

DR 78-15 - Amendment to the City Zoning Ordinance - Radio, TV Tower Heights.

ACTION

COMMITTEE	DATE
M.A.P.C.	<u>10-12-78</u>
MAPC	<u>12-7-78</u>
BGG/B-CO-C	
MAPC	<u>1-4-79</u>
BCC	<u>1-30-79</u>

Deferred for 4 weeks

Approved w/amendments

Approved

89182 (Published in the Daily Record Feb. 9, 1979)
ORDINANCE NO. 35-913

AN ORDINANCE AMENDING THE PROVISIONS OF SECTION 28.04.187 OF THE CODE OF THE CITY OF WICHITA, KANSAS; PROVIDING FOR EXCEPTIONS TO HEIGHT REGULATIONS OF THE ZONING DISTRICTS AND REPEALING THE ORIGINAL OF SAID SECTION.

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

SECTION 28.04.187 of the Code of the City of Wichita, Kansas, shall read as follows:

"28.04.187 Exceptions to height regulations. The following structures and accessory structures shall not be subject to the height limitations of the district in which they are located; provided, however, regardless of the heights permitted by this chapter, all structures and accessory structures located within zones (landing, clear, approach, horizontal, conical and transitional), established adjacent to the McConnell Air Force Base, Geach Airport and Wichita Mid Continent Airport, by Chapter 28.08 (Airport Zoning), shall not exceed the heights regulated therein:

1. Public, semipublic or public service buildings, hospitals, institutions, schools and churches or temples, when permitted in the "AA", "A", "RB", "R-5" and "R-6" districts may be erected to a height not exceeding seventy-five feet, if the building is set back from each yard line at least one foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.
2. Chimneys, smokestacks or flues.
3. Cooling towers and ventilators.
4. Elevator bulkheads and stairway enclosures.
5. Fire towers.
6. Bellies, spires and church steeples.
7. Tanks, water towers, and silos.
8. Monuments and ornamental towers.
9. Communication structures in any commercial or industrial district, including radio and television transmitting towers; provided, however, no portion of the tower, antenna, aerial or any anchor or guy may encroach upon the land area or airspace of any required front yard setback or into any utility easement.
10. Non-commercial, ground or structure supported, antennas and aereals which do not exceed a total aggregate height of sixty (60) feet above natural grade; provided, however, that no portion of the antenna, aerial or any anchor or guy may encroach upon the land area or airspace of any adjoining or abutting property, and provided further, that no portion of the antenna, aerial or any anchor or guy shall extend into any required front yard setback or into any utility easement.

EXCEPTION: The Superintendent of Central Inspection may grant exceptions to the height limitation provided all of the following conditions are found to exist:

- (a) The antenna structure shall not be located any closer to an interior side property line, a rear property line or utility easement, than one-half the height of the structure above grade.
- (b) An agreement signed by all adjacent property owners within 50 feet of the boundary line of the applicants' property giving consent for the antenna structure to exceed the height limitation.
- (c) No antenna shall exceed the height permitted by Federal Communications Rules and Regulations pertaining to the Amateur Radio Service, and Citizens Radio Service.

11. Energy generating structures not exceeding forty-five (45) feet in height above natural grade; provided, however, such structure shall not be located in any required yard, nor be located closer to any adjacent property than the height of the energy generating structure.

12. On through lots one-hundred-twenty feet or less in depth, the height of a building may be measured from the grade on either street. On through lots of more than one-hundred-twenty feet in depth, the height regulations and basis on height measurements for the street permitted, the greater height shall apply to a depth of not more than one-hundred-twenty feet from that street."

The original Section 28.04.187 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, 1979.

CONNIE A. PETERS* MAYOR

ATTEST: (SEAL) DONALD C. GISICK, CITY CLERK

ORDINANCE NO. _____

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4. Elevator bulkheads and stairway enclosures.

5. Fire towers.
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(c) No antenna shall exceed the height permitted by Federal Communications Rules and Regulations pertaining to the Amateur Radio Service, and Citizens Radio Service.

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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.

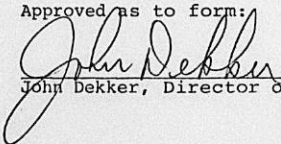
ADOPTED at Wichita, Kansas, this ____ day of _____, 1979.

