

DR 65-19 - Planning Department requests amendment to City Zoning Ordinance, Section 28.04.210, Changes by Board of Commissioners

# ACTION

DATE

COMMITTEE

M.F.C.

Approval 9-2-65

B.C.C./B.C.O.C.

Approved for reading 10-5-65

~~Closed 10-6-65~~

See Approved and reading 10-12-65

Closed 10-13-65

Ord. # 28-3354

Published 10-16-65

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ORDINANCE NO. 28-354

AN ORDINANCE AMENDING SECTION 28.04.210 OF THE CODE OF THE CITY OF WICHITA, KANSAS, RELATING TO CHANGES IN ZONING CLASSIFICATIONS OR DISTRICTS; AND REPEALING ORDINANCE NO. 27-982 OF THE CITY OF WICHITA, KANSAS, AND SECTION 28.04.210, TITLE 28, CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS: THAT SECTION 28.04.210, TITLE 28, CODE OF THE CITY OF WICHITA, BE AMENDED TO READ AS FOLLOWS:

SECTION 1. That Section 28.04.210, Code of the City of Wichita, be amended to read as follows:

Section 28.04.210 Changes in zoning classifications or districts - General Procedure.

- 1.1 Changes in the zoning classification or district of any lot, tract or parcel of land located in the city, shall be made by ordinance of the Board of Commissioners of the city, upon recommendation by the Planning Commission after notice and hearing as by law provided; that every such ordinance shall legally describe the particular lot, tract or parcel of land and the change being made in its zoning classification or district; providing one ordinance may contain more than one change of zoning.
- 1.2 Upon the adoption by the Board of Commissioners of an ordinance effecting a change in the zoning classification or district of any lot, tract or parcel of land in the city, the Director of Planning shall cause the particular sectional zoning map embracing the lot, tract or parcel involved to be changed accordingly so that such sectional zoning map shall at all times reflect the current zoning classification or district of every lot, tract or parcel of land in the city.
2. Changes in zoning classifications or districts by the Board of Commissioners:
  - 2.1 The Board of Commissioners of the City of Wichita, may from time to time amend, supplement or change the boundaries or regulations contained, prescribed and set forth in this chapter, provided such proposed change first be submitted to the Planning Commission for its recommendation and report; and provided further, that no less than twenty days' notice of such proposed change shall first be published in the official paper of the city and a hearing by the Planning Commission be granted to any person interested, at a time and place specified in such notice. Such hearing may be adjourned from time to time and at the conclusion of the same, the Planning Commission shall prepare its recommendations and shall, by an affirmative vote of a

majority of the total membership of the Commission, adopt the same and shall submit the same together with the accurate written summary of the hearing thereon, to the Board of Commissioners of the City of Wichita. The Board of Commissioners of the City of Wichita may, if it approves the same, adopt such proposed ordinance or may resubmit the same to the Planning Commission for further consideration, together with a statement specifying their basis for disapproval or disagreement. The Planning Commission, after reconsidering the same, may resubmit its original recommendation, giving the reasons therefore or after notice and public hearing as provided for the original recommendation, submit new and amended recommendations. Upon the receipt of such recommendations, the Board of Commissioners may adopt or may revise or amend and adopt such recommendations by ordinance. If, however, a protest against such amendment, supplement or change be filed in the office of the City Clerk within fourteen (14) days after the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more of any real property proposed to be rezoned or by the owners of twenty percent (20%) of the total area, excepting public streets and ways, located within two hundred (200) feet of the property proposed to be rezoned, such amendment shall not be passed except by at least three-fourths (3/4) vote of all of the members of the Board of Commissioners.

3. Changes by other individuals or groups:

3.1 A proposal for an amendment or change in zoning may be initiated by the governing body, the Planning Commission or upon application of the owner of the property affected. The application shall be filed with the Planning Commission upon forms and accompanied by such data and information as may be prescribed by the Planning Commission, so as to assure the fullest practicable presentation of facts for the permanent record.

3.2 For the purpose of defraying costs of proceedings described herein, filing and publication fees shall be paid upon the filing of each application for a change of district boundaries or classification, as follows:

Classification	Fee
"AA" - one-family dwelling district	\$ 35
"A" - two-family dwelling district	\$ 35
"RB" - four-family dwelling district	\$ 35

"G" - mobile home district	\$ 70
"B" - multiple-family dwelling district	\$ 70
"BB" - office district	\$ 70
"LC" - light commercial district (6 acres and under)	\$100
"LC" - light commercial district (over 6 acres)	\$200
"C" - commercial district (6 acres and under)	\$100
"C" - commercial district (over 6 acres)	\$200
"D" - central business district (6 acres and under)	\$100
"D" - central business district (over 6 acres)	\$200
"E" - light industrial district (6 acres and under)	\$100
"E" - light industrial district (over 6 acres)	\$200
"F" - heavy industrial district (6 acres and under)	\$100
"F" - heavy industrial district (over 6 acres)	\$200

A written receipt shall be issued to the person making such a payment and records thereof shall be kept in such a manner as prescribed by law. No fee shall be required when said application is submitted by any department of the city, county, state or federal government.

