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ORDINANCE NO. 1109

AN ORDINANCE AMENDING THE CITY OF MAIZE, KANSAS, ZONING CODE, ARTICLE III.D. ee. MINING OR QUARRYING SAND AND GRAVEL EXTRACTION, BY ADDING REGULATIONS GOVERNING SAND AND AGGREGATE EXTRACTION; ESTABLISHING STANDARDS FOR CONDITIONAL USE PERMITS, OPERATIONAL REQUIREMENTS, RECLAMATION, FUTURE DEVELOPMENT PRESERVATION, AND INFRASTRUCTURE PROTECTION; INCORPORATING EXISTING SUPPLEMENTARY USE REGULATIONS APPLICABLE TO SAND AND GRAVEL EXTRACTION; PROVIDING FOR RELATED MATTERS; AND REPEALING THE ORIGINAL ARTICLE III.D. ee. OF THE CITY OF MAIZE ZONING CODE.

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

SECTION 1. Article III.D. ee. of the Zoning Code Amended. Article III.D. ee. of the Zoning Code ("Section") is amended to read as follows:

ee. Mining or quarrying Sand And Aggregate Extraction.

(1) Purpose and Intent. The purpose of this Section of the City Zoning Code is to regulate sand and aggregate extraction as a temporary land use in a manner that:

- (a) Preserves the City's long-term growth pattern and land use planning;
- (b) Protects public infrastructure, including roads, water, sewer, and drainage systems;
- (c) Ensures that extraction activities do not impose unreasonable costs on the City or its residents;
- (d) Requires reclamation of mined land to a condition suitable for future use;
- (e) Preserves the ability of the property to support future residential, commercial, or other permitted development; and
- (f) Minimizes adverse impacts on surrounding properties.

(2) Policy Declaration.

- (a) Sand and aggregate extraction is recognized as a temporary land use and shall not be considered a permanent or preferred use.
- (b) Approval of extraction does not create any right or expectation for extension of municipal utilities.

- (c) Provision of municipal utilities shall be at the sole discretion of the City and subject to adopted policies.
- (d) Extraction activities shall be conducted in a manner that preserves the long-term usability, value, and future development potential of the property.
- (e) These regulations shall be applied in a manner consistent with constitutional limitations. Nothing in this Section is intended to deny all economically viable use of property. Where strict application would result in such denial, the Governing Body may grant reasonable modifications consistent with the intent of this Section of the City Zoning Code.

(3) Applicability.

- (a) This Section of the City Zoning Code applies to all sand, gravel, or aggregate extraction operations within the City.
- (b) Such uses shall be permitted only upon approval of a Conditional Use Permit (C.U. Permit), as permitted by Zoning Regulations of the Zoning District the property is located within.

(4) C.U. Permit.

- (a) Required Findings. The Planning Administrator shall use the review criteria below in the staff report the Planning Administrator presents to the Planning Commission. The Planning Commission shall make findings based on the review criteria below as part of its recommendation to the Governing Body:
 - 1) The proposed use is compatible with surrounding land uses and planned growth areas;
 - 2) The use will not impair future roadway, drainage, or utility planning;
 - 3) The use will not create undue adverse impacts on adjacent properties;
 - 4) The use will not result in unreasonable public costs;
 - 5) The regulations and conditions imposed do not deny reasonable economic use of the property;
 - 6) The subject property is suitable for the uses to which it has been restricted;
 - 7) The extent to which removal of the restrictions will detrimentally affect nearby property;
 - 8) The length of time the subject property has remained vacant as zoned;

- 9) The relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant;
- 10) The conformance of the requested changed to the adopted or recognized comprehensive plan and/or other plans being utilized by the City;
- 11) The impact of the proposed development on community facilities;
- 12) Opposition or support of neighborhood residents; and
- 13) A consideration of the recommendations of professional staff.
- 14) The proposed plan preserves the long-term development potential of the property consistent with this Section of the City Zoning Code.

The applicant shall have the burden of demonstrating that the proposal meets the applicable review criteria.

(b) Application Requirements Applications shall include:

- 1) Legal description and Site Operation Plan that show the use of the property during extraction, mining, etc.;
- 2) Phasing plan;
- 3) Traffic and haul route analysis;
- 4) Drainage and stormwater plan;
- 5) Water resource information demonstrating compliance with applicable state requirements;
- 6) Dust, noise, and operational control plan;
- 7) Screening, berm, and fencing plan;
- 8) Reclamation plan;
- 9) Utility impact statement; and
- 10) Future Development Plan and Site Plan demonstrating post-mining usability.
- 11) The proposed period when the sand, gravel or aggregate extraction will be operational.

