

DR 72-21 Possible amendment to zoning ordinance. RE: Extraction of Raw Materials - January 1973

# ACTION

COMMITTEE	DATE
M.A.P.C. <i>Approach to amended</i>	<u>1.11.73</u>
<del>B.C.C. 19-60-6.</del> <i>Approved</i>	<u>1-23-73</u>
<i>Second reading</i>	<i>2-6-73</i>
<i>Closed</i>	<i>2-9-73</i>

THE CITY OF WICHITA  
OFFICE OF CITY MANAGER

DATE June 26, 1973



TO Robert A. Lakin, Director of Planning

FROM Ralph Wulz, City Manager

SUBJECT DR 72-21, Extraction  
of Raw Materials

If it is the consensus that the recommendations submitted by the Waterways Development Advisory Board on the above subject can now be handled under the general authority of the Board of Zoning Appeals, then I concur that a re-amendment of the ordinance is not necessary.

By a copy of this memorandum, I am asking Mr. Habermehl to bring this to the attention of the Waterways Development Advisory Board.

Ralph Wulz  
City Manager

RW:fjh

cc: Don L. Habermehl, Secretary, Waterways Development Advisory Bd.  
Jack Galbraith, Chief Planner  
Glen Lytle, Special Assistant for Zoning



May 15, 1973

Ralph Wulz, City Manager

Robert A. Lakin, Director of Planning

DR 72-21 - Extraction of Raw Materials

I and my staff have read over the recommendations submitted by Mr. Habermehl as comments from the Waterways Development Advisory Board. Although we were not at that particular meeting of the Board, the general recommendations recommended by the Board, we believe, can be handled by administrative procedures as each case comes before the Board. Because it does take considerable time and to some degree staff effort to shepherd one of these text amendments through the advertising, Planning Commission and revising of ordinances, it is our preference that it be handled in this fashion. We do not object to either of the two desired ends of the Waterways Development Advisory Board. We think that 2.9 and the Board of Zoning Appeals general authority is sufficient to handle these items. Should you desire to formalize it as a part of the ordinance, please advise so that we may start the advertising procedure to make these changes.

If we do include changes, Section 2.8, which would allow the deposit of foreign matter "specifically permitted in writing" should be written so that such permit would be issued only after advice from such a group as the Environmental Task Force or the Environmental Health Director. Another thought in that same general area, is to prohibit the reduction of water surface area by more than, as an example, 10% of the maximum excavation area.

As to Section 2.10, where sewage waste and other foreign material, such as silts, are prevented from coming into the pool water, we think that alternate language should be developed for the last part of that section which would simply say that a conservation plan approved by the local conservation district be developed so as to "prevent the sealing off of the bottom of the pit or lake by silt and thereby assuring continuation of ground water circulation through the pool."

Please advise as to whether you are in agreement that we bring these matters to the Board of Zoning Appeals as administrative conditions rather than to re-amend the ordinance.

RAL:ber

cc: Don L. Habermehl, Secretary, Waterways Development  
Advisory Board  
Jack Galbraith, Chief Planner  
Glen Lytle, Special Assistant for Zoning

THE CITY OF WICHITA

OFFICE OF CITY MANAGER

DATE April 27, 1973



TO Robert Lakin, Director of Planning

FROM Ralph Wulz, City Manager

SUBJECT Extraction of Raw Materials

You will recall that on January 23, 1973, the Board of City Commissioners considered your departmental report 72-21 pertaining to the above subject. Your report and ordinance were approved by the Board of City Commissioners however the Commission requested that the material be referred to the Waterways Development Advisory Board for its review and comments as to the provision pertaining to the removal of silt from the river.

The Waterways Development Advisory Board has now provided its comments on the attached copy of the memorandum dated April 24, 1973. Although the Board did not comment on the provision pertaining to the removal of silt from the river, it has suggested certain other changes be made in the content of the ordinance.

Please review these recommendations and provide me with your report and recommendation for presentation to the Board of City Commissioners at an early date.

A handwritten signature in cursive script, appearing to read 'R. Wulz'.

Ralph Wulz  
City Manager

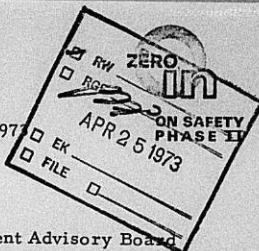
RW:fjh  
Attachment  
cc: Don L. Habermehl, Secretary  
Waterways Development Advisory Board



THE CITY OF WICHITA

OFFICE OF Director of Public Works

DATE April 24, 1973



TO Ralph Wulz, City Manager

FROM Don L. Habermehl, Secretary, Waterways Development Advisory Board

SUBJECT Extraction of Raw Materials

The Waterways Development Advisory Board on March 15 and April 19, 1973 reviewed and commented on the proposed ordinance relating to the extraction of raw materials.