- 3.3 No application for any change of zoning classification shall be filed within one (1) year following a previous application on the same property or portion thereof; provided, however, the zoning committee of the Planning Commission, upon petition by the applicant, may permit a refiling of said application after six months of the original publication date, when significant physical, economic or land use changes have taken place within the immediate vicinity or a significant zoning ordinance text change has been adopted, or when the reapplication is for a change of zoning classification more restrictive than the original request. The applicant shall submit a statement in detail, setting out those changes which he deems significant and upon which he relies for refiling the original application.

SECTION 2. That Ordinance No. 27-982 of the City of Wichita, Kansas, and the existing Section 28.04.210, Title 28 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 3. This Ordinance shall take effect on its passage and publication once in the official city paper.

PASSED AND APPROVED this 12th day of October, 1965.

\_\_\_\_\_  
William D. Tarrant, Mayor

ATTEST:

\_\_\_\_\_  
Ralph Eberly, City Clerk

(SEAL)

*Approved as to form  
John Allaker*

September 30, 1965

Board of City Commissioners  
City Building  
Wichita, Kansas

Gentlemen:

Re: DR 65-19 - Proposed Amendment  
to the Zoning Ordinance Relative  
to New Kansas Legislation

Attached is a copy of a proposed amendment to Section 28.04.210, entitled Changes in Zoning Classifications or Districts, General Procedure, which will bring the Zoning Ordinance in line with the new Kansas legislation relative to zoning classifications and general procedures which became effective on July 1, 1965.

The major changes are as follows:

1. It will now require an affirmative vote of a majority of the total membership of the Planning Commission in order to recommend approval of any zone change, or amendment to the Zoning Ordinance, whereas previously all that was required was a majority vote of the quorum present at the meeting in order to make an affirmative recommendation.
2. The new legislation now provides that if the City Commission overrules the recommendation of the Planning Commission, it must submit or refer the amendment or zone change request back to the Planning Commission with its reasons as to why the Planning Commission was overruled. The Planning Commission may then re-submit its original recommendation to the City Commission or, if the Planning Commission should desire to re-examine its recommendation, it is required that a new public hearing be held before a new recommendation can be made to the City Commission. The existing ordinance provides that the City Commission may overrule any recommendation

4 areas.

Board of City Commissioners  
September 30, 1965

of the Planning Commission without referring the matter back to the Planning Commission for its reconsideration.

3. As far as protest petitions in relation to a zoning application are concerned, the new legislation provides that if 20% of the owners of any property within 200 feet of the property proposed to be rezoned, excepting public streets, should file valid protest petitions, it will require a 3/4 vote of the City Commission in order to approve the application. The existing ordinance does not ~~exclude~~ public streets from computation, and requires a 4/5 vote of the City Commission in order to approve a zone change request, in the event of a 20% protest.
4. The only other change involved in the proposed amendment is that in Section 28.04.210 where it is stated that the Board of Commissioners, upon the adoption of a resolution may make changes or amendments to the Ordinance, it is now provided that these changes must be made in the form of an ordinance rather than a resolution. Consequently, wherever the word Resolution appears in the existing ordinance, it has been changed to ordinance.

On July 2, 1965, the Metropolitan Area Planning Commission recommended that the outlined amendments relative to new Kansas legislation be adopted.

The Department of Law has prepared an ordinance effectuating the proposed amendment and, if the City Commission agrees with the proposed change, it is recommended that the ordinance be placed on its first reading.

Respectfully submitted,

C. Bickley Foster  
Secretary

CBF:JHG:ber  
Attachment

September 30, 1965

Mr. Robert M. Moore, Sr.  
1959 South Oliver  
Wichita, Kansas 67218

Subject: Amendment to Zoning Ordinance,  
Section 28.04.210 - Changes by Board of  
Commissioners - DR 65-19

Dear Mr. Moore:

As you requested in your letter of September 18, 1965, this is to advise you that the above-captioned amendment to the City Zoning Ordinance will be considered by the Board of City Commissioners at their next regular meeting on October 5, 1965.

If you have any questions concerning this matter, please call.

Sincerely,

Jack H. Galbraith  
Senior Planner

JHG:bgs

REAL ESTATE

PROPERTY MANAGEMENT

APPRAISALS

INSURANCE



# Robt. M. Moore & Son REALTORS

1959 SOUTH OLIVER WICHITA, KANSAS 67218

MEMBER MULTILIST SERVICE

*C3F*  
*js* *please make*

TELEPHONE MU 40-297

September 18, 1965.

Metropolitan Area Planning Comm.,  
City Annex Bldg.,  
104 S. Main, City. 02.

Attention: Mr. C. Bickley Foster, Secretary.

Dear Mr Foster:

RE: DR 65-19 - Amendment to Section  
28.04.210. Changes by Bd of Comm.  
of the City Zoning Ordinance.