MAYOR

ATTEST:

City Clerk

Approved as to form:



John Dekker, Director of Law

WICHITA-SEDGWICK COUNTY

DATE
January 19, 1979

METROPOLITAN AREA PLANNING DEPARTMENT

TO E. H. Denton, City Manager

FROM Robert A. Lakin, Director of Planning

SUBJECT DR 78-15 - Possible amendment to the Zoning Ordinance
Re: Exceptions to height regulations - TV and Radio Towers

Attached hereto is a delineated copy of an amendment to the zoning ordinance providing for additional exceptions to the height regulations for towers, such as used by ham radio operators and for energy generating structures. Also attached are excerpts of the MAPC minutes. This item should be scheduled to appear on the January 30, 1979 agenda for consideration by the Board of City Commissioners.

BACKGROUND

In April 1978, Robert Feldner, Superintendent of Central Inspection informed the Planning Department of problems his Division was encountering in the administration of the Zoning Ordinance as it related to heights of radio towers. This also was a concern expressed by several amateur radio groups at the public hearings on the proposed new Zoning Ordinance. Central Inspection is responsible for the administration of the Building Code and the Zoning Ordinance, and in each ordinance such towers are considered as accessory structures.

Under the existing provisions of the Zoning Ordinance, a detached accessory structure is limited to 60 percent of the height permitted for the main structure in the most restrictive residential zoning districts ("AA", "A" and "RB"). This places a height limit of 21 feet for detached accessory structures in those districts. Within the "R-5" and "R-6" districts, accessory structures must comply with the same limitations of the main use, which is 35 feet. Within the "B" multiple-family district, again the limitation would be 60 percent of the main structure height, however, on larger properties where additional setbacks can be provided, such accessory structures could be 60 feet in height if such towers were at least 40 feet from the required setback lines.

Within the Commercial or Industrial districts, the height restriction on accessory structures has not been a problem as most structures within these districts are rarely built to the maximum height and the addition of radio towers has been primarily a safety consideration regulated by the provisions of the Building Code.

Page Two
E. H. Denton, City Manager
January 19, 1979

In reviewing the provisions of the existing ordinance, and discussing the provisions of the ordinance with members of the amateur radio clubs, Central Inspection, the Energy Office and the Planning Department, an ordinance amendment was prepared for consideration by the Planning Commission at their meeting of October 12, 1978. After considerable discussion, the Planning Commission deferred any action on the amendment until a representative of the ham radio operators could prepare an alternate proposal which would allow a greater height than the 60 foot exception as was proposed.

After Mr. Borst submitted the alternate proposal, a copy of which is attached, the staff prepared an alternate proposal that was returned to the Planning Commission for their consideration at their meeting of January 4, 1979. (Copy is attached).

At the January 4, 1979 meeting, the Planning Commission considered all proposals and with a minor amendment, recommended unanimously that the attached ordinance be forwarded to the City Commission with a recommendation of adoption.

SUMMARY

The proposed ordinance as recommended by the Planning Commission will provide the following changes to Section 28.04.187 of the Zoning Ordinance:

1. Included in the general statement of exceptions is a reference to the Airport Zoning Ordinance. Although this language is new to this section of the Ordinance, it is placed in this section as a reminder that regardless of heights that may be permitted by this section, the limitations of the Airport Zoning Ordinance take precedence.
2. In paragraph 1, the "R-5" and "R-6" Zoning Districts are added so that the 35 foot height limitation would not be applicable to churches, schools, etc., and would permit such to be the same height as permitted in the "AA" district.
3. Paragraphs 2 through 8 are not changes, but a list of most of the uses previously excepted by the original paragraph number 2.

Page Three
E. H. Denton, City Manager
January 19, 1979

4. Paragraph 9 is the exception of all communication structures in any commercial or industrial district from the height limitations of the district.
5. Paragraph 10 is the exception for non-commercial antennas and aerials from the height limitations of any zoning district. There is also included the provision to permit such structures to any height permitted by the FCC regulations provided such structures can be located on the property a distance away from the easements, interior side and rear property lines at least one-half the height of the structure. This must also be accompanied by an agreement of all property owners within 50 feet of the applicant's property.
6. Paragraph 11 is the exception for energy-generating structures up to a height of 45 feet in any zoning district, provided the structure shall not be closer to adjacent property than the height of the structure.