The board did not comment on the provision pertaining to removal of silt from the rivers. The restrictions and conditions applied by the State Board of Water Resources, United States Army Corps of Engineers and the Wichita - Sedgwick County Flood Control Office are adequate.

However, the board did wish to solicit the comments of Mr. R. S. Delamater and called upon his experience thereby assisting the board in improving the content of the ordinance.

The board has recommended the addition of several paragraphs. An addition is recommended to paragraph 2.8 which is underlined on the attached redraft of page 2 of the proposed ordinance. The board's feeling is that there are many cases where it may be desirable to backfill an excavation with inert material such as bricks, broken rock and concrete which are completely neutral with regard to ground water contamination and which would provide a backfill much more solid and permanent than material which had been excavated.

The board recommended an additional provision which I have shown as 2.10 which is also underlined. The basis for this addition is that there are presently two separate locations where the owners are at least considering the possibility of excavating to ground water. In one case primarily to provide for surface drainage and the other is to provide for surface drainage plus using the excavated material to raise the rest of the area and at the same time provide a setting for pool side residential construction. The board considered this to be an entirely practical and, in fact, a desirable type of development because it not only reduces the amount of water to be carried in surface drainageways but in addition actually provides some recharge to the ground water table.

alph Wulz, City Manager  
April 24, 1973

Page 2

However, it is also extremely important to preclude the possibility of using the pit for drainage or disposal of any kind of waste except as permitted above. It is of almost equal importance that at least some provision be made to prevent the sealing off of the pit bottom for as long as possible. Realizing that according to the size of the pit, it is quite likely that some time in the future it will be necessary to do some dredging of the bottom in order to clean the bottom sand and insure free ground water circulation.

*Don L. Habermehl*

Don L. Habermehl, Secretary  
Waterways Development Advisory Board

DLH:gg

Attachment

DELINEATED COPY

( ) Published in The Daily Record \_\_\_\_\_, 1973.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE RELATING TO EXTRACTION OF RAW MATERIALS AS AN "EXCEPTION" IN ANY ZONING DISTRICT WHEREIN SUCH USE IS NOT A PERMITTED USE, AND AMENDING SECTION 28.04.181.2. SAND AND GRAVEL EXTRACTION.

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

Section 28.04.181.2 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

~~2--Sand and gravel extraction--The board of commissioners may, by special permit and subject to such protective restrictions as it deems necessary, authorize the extraction of gravel or sand from either of the rivers within the city.~~

2. Extraction of Raw Materials. The Board of Zoning Appeals may, by special permit, grant exceptions and authorize the extraction of raw materials (fill dirt, soil, sand or gravel) in any zoning district wherein such use is not a permitted use. The exception shall be granted only as a temporary use with a time limit being established for each exception based upon the area, amount and usage of material to be extracted and the effect such use would have on the adjoining area. Any approval under this Section shall be subject to the following conditions and requirements:

2.1 The application for an exception shall be accompanied by:

- (a) A plot plan showing the entire site, including the limits of excavation, depth, grading, roadways and circulation, and any other information necessary to inform the Board of the applicant's proposal and intention to comply with the provisions of this Section.
- (b) A site plan or redevelopment plan for the area, showing the feasibility and contemplated reuse of the property once the temporary use is ceased.
- (c) A statement setting forth the use of the material to be removed from the site, and also an anticipated time schedule for the temporary use and redevelopment of the property.

2.2 The extraction of sand or gravel from either of the rivers within the City shall be subject to the approval and conditions attached by the Kansas State Board of Water Resources, the United States Army Corps of Engineers and the Wichita-Sedgwick County Flood Control Office of the Department of Public Works.

2.3 The extraction of raw materials authorized under this Section shall be considered as a temporary use of the land, operated in a manner as to not permanently scar the land and leave tracts which cannot be redeveloped and later used for compatible land uses.

2.4 No commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted unless duly authorized under the provisions of this Chapter and amendments thereto.