Relative to your letter by Mr Howe, dated Sept. 3, to  
Mr A.F. Casado, copy of which came to me, please advise  
me of the meeting whenever called for action by the  
Commissioners.

Thanking you,

Yours very truly,

Robt. M. Moore & Son.

By *Robt. M. Moore*

*2 the City Comm*  
*2 guess*



September 3, 1965

Mr. A. F. Casado  
302 North Main  
Wichita, Kansas

Subject: DR 65-19 - Amendment to Section  
28.04.210, Changes by Board of Commission-  
ers, of the City Zoning Ordinance

Dear Mr. Casado:

At its regular meeting on September 2, 1965, the Metropolitan Area Planning Commission considered the above-captioned proposed amendment to the City Zoning Ordinance. The action of the Planning Commission was to recommend that this proposed amendment be approved. A copy of the amendment as advertised is enclosed for your information and files.

As this matter has not been set for hearing, we will notify you at such time as this amendment will be considered by the Board of City Commissioners.

If you have any questions concerning this matter, please call.

Sincerely,

James W. Howe  
Planner II

JWH:bgs

cc: Robert M. Moore, Sr.  
1959 South Oliver  
Wichita, Kansas

Metropolitan Area Planning Commission

August 27, 1965

Robert A. Lakin, Assistant Planning Director *RL*

DR 65-19 - Proposed Amendment to the Zoning Ordinance  
Relative to New Kansas Legislation

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2. The new legislation now provides that if the City Commission overrules the recommendation of the Planning Commission, it must submit or refer the amendment or zone change request back to the Planning Commission with its reasons as to why the Planning Commission was overruled. The Planning Commission may then re-submit its original recommendation to the City Commission or, if the Planning Commission should desire to re-examine its recommendation, it is required that a new public hearing be held before a new recommendation can be made to the City Commission. The existing Ordinance provides that the City Commission may overrule any recommendation of the Planning Commission without referring the matter back to the Planning Commission for its reconsideration.

August 27, 1965

3. As far as protest petitions in relation to a zoning application are concerned, the new legislation provides that if 20% of the owners of any property within 200 feet of the property proposed to be rezoned, excepting public streets, should file valid protest petitions, it will require a 3/4 vote of the City Commission in order to approve the application. The existing Ordinance does not exclude public streets from computation, and requires a 4/5 vote of the City Commission in order to approve a zone change request, in the event of a 20% protest.
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RAL:bjg

Enclosure

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on September 2, 1965, at 2:00 P.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission, in Room 401, City Building Annex, 104 South Main, Wichita, Kansas, will consider the following change to Title 28, the Code of the City of Wichita, Kansas:

Section 28.04.210 Changes in zoning classifications or districts - General Procedure

Amend to read as follows:

- 1.1 Changes in the zoning classification or district of any lot, tract or parcel of land located in the city, shall be made by ordinance of the Board of Commissioners of the city, upon recommendation by the Planning Commission after notice and hearing as by law provided; that every such ordinance shall legally describe the particular lot, tract or parcel of land and the change being made in its zoning classification or district; providing one ordinance may contain more than one change of zoning.
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2. Changes in zoning classifications or districts by the Board of Commissioners:
  - 2.1 The Board of Commissioners of the City of Wichita, may from time to time amend, supplement or change the boundaries or regulations contained, prescribed and set forth in this chapter, provided such proposed change first be submitted to the Planning Commission for its recommendation and report; and provided further, that no less than

twenty days' notice of such proposed change shall first be published in the official paper of the city and a hearing by the Planning Commission be granted to any person interested, at a time and place specified in such notice. Such hearing may be adjourned from time to time and at the conclusion of the same, the Planning Commission shall prepare its recommendations and shall, by an affirmative vote of a majority of the total membership of the Commission, adopt the same and shall submit the same together with the accurate written summary of the hearing thereon, to the Board of Commissioners of the City of Wichita. The Board of Commissioners of the City of Wichita may, if it approves the same, adopt such proposed ordinance or may resubmit the same to the Planning Commission for further consideration, together with a statement specifying their basis for disapproval or disagreement. The Planning Commission, after reconsidering the same, may resubmit its original recommendations, giving the reasons therefore or after notice and public hearing as provided for the original recommendation, submit new and amended recommendations. Upon the receipt of such recommendations, the Board of Commissioners may adopt or may revise or amend and adopt such recommendations by ordinance. If, however, a protest against such amendment, supplement or change be filed in the office of the City Clerk within fourteen (14) days after the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more of any real property proposed to be rezoned or by the owners of twenty percent (20%) of the total area, excepting public streets and ways, located within two hundred (200) feet of the property proposed to be rezoned, such amendment shall not be passed except by at least three-fourths (3/4) vote of all of the members of the Board of Commissioners.

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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 in the premises, and any protest against any of the provisions of the proposed change to the revised Zoning Ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal on this 9th day of August,  
19 65.

C. Bickley Foster, Secretary  
Wichita-Sedgwick County  
Metropolitan Area Planning  
Commission

(SEAL)