SUGGESTED ACTION:

1. Concur in the recommendation of the Planning Commission and place the ordinance on first reading.
2. Return the proposed amendment to the Planning Commission for reconsideration. The City Commission states the following reasons for its action.

Robert A. Lakin

Robert A. Lakin
Director of Planning

RAL:GEL:e1
Attachments

cc: John Dekker, Director of Law
Don Anderson, Director of Housing & Economic Development
Robert Feldner, Superintendent of Central Inspection
Gene Beaver, Director of Civil Preparedness, Sedgwick Co.
R-A-C-E-S, % Bob Serpan, 426 Brown Thrush, 67212
C-R-E-S-T, % A.F. Brown, 3300 So. Seneca, 67217
Air Capitol Radio Club, % Al Koster, 1206 Dallas, 67217
Bernard Borst, 3946 N. St. Clair, 67204
Wichita Board of Realtors, 717 N. Emporia, 67214
Wichita Area Builders Ass'n., 730 N. Main, 67214

89182

Deletions marked with a slash

Feb 9, 1979

Additions underlined

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2. ~~Chimneys, -cooling-towers, -elevator-bulkheads, -fire-towers, grain-elevators, -flour-mills, -monuments, -stacks, -scenery lofts, -tanks, -water-towers, -ornamental-towers, -spires, church-steeples, -radio-towers-or-necessary-mechanical appurtenances, -may-be-erected-to-a-height-in-accordance with-existing-or-hereafter-adopted-ordinances-in-the city, -provided-that-in-the-absence-of-any-such-ordinance there-shall-be-no-height-limitation-on-these-structures.~~

2. Chimneys, smokestacks or flues.
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ADOPTED at Wichita, Kansas, this ____ day of _____, 1979.

MAYOR

ATTEST:

City Clerk

Approved as to form:

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January 19, 1979

E. H. Denton, City Manager

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ADOPTED at Wichita, Kansas, this ____ day of _____, 1979.

MAYOR

ATTEST:

City Clerk

Approved as to form:

John Dekker, Director of Law

EXCERPT FROM PLANNING COMMISSION MINUTES OF JANUARY 4, 1979:

21. Case No. DR 78-15 - Amendment to the City Zoning Ordinance - Radio, TV Tower Heights.

Case No. DR 78-24 - Amendment to the County Zoning Resolution - Radio, TV Tower Heights.

GLEN E. LYTLE, Special Assistant for Zoning, stated that there were some concerns expressed by the Planning Commission at the October 12, 1978 Planning Commission meeting, one of which was the possibility of exceeding the 60 foot height which was proposed at that time. He said the compromise that was worked out to Mr. Borst's proposal was to allow the Superintendent of Central Inspection the authority to grant exceptions to the 60 foot height providing all of the following conditions are found to exist:

1. The antenna structure shall not be located any closer to an interior side property line, a rear property line or utility easement, than one-half the height of the structure above grade.
2. An agreement signed by all adjacent property owners within 50 feet giving consent for the antenna structure to exceed the height limitation.
3. No antenna shall exceed the height permitted by Federal Communications Rules and Regulations pertaining to the Amateur Radio Service, and Citizens Radio Service.

LYTLE said that the comments by Don Elliott, Regional Manager of KG&E, indicated that he thought the antenna should be a distance away from any easement the height of the tower. Failure of antenna structures are due to ice buildup, and when this occurs, it will normally collapse within a much smaller area than the height of the tower. LYTLE felt that the statement "utility easement" should be amended to say "utility easement that is provided for above ground utilities". Those below ground would not be affected in any way by this amendment and should not be included. He pointed out that on the County amendment, there is a 45 foot height limit in the light commercial district in the County Zoning Resolution. There should be a similar provision that is in the City proposal of 28.04.187 (9) included in the County Resolution so that they would not be regulated in the light commercial district of 45 feet. LYTLE added that there was some concern by the Planning Commission of the height of these towers in certain areas where there are underground utilities. He said that if this was a concern, then possibly a 35-foot height limitation for any tower in a residential area could be a starting point, and then allow exceptions to exceed that height providing they set back from the adjacent property lines a distance equal to one-half the height of the tower.