(c) Development Agreement. The City may require a development agreement addressing:

- 1) Phasing and timing;
- 2) Infrastructure obligations;

- 3) Roadway impacts and maintenance;
- 4) Reclamation requirements; and
- 5) Financial assurances.

All required improvements and obligations shall be reasonably related and proportionate to the impacts of the proposed use.

(5) Location and Compatibility.

- (a) Extraction operations are strongly discouraged in areas designated for near-term urban development, growth corridors, or locations that would impair planned infrastructure.
- (b) Approval in such areas shall require specific findings that the use will not materially interfere with long-term City planning or development patterns.

(6) Operational Standards.

- (a) Setbacks Minimum setbacks shall be:
 - 1) 300 feet from residential uses or districts;
 - 2) 500 feet from schools, parks, and similar uses;
 - 3) 150 feet from public rights-of-way; and
 - 4) 150 feet from property lines.

The Governing Body may modify setbacks where strict application would eliminate reasonable use, provided the intent of buffering is maintained.

- (b) Phasing and Disturbance.
 - 1) Extraction shall occur in phases;
 - 2) Active disturbance shall not exceed 30 acres at one time unless otherwise approved; and
 - 3) Progressive reclamation shall occur prior to expansion.
- (c) Screening and Access.
 - 1) Berms, screening, and fencing shall be provided as required; and
 - 2) Access shall be controlled.
- (d) Hours of Operation. Hours shall be established through the C.U. Permit, subject to subsection (8) below.
- (e) Haul Routes.
 - 1) Haul routes shall be approved by the City; and

- 2) The operator shall mitigate roadway impacts reasonably attributable to operations.

(f) Environmental Controls.

- 1) Dust suppression measures required.
- 2) Noise and vibration controlled at property line; and
- 3) Lighting directed downward.

(7) Water and Utilities.

- (a) The City shall have no obligation to extend utilities to serve extraction uses.
- (b) Utility extensions, if approved, shall be funded by the applicant to the extent reasonably attributable to the proposed use.
- (c) The applicant shall demonstrate compliance with applicable state water laws and approvals.
- (d) The City may consider water-related impacts in evaluating land use compatibility.

(8) Supplementary Use Regulations Incorporated. The following supplementary use regulations apply to sand and gravel extraction operations in addition to the standards above.

(a) Operational Plan and Posting.

- 1) The extraction operation on the site shall proceed in accordance with an operation plan, submitted by the applicant as part of the application process and approved by the City Council. The operational plan shall illustrate which area is to be excavated and at what time.
- 2) The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved operational plan.
- 3) A copy of the approved operational plan shall be posted in the extraction office.

(b) Post-Extraction Use Review. Uses after the conclusion of the extraction operation shall be submitted to the Planning Administrator for review and a recommendation to the Planning Commission as to compatibility with surrounding land uses, the Comprehensive Plan, and other applicable plans or policies.

(c) Fencing and Security.

- 1) Adjacent to the perimeter of the application area, a minimum 60-inch-high fence shall be constructed prior to the beginning of any

extraction operation and maintained at the locations depicted on the approved operational plan, placed on steel posts not less than seven feet tall and set not more than 16 feet apart.

- 2) The fence shall be one of the following:
 - i) a 60-inch high or higher chain link fence with three or more strands of barbed wire;
 - ii) a 60-inch high or higher solid metal or solid masonry fence with three or more strands of barbed wire; or
 - iii) a 60-inch high or higher wood fence with openings not exceeding five percent of the fence area, with three or more strands of barbed wire.
 - 3) "Barbed wire" means twisted wire with barbs spaced a minimum of four inches apart, placed at the top of the fence and gate at an angle not to exceed 160 degrees facing away from the excavation.
 - 4) When deemed appropriate, perimeter berms may be substituted for fences. Locations and elevations of berms must be always maintained in conformance with the operation plan when mining, quarrying, and sand and gravel extraction is in operation.
- (d) The extraction shall be to at least a minimum depth of six feet below the normal water table, as determined by the Sedgwick County Division of Health.
- (e) Dust and Phasing Controls. The owner shall minimize blowing dust; overburden shall not be removed more than six months in advance of lake expansion unless the ground is covered in the next planting season with perennial drought-resistant grasses; and the operational plan shall divide the site into at least two distinct areas showing phased excavation over time.
- (f) Vegetation, Slopes, and Bank Stabilization.
- 1) All slopes shall have vegetative covering consisting of perennial drought-resistant grasses permitting the establishment of sod cover to help prevent erosion.
 - 2) To provide for bank stabilization and safety of future uses, the side slopes shall be no steeper than five horizontal to one vertical.
 - 3) Sufficient overburden material shall be retained to grade and construct the banks, so they are formed with overburden material rather than sand.