*New Wording*

- 2.5 Any extraction of raw materials that will create a depression in the earth which would result in water being ponded or trapped shall be subject to all the requirements of Section 5.34 of the Code of the City of Wichita, Kansas.
- 2.6 The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita - Sedgwick County Flood Control Office of the Department of Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.
- 2.7 Excavation shall not be nearer than fifty feet to any property line, nor shall it be encouraged to be nearer than one hundred feet to the proposed right-of-way line of any public street. Such streets shall be determined on the site plan as designated by Section 2.1(b) and in accordance with the Subdivision Regulations of the Wichita - Sedgwick County Metropolitan Area Planning Commission.
- 2.8 A restrictive covenant shall be submitted in a form satisfactory to the Board's legal counsel, to be recorded with the Register of Deeds, and such covenant shall provide that no foreign matter, such as rubbish, car bodies, or other debris, shall be deposited within the excavation, except as specifically permitted in writing, where the material to be deposited will not be undesirable or detrimental.
- 2.9 Such other conditions as the Board of Zoning Appeals shall deem necessary to include to provide protection to adjacent property during the temporary use and future development. Such conditions may include landscaping, bank slope limitations and stabilization, roadway surfacing and hours of operation.
- 2.10 Where the excavation resulting from operations under this ordinance will result in a permanent pond or depression extending into and below natural groundwater level, so that groundwater will be circulating through the lake, there shall be specific means provided and specific covenants written to insure against any possibility of the discharge into such pit of any sewage, household wastes or other liquid or solid material other than the surface run-off of rain water and/or irrigation tail water; and there shall be provisions made for adequate detention terraces or settling beds so designed as to maximize the amount of silt and sediment which will be carried into the permanent pool; the purpose being to prevent the sealing off of the bottom of the pit, thereby insuring the continuation of groundwater circulation through the pool.
- 2.11 Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection to request the Board to revoke the special permit after a public hearing.

The original of Section 28.04.181.2 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 1973.

\_\_\_\_\_  
James M. Donnell, Mayor

ATTEST:

\_\_\_\_\_  
Ralph C. Eberly, City Clerk

( SEAL )

Approved as to form:

\_\_\_\_\_  
John Dekker, Director of Law

April 5, 1973

Robert Feldner, Supt of Central Inspection

Jack H. Galbraith, Chief Planner

Amendment to Title 28, RE: Extraction of Raw Materials as an Exception

Attached for your files and distribution to staff members are copies of Ordinance No. 32-529 authorizing the Board of Zoning Appeals to grant as an "Exception" the extraction of raw materials in any zoning district wherein such use is not a permitted use, and amending section 28.04.181.2 of the City Code.

If additional copies are needed, they are available from our office.

JHG:rw  
attachments

cc: Don Livingston  
Joe Donnelly  
John Riddel  
Leland Johnson

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PL

pt. Aldine Roman bf.

( ) Published in The Daily Record FEB 9 1973, 1973.

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3 ORDINANCE NO. 32-529

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AN ORDINANCE RELATING TO EXTRACTION OF RAW MATERIALS AS AN "EXCEPTION" IN ANY ZONING DISTRICT WHEREIN SUCH USE IS NOT A PERMITTED USE, AND AMENDING SECTION 28.04.181.2. SAND AND GRAVEL EXTRACTION.

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

12 Aldine Roman med. ALL CAPS

Section 28.04.181.2 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

2. Extraction of Raw Materials. The Board of Zoning Appeals may, by special permit, grant exceptions and authorize the extraction of raw materials (fill dirt, soil, sand or gravel) in any zoning district wherein such use is not a permitted use. The exception shall be granted only as a temporary use with a time limit being established for each exception based upon the area, amount and usage of material to be extracted and the effect such use would have on the adjoining area. Any approval under this Section shall be subject to the following conditions and requirements:

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2.1 The application for an exception shall be accompanied by:

- (a) A plot plan showing the entire site, including the limits of excavation, depth, grading, roadways and circulation, and any other information necessary to inform the Board of the applicant's proposal and intention to comply with the provisions of this Section.
- (b) A site plan or redevelopment plan for the area, showing the feasibility and contemplated reuse of the property once the temporary use is ceased.
- (c) A statement setting forth the use of the material to be removed from the site, and also an anticipated time schedule for the temporary use and redevelopment of the property.

2.2 The extraction of sand or gravel from either of the rivers within the City shall be subject to the approval and conditions attached by the Kansas State Board of Water Resources, the United States Army Corps of Engineers and the Wichita-Sedgwick County Flood Control Office of the Department of Public Works.

2.3 The extraction of raw materials authorized under this Section shall be considered as a temporary use of the land, operated in a manner as to not permanently scar the land and leave tracts which cannot be redeveloped and later used for compatible land uses.

2.4 No commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted unless duly authorized under the provisions of this Chapter and amendments thereto.

2.5 Any extraction of raw materials that will create a depression in the earth which would result in water being ponded or trapped shall be subject to all the requirements of Section 5.34 of the Code of the City of Wichita, Kansas.

2.6 The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office of the Department of Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.