MAY stated that the decision would be made through the Superintendent of Central Inspection, and if the decision was not acceptable to the applicant would they have the option of going to the Board of Zoning Appeals.

LYTLE stated that if the applicant complies with the three conditions, the Superintendent of Central Inspection could issue the permit to a height permitted by the FCC regulations. If they do not comply, then the Board of Zoning Appeals could still hear a request for a variance from the 60-foot height limitation or the setback requirement.

BAYOUTH asked if this pertained only to towers that have guy wires. LYTLE stated no, anything that was an accessory structure.

GREIDER asked how high would a wind generator be permitted. LYTLE said they would be permitted a 45 foot height under this provision.

BERNARD BORST, 3946 North St. Clair, stated that at the last meeting it was suggested that he prepare something along the lines of his thinking and return it to the Commission. He said amateur radio is an international situation and is recognized in all of the countries. If it has been decided that it was important enough to have a service known as the amateur service and have adopted regulations pertaining to it, then he felt that for them to consider and take away the authority to function from those who participate in that service tends to do away with or prevent the service from accomplishing that for which it was devised. He suggested that the Planning Commission consider and adopt those regulations that the Federal Communications Commission has adopted in this area.

CURT THOMAS, Amateur Radio Operator, said that he would like to see a height limitation above what now exists to enable amateurs in the City of Wichita to pursue their hobby.

COLE said his concern was the safety of the radio antenna, and if there was someone who looked at the guy support when the permit was obtained. He said he saw this as a potential problem.

ROBERT FELDNER, Superintendent of Central Inspection, stated that the antenna would be classified as an accessory structure on the property and would require a permit. At the time the permit was issued, they would have to indicate where the antenna would be located on the setback, guy wires, etc.

BAYOUTH said that the reason for underground utilities, was to eliminate telephone poles and structures above ground.

BELL stated that if there were neighborhoods that were concerned with aesthetics and structures like this, it is something that can be handled within deed restrictions. He said he did not want to be 100 percent in favor of Mr. Borst's argument that because the FCC does some kind of regulating, then it was not necessary to comply with local zoning requirements.

MOTION: That the Planning Commission recommend to the City and County Commissions that the proposed amendments be approved. Savina moved, Jones seconded.

LAKIN asked if the language should not be inserted in the motion pertaining to the adjacent property owners within 50 feet giving consent for the antenna structure, and putting in parentheses after that "when used by above ground utilities", and also include the exception for commercial antennas in the light commercial district in the County.

SAVINA said he would not be in favor of the term "when used by above-ground utilities" because guy wires could interfere with underground utilities.

LYTLE said the guy lines would not be permitted in the easement.

SAVINA said that the other two suggestions could be put in his motion. JONES as second agreed.

BAYOUTH said that 60 foot was too high. It was not just the aesthetics, it was interference from the towers that was his concern.

COLE asked if this takes care of the concern of KG&E of being close to power lines.

TIM RICHARDS, Kansas Gas & Electric, said that he was appearing more out of interest for the topic. The wording that KG&E suggested was aimed at providing a situation where it would hopefully be impossible for a tower of any height to fall and come in contact with utilities. He said that they could

live with what was being proposed. The restriction to setback one-half the height of the tower would probably remove them from a situation where this could happen. Their input into this matter was borne more out of concern for safety and continuity of service to an area.

VOTE ON THE MOTION: It carried
unanimously. Hennessy was absent.

EXCERPT FROM PLANNING COMMISSION MINUTES OF OCTOBER 12, 1978;

29. Case No. DR 78-15 - Amendment to the City Zoning Ordinance - Radio, TV Tower Heights.
30. Case No. DR 78-24 - Amendment to the County Zoning Resolution - Radio, TV Tower Heights.