- (g) Platting. The property shall be platted prior to the issuance of any zoning or building permits, except those permits necessary for the extraction operation.
- (h) Prohibited Commercial Recreation. No commercial recreational activities, such as boating, fishing, or skiing, shall be permitted in the development area, unless duly authorized under provisions of the City Zoning Code and amendments thereto.
- (i) Restrictive Covenant on Foreign Matter. The applicant shall submit a restrictive covenant prior to commencement, in a form satisfactory to the City Attorney, providing that no foreign matter, such as rubbish, trees, or car bodies, shall be deposited in the application area or within the extraction area.
- (j) Storage Setbacks. The storage of equipment or stockpiling of sand or overburden is not permitted closer than 100 feet to any public right-of-way or closer than 100 feet to any property line.
- (k) Contractor's Yard Prohibited. Post-Completion Cleanup. Nothing in the approval of a C.U. Permit shall be construed to permit a contractor's material and equipment storage yard on the site. Within 60 days after completion, the land surrounding the lake shall be properly graded and planted with vegetative cover, and all stockpiled sand or overburden and sand pumping and related equipment shall be removed.
- (l) Term and Hours of Operation.
 - 1) The length of time for the extraction operation and the hours of operation for removal of the overburden shall be set at the time of approval of the C.U. Permit, and operations shall cease after that period with all equipment and materials removed.
 - 2) Hours of operation for the extraction shall be limited from 6:00 a.m. to sunset. These hours apply whether sand removal is conducted with non-electric equipment or sand is removed with an electrical pump, sand extraction.
- (m) Health and Environmental Approvals.
 - 1) All on-site water and sewage facilities shall be approved by and constructed to the standards of the Sedgwick County Division of Health.
 - 2) Any water wells needed to operate the facility must comply with the Water Well Construction Standards contained in Article 30 of the Kansas Department of Health and Environment rules and regulations.

- 3) The applicant shall make the site available to the Sedgwick County Division of Health for the installation and management of groundwater monitoring wells.
 - 4) Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Division of Health.
- (n) Drainage and Roads.
- 1) A drainage plan shall be submitted to and approved by the City Engineer prior to starting the extraction operation; all areas within the fenced extraction operation shall be graded in accordance with the approved plan; additional requirements, such as a public drainage easement, a floodway reserve, or a covenant authorizing the site for use as a detention storage facility for public drainage purposes, may be required.
 - 2) All operational roads shall be maintained in a sand or gravel condition and shall be treated with water or other acceptable dust retardant to minimize blowing dust.
- (o) Permits. All applicable local, state, and federal permits necessary for the extraction operation shall be obtained and maintained.

(9) Future Development Preservation.

- (a) Minimum Developable Area Requirement. The applicant shall demonstrate that the proposed extraction plan preserves or results in a sufficient portion of the property capable of supporting future residential, commercial, or other permitted development consistent with the Comprehensive Plan and applicable zoning regulations.
- (b) Limitation on Full-Site Disturbance Extraction activities shall not be conducted in a manner that renders the entire parcel unsuitable for future development. Mining operations shall be phased or designed such that the site retains, or is restored to, a condition that supports future development.
- (c) Post-Mining Land Configuration. The reclamation plan shall include a detailed depiction of:
 - 1) Final grades and contours;
 - 2) Areas suitable for future building sites;
 - 3) Access points and roadway connections;
 - 4) Utility corridors or feasible service areas; and
 - 5) Drainage patterns consistent with future development.
- (d) Developability Standard. The Governing Body shall not approve a C.U. Permit unless it finds that the property, upon completion of

extraction and reclamation, will retain reasonable physical and economic capacity for development.

- (e) Phasing to Preserve Usable Land Extraction shall be conducted in phases designed to:
 - 1) maintain portions of the site in a condition suitable for development; or
 - 2) restore previously disturbed areas to a developable condition prior to disturbance of additional areas.
- (f) Prohibition on Non-Functional Parcels. Mining operations shall not result in:
 - 1) landlocked parcels;
 - 2) irregular or unusable remnants;
 - 3) configurations that prevent logical subdivision or development; or
 - 4) conditions requiring unreasonable public cost to restore development potential.
- (g) Future Development Plan Requirement. The applicant shall submit a Future Development Plan demonstrating:
 - 1) potential lot layout or development pattern;
 - 2) compatibility with surrounding land uses; and
 - 3) ability to meet subdivision and infrastructure standards.
- (h) Governing Body Determination. The Governing Body may deny or condition approval where the proposed mining plan would materially reduce the long-term development potential or value of the property.