2.7 Excavation shall not be nearer than fifty feet to any property line, nor shall it be encouraged to be nearer than one hundred feet to the proposed right-of-way line of any public street. Such streets shall be determined on the site plan as designated by Section 2.1(b) and in accordance with the Subdivision Regulations of the Wichita-Sedgwick County Metropolitan Area Planning Commission.

2.8 A restrictive covenant shall be submitted in a form satisfactory to the Board's legal counsel, to be recorded with the Register of Deeds, and such covenant shall provide that no foreign matter, such as rubbish, car bodies, or other debris, shall be deposited within the excavation.

2.9 Such other conditions as the Board of Zoning Appeals shall deem necessary to include to provide protection to adjacent property during the temporary use and future development. Such conditions may include landscaping, bank slope limitations and stabilization, roadway surfacing and hours of operation.

2.10 Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection to request the Board to revoke the special permit after a public hearing.

The original of Section 28.04.181.2 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this 6th day of February, 1973.

Glenn J. Shanahan  
Glenn J. Shanahan  
Mayor

ATTEST:

Ralph C. Eberly  
Ralph C. Eberly  
City Clerk

(SEAL)

Approved as to form by

John Dekker  
John Dekker  
Director of Law

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DELINEATED COPY

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- 2.1 The application for an exception shall be accompanied by:
- (a) A plot plan showing the entire site, including the limits of excavation, depth, grading, roadways and circulation, and any other information necessary to inform the Board of the applicant's proposal and intention to comply with the provisions of this Section.
  - (b) A site plan or redevelopment plan for the area, showing the feasibility and contemplated reuse of the property once the temporary use is ceased.
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- 2.3 The extraction of raw materials authorized under this Section shall be considered as a temporary use of the land, operated in a manner as to not permanently scar the land and leave tracts which cannot be redeveloped and later used for compatible land uses.
- 2.4 No commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted unless duly authorized under the provisions of this Chapter and amendments thereto.

*New  
Wordings*

*New  
Wording*

- 2.5 Any extraction of raw materials that will create a depression in the earth which would result in water being ponded or trapped shall be subject to all the requirements of Section 5.34 of the Code of the City of Wichita, Kansas.
- 2.6 The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office of the Department of Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.
- 2.7 Excavation shall not be nearer than fifty feet to any property line, nor shall it be encouraged to be nearer than one hundred feet to the proposed right-of-way line of any public street. Such streets shall be determined on the site plan as designated by Section 2.1(b) and in accordance with the Subdivision Regulations of the Wichita-Sedgwick County Metropolitan Area Planning Commission.
- 2.8 A restrictive covenant shall be submitted in a form satisfactory to the Board's legal counsel, to be recorded with the Register of Deeds, and such covenant shall provide that no foreign matter, such as rubbish, car bodies, or other debris, shall be deposited within the excavation.
- 2.9 Such other conditions as the Board of Zoning Appeals shall deem necessary to include to provide protection to adjacent property during the temporary use and future development. Such conditions may include landscaping, bank slope limitations and stabilization, roadway surfacing and hours of operation.
- 2.10 Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection to request the Board to revoke the special permit after a public hearing.

The original of Section 28.04.181.2 of the Code of the City of Wichita, Kansas, is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

ADOPTED at Wichita, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 1973.

\_\_\_\_\_  
Glenn J. Shanahan  
Mayor

ATTEST:

\_\_\_\_\_  
Ralph C. Eberly  
City Clerk

(SEAL)

Approved as to form by

\_\_\_\_\_  
John Dekker  
Director of Law

January 16, 1973

Board of City Commissioners

Robert A. Lakin, Director of Planning

DR 72-21 - Amendment to the Zoning  
Ordinance Re: Extraction of Raw  
Materials

We have recently been requested to consider an amendment to the Zoning Ordinance to permit the extraction of raw materials on a temporary basis without the need to request a zone change to the "C", "E", or "F" districts.

Attached hereto is a copy of a proposed amendment to the zoning ordinance which will permit the creation of borrow areas and sand and gravel pits as an exception by the Board of Zoning Appeals. This amendment was considered by the Planning Commission at a public hearing on January 11, 1973, and was recommended for approval.

The Planning Commission established conditions for approval by the Board of Zoning Appeals that should be adequate to protect the surrounding property during the temporary use, yet flexible enough that the conditions of approval can be established for each individual application based on its location within the City.

Consideration of this amendment is scheduled for your meeting of January 23, 1973.

