regulations regarding building in flood hazard areas.

Re: DR-78-19
June 29, 1978
Page Two

3. Nonconforming uses may be repaired, remodeled or expanded with expansion limited as follows:
 - (a) Nonconforming uses in residential districts may be expanded up to 50% as a use-by-right, and up to 100% when approved by the Board of Zoning Appeals.
 - (b) Nonconforming uses in nonresidential districts may be expanded up to 100% as a use-by-right, and up to 200% when approved by the Board of Zoning Appeals.
4. Nonconforming uses may be converted to other uses of the same general character, or of a more restricted character.
5. Defines what constitutes the abandonment of a nonconforming use. The fact that a building remains vacant for a long period of time does not cause the structure to lose its nonconforming use rights.

RECOMMENDATION

Make whatever changes the MAPC deems in the public interest, and forward a recommendation to the Board of County Commissioners.

Glen E. Lytle
Special Assistant for Zoning

GEL:et

cc:

Robert A. Lakin, Director of Planning
Grover McLure, Sedgwick County Director of Public Works
Syd Werbin, Director of Building, Planning & Zoning
Ted Hill, County Counselor
Vera Stevens, Administrative Assistant
Wichita Area Builders Assn., 760 North Main, Wichita, Ks 67203
Wichita Board of Realtors, 435 North Broadway, Wichita, Ks 67202

WICHITA-SEDGWICK COUNTY

DATE

June 23, 1978

METROPOLITAN AREA PLANNING DEPARTMENT

TO Syd Werbin, Director of Building, Planning & Inspections
FROM Glen E. Lytle, Special Assistant for Zoning
SUBJECT Possible amendments to the Sedgwick County Zoning Resolution: DR's-78-19; 78-20, and 78-21.

Attached hereto are delineated copies of three possible amendments to the Sedgwick County Zoning Resolution that have been advertised for public hearing before the Wichita/Sedgwick County Metropolitan Area Planning Commission at the meeting of July 6, 1978. Please review these amendments and if you have any comments or concerns, I would appreciate receiving your comments as soon as possible.

DR-78-19. This is an amendment to Section 12 relating to nonconforming uses. This has been completely rewritten and will replace all of Section 12 (B). The proposed amendment will allow nonconforming uses to continue indefinitely. It also will allow a nonconforming structure to be rebuilt, repaired or altered, subject to limitations as set forth in the regulations. It also allows for expansion of nonconforming uses. These are categorized into two groups. (1) Nonconforming uses in the residential districts are permitted a 50% expansion as a use by right, and up to 100% expansion by the Board of Zoning Appeals. (2) Nonconforming uses in the nonresidential districts will be permitted 100% expansion as a use by right, and up to 200% expansion by the Board of Zoning Appeals. Also included are descriptions of the manner in which a building or use is to be considered abandoned.

DR-78-20. This amendment is for the allowance of a second residential structure on a lot, providing it is a mobile home and will be there only temporarily. This will be to handle situations of hardship such as the need to provide for care of elderly parents or disabled persons for a limited time.

DR-78-21. This amendment will allow parking within the front yard setback of the residential zoning districts, and establishes limitations on the amount of surfacing permitted and the type of parking. It also provides for parking in the front yard setbacks in new subdivisions wherein the subdivision regulation allows lesser street widths providing additional offstreet parking is provided. The amendment also revises the surfacing standards for parking and loading areas.

Syd Werbin
June 23, 1978
Page Two

If you have any questions on these proposed amendments, please give me a call at 268-4421.



Glen E. Lytle
Special Assistant for Zoning

cc:
Grover McLure, Director of County Public Works
Theodore Hill, County Counselor
Vera Stevens, Administrative Assistant

GEL:et

Published in The Wichita Beacon on June 20, 1978

**OFFICIAL NOTICE
TO WHOM IT MAY CONCERN AND TO ALL
PERSONS INTERESTED:**

NOTICE IS HEREBY GIVEN that on July 6, 1978, the Wichita-Sedgewick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at 1:30 p.m., will consider the following changes to the Zoning Resolution of Sedgewick County, Kansas:

That Section 12 (EXCEPTIONS) be amended to allow repair, reconstruction and expansion of non-conforming structures and nonconforming uses of land subject to certain limitations.

That Section 11 (SUPPLEMENTAL REGULATIONS) be amended to allow the placement of a mobile home as a temporary second dwelling as a variance from the limitation of one main residential structure on a lot.

That Section 11 (SUPPLEMENTAL REGULATIONS) be amended to allow parking within the required front yard setback of the "R", "R-1" and "AA" Residential zoning districts, and to modify the standards for the surfacing of off street parking and loading areas.

Copies of the proposed amendments are available upon request from the Wichita-Sedgewick County Metropolitan Area Planning Department, Tenth Floor, 455 North Main, Wichita, Kansas.

The proposed amendment will there be discussed and considered by the said Wichita-Sedgewick County Metropolitan Area Planning Commission, and all persons interested in said matter will be heard at this time concerning their views and wishes, and any protest against any of the provisions of the proposed changes to the Sedgewick County Zoning Resolution will be considered by the Commission as by law provided.

WITNESS my hand and seal this 16th day of June, 1978.

Robert A. Lakin, Secretary
Wichita-Sedgewick County Metropolitan Area Planning Commission

(SEAL)

(Published in The Wichita Beacon on June 20, 1978)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on July 6, 1978, the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at 1:30 p.m., will consider the following changes to the Zoning Resolution of Sedgwick County, Kansas:

That Section 12 (EXCEPTIONS) be amended to allow repair, reconstruction and expansion of nonconforming structures and nonconforming uses of land subject to certain limitations.

That Section II (SUPPLEMENTAL REGULATIONS) be amended to allow the placement of a mobile home as a temporary second dwelling as a variance from the limitation of one main residential structure on a lot.

That Section II (SUPPLEMENTAL REGULATIONS) be amended to allow parking within the required front yard setback of the "R", "R-1" and "AA" Residential zoning districts, and to modify the standards for the surfacing of off street parking and loading areas.

Copies of the proposed amendments are available upon request from the Wichita-Sedgwick County Metropolitan Area Planning Department, Tenth Floor, 455 North Main, Wichita, Kansas.

The proposed amendment will there be discussed and considered by the said Wichita-Sedgwick County Metropolitan Area Planning Commission, and all persons interested in said matter will be heard at this time concerning their views and wishes, and any protest against any of the provisions of the proposed changes to the Sedgwick County Zoning Resolution will be considered by the Commission as by law provided.

WITNESS my hand and seal this 16th day of June, 1978.

Robert A. Lakin, Secretary
Wichita-Sedgwick County Metro-
politan Area Planning Commission

(SEAL)


WICHITA-SEDGWICK COUNTY

DATE
May 8, 1978

METROPOLITAN AREA PLANNING DEPARTMENT

TO Jack H. Galbraith, Chief Planner
FROM Robert A. Lakin, Director of Planning
SUBJECT County Zoning Resolution

As soon as the public hearings of the City Zoning Ordinance are over, please have someone on your staff to prepare amendments to the County Zoning Resolutions which parallel the recommended nonconforming provisions of the proposed City ordinance. At the same time we're carrying that through, we probably also ought to make the adjustments on the off-street parking definitions so that the four off-street parking space requirements on the street standards can be accommodated. I told the County Commissioners that we would start that within two weeks of the time that we finish the City hearings. Let me know if you have any problems with it.


Robert A. Lakin
Director of Planning

RAL:rme

*Also include amendment to allow a
mobile home on any property as a
temporary use.*

RAL -
Staff mtg. 5/22/78