(10) Reclamation.

- (a) Plan Required. A reclamation plan shall be approved prior to commencement of extraction.
- (b) Standards. Reclamation shall include:
 - 1) final grading;
 - 2) stabilization and erosion control;
 - 3) removal of equipment; and
 - 4) restoration to a condition suitable for future use.
- (c) Consistency. Reclaimed land shall support future development consistent with the Comprehensive Plan, or an alternative use approved by the Governing Body.

- (d) Financial Assurance. Financial assurance shall be required to ensure completion of reclamation.

(11) Infrastructure and Corridor Preservation.

The City may require dedication or reservation of right-of-way or easements where reasonably related and proportionate to the impacts of the proposed use or necessary to implement adopted plans.

(12) Fiscal Responsibility.

The applicant shall mitigate public infrastructure and service impacts reasonably attributable to the proposed use. The City shall not require improvements unrelated or disproportionate to such impacts.

(13) Enforcement.

- (a) Annual compliance review may be required.
- (b) Violations may result in suspension or revocation of the C.U. Permit.
- (c) Amendments are required for expansion or operational changes.
- (d) See Article VIII of the City Zoning Code.

(14) Relief and Modification. Where an applicant demonstrates that strict application of this Section would deny reasonable economic use of the property, the Governing Body may grant modifications necessary to avoid such result while preserving the intent of these regulations.

(15) Amendment to Subdivision Regulations. The Maize Subdivision Regulations are amended as follows:

Land subject to current or prior extraction shall not be platted for development until:

- (a) Reclamation is complete.
- (b) The site complies with grading, drainage, and infrastructure standards.
- (c) Utilities are provided in accordance with City policy; and
- (d) The subdivision complies with all applicable regulations.

Nothing herein shall prevent reasonable subdivision or development that complies with applicable regulations and preserves economically viable use.

(16) Public Hearing and Approval.

- (a) The Planning Administrator's staff report must be sent to the applicant prior to the Planning Commission hearing.
- (b) The Planning Commission shall hold a public hearing on an application for a C.U. Permit to operate a sand and aggregate

extraction operation. After the public hearing, the Planning Commission shall recommend approval with conditions and/or modifications, or a denial of the application and shall transmit an accurate written summary of the proceedings to the Governing Body and the City Clerk. The Planning Commission's report must include its findings set forth in Section (4) C.U. Permit.

- (c) The Governing Body shall consider the application for a C.U. Permit and, in its discretion, may hold a public hearing on the application. In acting on the application, the Governing Body may:
 - 1) adopt the Planning Commission's recommendation by ordinance.
 - 2) override the Planning Commission's recommendation by a two-thirds majority vote of the City Council; or
 - 3) return the Planning Commission's recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove the recommendation. If the Governing Body returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation, or it may take no further action. Upon the receipt of a recommendation or no recommendation from the Planning Commission, the Governing Body, by a simple majority vote of the City Council, may adopt, revise or amend the recommendation by ordinance; except when the Governing Body returns a recommendation to the Planning Commission, the Governing Body shall consider review criteria specified in Section (4) C.U. Permit.
- (d) Successive Applications. If the Governing Body denies an application for a C.U. Permit, or the applicant withdraws their application after a public hearing by the Planning Commission, a similar application shall not be refiled for one year from the latest advertised public hearing date on said application. The Planning Commission may permit a refiling of said application after six months from the latest advertised public hearing date when it determines that significant physical, economic, or land use changes have taken place within the immediate vicinity, or a significant zoning regulation text change has been adopted, or when the reapplication is for a more restrictive change of zoning classification or is significantly different than the original request. The applicant shall submit a statement setting out in detail those changes which they deem significant and upon which they rely for refiling the application.

(e) Appeals of Final Action. The Governing Body's decision on an application for an amendment to the Official Zoning Map or to the text of the Zoning Code shall be the final local action. Appeals of such final local action shall be taken to the district court in and for the Eighteenth Judicial District of the State of Kansas as permitted by K.S.A. 12-760.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. Effective Date. This Ordinance takes effect and be in force from and after its passage, approval, and publication on the City of Maize, Kansas website, which is the official city newspaper.

SECTION 4. Repeal. The original section of the City of Maize, Kansas, Zoning Code at Article III.D.ee. is repealed.

Passed by the Governing Body and approved by the Mayor this 4th day of May 2026.



Martha Pennington
MARTHA PENNINGTON, City Clerk

Pat Stivers
PAT STIVERS, Mayor

APPROVED AS TO FORM:

Tom Powell
TOM POWELL, City Attorney