RAL:JHG:ber

Attachment

cc: Ralph Wulz, City Manager, w/a  
John Dekker, Director of Law, w/a

January 12, 1973

Mr. Dave Ritchie  
1900 North Amidon  
Wichita, Kansas 67203

Dear Mr. Ritchie:

Re: DR 72-21 - Proposed  
amendment to Zoning  
Ordinance Re: Extraction  
of raw Materials

At the regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission on January 11, 1973, the above-captioned matter was considered. It was the action of the Commission to recommend the approval of the proposed amendment as advertised, with the exception of 2.7 and 2.8 as presented at the meeting.

This matter will be forwarded to the Board of City Commissioners for consideration at their regular meeting on January 23, 1973, the meeting to be held in Room 201 City Building, 204 South Main, Wichita, Kansas, at 9:00 a.m.

If you have any question concerning this matter, please contact our office.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:ber

January 3, 1973

Wichita-Sedgwick County Metropolitan  
Area Planning Commission  
Jack H. Galbraith, Chief Planner

DR 72-21 - Amendment to the Zoning Ordinance  
Re: Extraction of raw materials

We have recently been requested to consider an amendment to the zoning ordinance to permit the extraction of raw materials on a temporary basis without the need of a request for a zoning change.

Attached hereto is a copy of a proposed amendment to the zoning ordinance which will permit the creation of borrow areas and sand or gravel pits as an exception by the Board of Zoning Appeals. This has been advertised for public hearing for your regular meeting on Thursday, January 11, 1973.

We have tried to establish conditions for approval by the Board of Zoning Appeals that should be adequate to protect the surrounding property during the temporary use, yet flexible enough that the conditions of approval can be established for each individual application based on its location within the City.

If you have any questions on this proposal prior to your meeting, please call.

JHG:ber

Attachment

Published in The Daily Record on December 21, 1972.

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on THURSDAY, JANUARY 11, 1973, the WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at 1:30 p.m., will consider the following change to Title 28, the Code of the City of Wichita, Kansas:

SECTION 28.04.181.2 - Sand and Gravel Extraction, shall be amended to read as follows:

2. Extraction of Raw Materials. The Board of Zoning Appeals may, by special permit, grant exceptions and authorize the extraction of raw materials (fill dirt, soil, sand or gravel) in any zoning district wherein such use is not a permitted use. The exception shall be granted only as a temporary use with a time limit being established for each exception based upon the area, amount and usage of material to be extracted and the effect such use would have on the adjoining area. Any approval under this Section shall be subject to the following conditions and requirements:
  - 2.1 The application for an exception shall be accompanied by:
    - (a) A plot plan showing the entire site, including the limits of excavation, depth, grading, roadways and circulation, and any other information necessary to inform the Board of the applicant's proposal and intention to comply with the provisions of this Section.
    - (b) A site plan or redevelopment plan for the area, showing the feasibility and contemplated reuse of the property once the temporary use is ceased.
    - (c) A statement setting forth the use of the material to be removed from the site, and also an anticipated time schedule for the temporary use and redevelopment of the property.
  - 2.2 The extraction of sand or gravel from either of the rivers within the City shall be subject to the approval and conditions attached by the Kansas State Board of Water Resources, the United States Army Corps of Engineers and the Wichita-Sedgwick County Flood Control Office of the Department of Public Works.

- 2.3 The extraction of raw materials authorized under this Section shall be considered as a temporary use of the land, operated in a manner as to not permanently scar the land and leave tracts which cannot be redeveloped and later used for compatible land uses.
- 2.4 No commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted unless duly authorized under the provisions of this Chapter and amendments thereto.
- 2.5 Any extraction of raw materials that will create a depression in the earth which would result in water being ponded or trapped shall be subject to all the requirements of Section 5.34 of the Code of the City of Wichita, Kansas.
- 2.6 The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office of the Department of Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.
- 2.7 Any excavation shall not be nearer than fifty feet to any property line, nor shall the excavation be nearer than one hundred feet to the proposed right-of-way line of any street. Such streets shall be determined on the site plan as designated by Section 2.1(b) and in accordance with the Subdivision Regulations of the Wichita-Sedgwick County Metropolitan Area Planning Commission.
- 2.8 A restrictive covenant, in a form satisfactory to the Board's legal counsel, to be recorded with the Register of Deeds, providing that no foreign matter, such as rubbish, car bodies, or other debris, shall be deposited within the excavation.
- 2.9 Such other conditions as the Board of Zoning Appeals shall deem necessary to include to provide protection to adjacent property during the temporary use and future development. Such conditions may include landscaping, bank slope limitations and stabilization, roadway surfacing and hours of operation.
- 2.10 Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection to request the Board to revoke the special permit after a public hearing.

The proposed amendments will there be discussed and considered by the said Wichita-Sedwick 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 Zoning Ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal this 20th day of December, 1972.

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

(SEAL)

December 20, 1972

Ray W. Bruggeman

Jack H. Galbraith, Chief Planner  
Community Development Division

Amendment to Zoning Ordinance  
Re: Extraction of Raw Materials

We have recently been requested to consider an amendment to the zoning ordinance to permit the extraction of raw materials on a temporary basis without the need of a request for a zoning change.

Attached hereto is a copy of a proposed amendment to the zoning ordinance which will permit the creation of borrow areas and sand or gravel pits as an exception by the Board of Zoning Appeals. This will be advertised for public hearing before the MAPC at their regular meeting on Thursday, January 11, 1973.

We have tried to establish conditions for approval by the Board of Zoning Appeals that should be adequate to protect the surrounding property during the temporary use, yet flexible enough that the conditions of approval can be established for each individual application based on its location within the City.

I would appreciate your review of this proposed amendment and if you, or any member of your staff, find any problems with the method or conditions of approval, I would appreciate your comments by January 4, 1973.

JHG:rme

**Attachments**

cc: Ralph Wulz, City Manager  
John Dekker, Director of Law  
George Wilton, Superintendent of Public Works  
Maintenance  
Robert Feldner, Superintendent of Central Inspection  
M. S. Mitchell, Assistant Superintendent, Public Works  
Maintenance  
Jim Aiken, Director of Environmental Health

December 20, 1972

Mr. Dave Ritchie  
1900 North Amidon  
Wichita, Kansas 67203

Dear Mr. Ritchie:

Attached hereto is a copy of a proposed amendment to the Zoning Ordinance of the City of Wichita. This amendment has been advertised for public hearing before the Wichita-Sedgwick County Metropolitan Area Planning Commission at their regular meeting on Thursday, January 11, 1973 at 1:30 p.m.

It is hoped that this amendment will provide a method of approval, for the temporary use of extraction of raw materials, far more acceptable than the change of zoning generally required under existing regulations. I would appreciate your review of the proposed ordinance and if you find any problems with the conditions of approval, I would appreciate your comments prior to the public hearing.

Sincerely,

Jack H. Galbraith  
Chief Planner  
Community Development Division

JHG:rme

Attachment

Copies sent to: John Gist, Oblinger-Smith Corporation  
Don Bottenberg, Realtor

WICHITA-SEDGWICK COUNTY

DATE

**METROPOLITAN AREA PLANNING DEPARTMENT**

November 14, 1972

TO Glen Lytle, Special Assistant for Zoning  
FROM Jack H. Galbraith, Chief Planner *JHG*

SUBJECT Amendment to City Zoning Ordinance Re:  
Extraction of Raw Materials as Soil,  
Rock, Gravel, Sand, etc.

As a result of recent conversation with Dave and Dean Ritchie concerning the permitted location of extraction of dirt and sand for purposes of fill in relation to construction of Interstate I-35W, please give me your idea of how this could best be handled rather than having to request "C" zoning with an accompanying CUP. Right now my thoughts are for another amendment to the Zoning Ordinance authorizing the Board of Zoning Appeals jurisdiction to grant, as an exception, this use in any residential district, and even maybe the "BB" and "LC", assuming that such extraction might result in the creation of an office park or development of a shopping center.

Shirkey has pulled for your review a County Conditional Use case where this type of use has been approved, subject to conditions which might be applicable for conditions of approval by the Board of Zoning Appeals.

I would like a draft of a proposed amendment by November 27, 1972.

JHG:ber

cc: Robert A. Lakin  
Director of Planning

from List @ 0.15.

AMENDMENT UTILIZING THE BZA PROCEDURE

28.04.181.2

2. Sand and gravel extraction. The Board of Commissioners may, by special permit and subject to such protective restrictions as it deems necessary, authorize the extraction of gravel or sand from either of the rivers within the city.

(insert here, the following:)

In order to provide areas that will permit borrow for fill material as well as the extraction of sand and gravel, the Board of zoning appeals may, after public notice and hearing, grant as an exception a special permit for the establishment of such uses and areas in any zoning district under the provisions further set forth in this section.

2.1 Location: Such uses provided under this section must be located so as to be contiguous to a major street (as designated on map of the

2.2 Use and Power: The borrow and/or sand and gravel extraction operations authorized under this section shall be considered as a temporary use of the land, operated in such a fashion as not to permanently scar the land and leave tracts which cannot be redeveloped and utilized for compatible land use.

No recreational activities such as boating, fishing, skiing, etc., shall be

permitted in the area, unless duly authorized <sup>(2)</sup>  
under the provisions of this chapter and  
amendments thereto.

2.3 - The uses provided in this section  
may be permitted by the board subject to  
the following conditions and requirements:

a. A minimum 53-inch high fence shall  
be constructed and maintained around the  
perimeter of the site or excavation on no  
less than 4-foot steel posts, with posts  
set not more than 16 feet apart. The fence  
may provide for reasonable access gates  
installed at the same height and of the  
same construction as the fence, which  
gates shall be kept locked except when  
in use. Such fence and gates shall be  
of the following types of construction:

- i) a 48" or higher chain link fence with  
three or more strands of barbed wire;  
or,
- ii) a 48" or higher solid metal or solid  
masonry fence with three or more  
strands of barbed wire; or,
- iii) a 48" or higher wood fence which  
may have cracks or openings not in  
excess of five (5) percent of the area  
of such fence, with three or more  
strands of barbed wire.

The term "barbed wire" shall mean  
any twisted wire with barbs spaced a  
maximum of four inches apart and placed  
at the top of the fence and gates at an  
angle not to exceed 160 degrees facing  
away from a horizontal plane parallel to

the excavation.

b. The earth shall be excavated to a minimum depth of two feet below the normal water table as determined by the <sup>MS 2/11/11</sup>Wichita - Sedgewick County Environmental Health Department.

c. To provide for bank stabilization and safety of future uses, the side slopes of the excavation shall be no more steep than \_\_\_\_\_ horizontal to \_\_\_\_\_ vertical.

d. The applicant submitting a restrictive covenant for recording with the Register of Deeds, in a form satisfactory to the board's legal counsel, providing that no foreign matter, such as rubbish, ear pieces, etc., shall be deposited within the excavation after approval of the special permit by the board.

e. The natural drainage flow shall be maintained and protected throughout the area. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita - Volcan Center Flood Control Office and the City Engineer, or their successors, and shall be according to the specifications and standards of these authorities.

f. Excavation shall not approach nearer than 50 feet to the property lines, except that excavation shall not approach nearer than 120 feet to any street right-of-way of an arterial street as designated -----

④

g. Such other conditions as the board of zoning appeals shall deem necessary to include, but not be restricted to, grades, setbacks, landscaping, and maintenance provisions.

2.4 Applications: The application for the exception shall be accompanied by:

a. A plot plan or "operational plan" showing the proposed limits of excavation and any other information showing the applicant's proposal and intention to comply with the provisions of this section.

b. A site plan or "redevelopment plan" for the area, showing the feasibility and contemplated use for the property, once the borrow and for sand and gravel extraction operation will cease.

2.5 Failure to comply with the requirements contained in this section, or imposed by the board of zoning appeals, shall give cause for the superintendent of central inspection to request the board to revoke the special permit in the event the superintendent's attempts to effect compliance are ignored.

*Admittal*

11-27-72

ROUGH DRAFT

3  
PROPOSED AMENDMENT TO SECTION 28-04.181.2

\* 2. Extraction of Raw Materials. The Board of Zoning Appeals may, <sup>by special permit</sup> permit, <sup>and authorize</sup> as an exception, the extraction of raw materials (fill dirt, soil, sand or gravel) ~~from the earth~~ in any zoning district wherein such use is not a permitted use. The exception shall be granted only as a temporary use with a time limit being established for each exception based upon the area, amount and usage of material to be extracted and the effect such use would have on the adjoining area. Any approval under this Section shall be subject to the following conditions and requirements.

2.1 The application for an exception shall be accompanied by:

- (a) A plot plan showing the entire site, including the limits of excavation, depth, grading, roadways and circulation, and any other information necessary to inform the Board of the applicant's proposal and intention to comply with the provisions of this Section.
- (b) A site plan or redevelopment plan for the area, showing the feasibility and contemplated reuse of the property once the temporary use is ceased.

(c) A statement setting forth the use of the material to be removed from the site, and also an anticipated time schedule for the temporary use and redevelopment of the property.

2.2 The extraction of sand or gravel from either of the rivers within the City shall be subject to the approval and conditions attached by the Kansas State Board of Water Resources, ~~The~~ United States Army Corps of Engineers and the Wichita-Sedgwick County Flood Control ~~Section~~<sup>Office</sup> of the Department of Public Works.

2.3 The extraction of raw materials authorized under this section shall be considered as a temporary use of the land, operated in a manner as to not permanently scar the land and leave tracts which cannot be redeveloped and later used for compatible land uses.

2.4 <sup>Commercial</sup> No recreational activities such as boating, fishing, skiing, swimming, etc., shall be permitted unless duly authorized under the provisions of this chapter and amendments thereto.

2.5 Any extraction of raw materials that will create a depression in the earth which would result in water being ponded or trapped shall be subject to all the requirements of Section 5.34 of the code of the City of Wichita, Kansas.

- 2.6 The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control ~~Section~~ <sup>Office</sup> of the Department of Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.
- 2.7 Any excavation shall not be nearer than fifty feet to any property line, nor shall the excavation be nearer than one hundred feet to the proposed right-of-way line of any street. Such streets shall be determined on the ~~site~~ <sup>city</sup> plan as designated by section 2.1(b) and in accordance with the Subdivision Regulations of the Wichita-Sedgwick County Metropolitan Area Planning Commission. P
- 2.8 A restrictive covenant, in a form satisfactory to the board's legal counsel, to be recorded with the Register of Deeds providing that no foreign matter, such as rubbish, car bodies, or other debris, shall be deposited within the excavation.
- 2.9 Such other conditions as the Board of Zoning Appeals shall deem necessary to include to provide protection to adjacent property during the temporary use and future development. Such conditions may include landscaping, bank slope limitations and stabilization, roadway surfacing and hours of operation.

2.10 Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection to request the Board to <sup>revolve</sup> ~~receive~~ the special permit *after a* ~~if any notice by the Superintendent to effect compliance is ignored.~~

Published in The Daily Record on December 21, 1972.

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED.

NOTICE IS HEREBY GIVEN that on THURSDAY, JANUARY 11, 1973, the WICHITA-SEDCWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at 1:30 p.m., will consider the following change to Title 28, the Code of the City of Wichita, Kansas:

SECTION 28.04.181.2 - Sand and Gravel Extraction, shall be amended to read as follows:

2. Extraction of Raw Materials. The Board of Zoning Appeals may, by special permit, grant exceptions and authorize the extraction of raw materials (fill dirt, soil, sand or gravel) in any zoning district wherein such use is not a permitted use. The exception shall be granted only as a temporary use with a time limit being established for each exception based upon the area, amount and usage of material to be extracted and the effect such use would have on the adjoining area. Any approval under this Section shall be subject to the following conditions and requirements:
  - 2.1 The application for an exception shall be accompanied by:
    - (a) A plot plan showing the entire site, including the limits of excavation, depth, grading, roadways and circulation, and any other information necessary to inform the Board of the applicant's proposal and intention to comply with the provisions of this Section.
    - (b) A site plan or redevelopment plan for the area, showing the feasibility and contemplated reuse of the property once the temporary use is ceased.
    - (c) A statement setting forth the use of the material to be removed from the site, and also an anticipated time schedule for the temporary use and redevelopment of the property.
  - 2.2 The extraction of sand or gravel from either of the rivers within the City shall be subject to the approval and conditions attached by the Kansas State Board of Water Resources, the United States Army Corps of Engineers and the Wichita-Sedgwick County Flood Control Office of the Department of Public Works.

- 2.3 The extraction of raw materials authorized under this Section shall be considered as a temporary use of the land, operated in a manner as to not permanently scar the land and leave tracts which cannot be redeveloped and later used for compatible land uses.
- 2.4 No commercial recreational activities, such as boating, fishing, skiing, swimming, etc., shall be permitted unless duly authorized under the provisions of this Chapter and amendments thereto.
- 2.5 Any extraction of raw materials that will create a depression in the earth which would result in water being ponded or trapped shall be subject to all the requirements of Section 5.34 of the Code of the City of Wichita, Kansas.
- 2.6 The natural drainage flow shall be maintained and protected. Any improvements made in the natural drainage or any obstruction or diversions shall meet with the approval of the Wichita-Sedgwick County Flood Control Office of the Department of Public Works and the City Engineer, and shall be in accordance with the standards of these authorities.
- 2.7 Any excavation shall not be nearer than fifty feet to any property line, nor shall the excavation be nearer than one hundred feet to the proposed right-of-way line of any street. Such streets shall be determined on the site plan as designated by Section 2.1(b) and in accordance with the Subdivision Regulations of the Wichita-Sedgwick County Metropolitan Area Planning Commission.
- 2.8 A restrictive covenant, in a form satisfactory to the Board's legal counsel, to be recorded with the Register of Deeds, providing that no foreign matter, such as rubbish, car bodies, or other debris, shall be deposited within the excavation.
- 2.9 Such other conditions as the Board of Zoning Appeals shall deem necessary to include to provide protection to adjacent property during the temporary use and future development. Such conditions may include landscaping, bank slope limitations and stabilization, roadway surfacing and hours of operation.
- 2.10 Failure to comply with the requirements of approval by the Board of Zoning Appeals shall be sufficient cause for the Superintendent of Central Inspection to request the Board to revoke the special permit after a public hearing.

The proposed amendments 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 Zoning Ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal this 20th day of December, 1972.

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

(SEAL)