GLEN E. LYTLE, Special Assistant for Zoning, stated the ordinance was prepared to try to resolve some of the problems that Central Inspection has had with the administration of the height restrictions as related to radio towers. He said that in the present ordinance accessory structures are limited to 60% of the height of the main structure within that district. There are different height restrictions within the ordinance, particularly as it relates to residential zoning districts. In most cases this would place a 21-foot height limitation on accessory structures. This is not adequate to install a radio tower, particularly the ham operators have indicated that they need a greater height in order to transmit and receive. What is proposed in the ordinance is to allow amateur radio towers up to a 60-foot height limitation in these residential districts. It is stipulated that the structure, guy wires or any appertenance not be located in the front yard setback or be located on a recorded utility easement. He said they have also included a provision for energy generating towers. Due to the fact that wind generating towers could be far more objectionable than radio towers due to the noise factor, the proximity to adjacent property is regulated and any tower should maintain a setback from adjacent property a distance equal to the tower height. LYTLE pointed out that in the amendment there is a reference to the airport zoning ordinance which would further limit the taller commercial structures within the community when they are adjacent to the airports that are regulated by the airport zoning ordinance. LYTLE said that another amendment that was included was the exception of height for public or semi-public buildings, churches hospitals and institutions in the "R-5" or "R-6" District. Although some of these uses would not be permitted in those districts, they are permitted the same height limitations as in the "AA", "A" and "RB" Districts which would permit them up to a height of 75 feet. It was indicated that communication structures in any commercial or industrial district would have no height limitations except as regulated by the airport zoning limitations.

LYTLE stated that the same limitations are proposed for the County Resolution as was proposed for the City Zoning Ordinance as far as the radio towers and energy generating towers in the residential areas. However, in the County Resolution there are no height limitations in the commercial and industrial districts and therefore there is no need for height exceptions in those districts.

BAYOUTH asked if a permit had to be obtained before a tower was built. LYTLE said that not as far as zoning was concerned, there is no permit required but the building code requires permits for structures and accessory structures.

BAYOUTH said that the biggest complaint of radio towers was the interference it causes with receiving television signals and not the height, and Central Inspection and FCC has no way of preventing this. He asked how was this regulated.

LYTLE said that was not regulated by zoning.

BAYOUTH said that it seems to him that more problems were being created for the people in the area.

LYTLE stated that this was being submitted for consideration. He recalled one situation of this type of broadcasting where the transmission had created enough problems that it did require the individual to move his operation to another location. This was because it was determined that his operation was a commercial venture in a residential area. LYTLE pointed out that there are many areas in the city that have mature trees and above-ground utilities and 50 foot towers in those types of areas are not too noticeable.

SAVINA asked if a permit was required for erecting towers. LYTLE stated yes, any tower covered by the building code, a permit would be required.

SAVINA stated that a construction safety report that he receives indicated that the number one cause of accidental death was the erection of towers by being too close to electric lines. He felt that electric lines should definitely be outlined on the permit and he wondered if KG&E had been contacted.

GALBRAITH said that he was not certain whether KG&E was advised that this proposal was under consideration or not. He said that the staff was concerned about increasing the permitted height for towers and he personally did not want to see 100% flexibility given to one user in a single family district. He suggested a deferral might be in order to review the matter with KG&E.

ROBERT FELDNER, Superintendent of Central Inspection, stated that Lytle had covered the subject very well. He said that in the past few years the advent of the CB radio had seen a lot of new radio antennae go up and it has been a problem in policing these installations. Most of the problems that his department has experienced was in the private individual type tower. They have had no problem with the commercial towers. FELDNER said that they have had a number of inquiries in the past three years on wind power generators. He felt that that one thing to be considered on wind power generators is that they do put out a certain amount of noise. He said that he had a copy of a letter addressed to Lytle from the Sedgwick County Civil Preparedness office, stating that the CB people are quite happy with the wording in the proposed amendment, however, there is still some hesitancy on the part of the ham operators and that was mainly on the height of the tower. They felt they needed more height than the 60 feet proposed.

BAYOUTH asked how high would the wind generators be built. FELDNER said that 45 feet is proposed. BAYOUTH asked if these people had considered having a community type tower in each area and being able to tie into this tower. FELDNER said that there had been one individual in his office about a year ago with that type of idea, but he was talking about a tower 150 feet tall.

BARRIER asked if this problem came up often on the Board of Zoning Appeals.

CHAIRMAN TAYLOR said that BZA had not had any instances to her knowledge since she had been on the board.

GREIDER asked by this proposal what would this do to the Sedgwick County residences. He said that this proposal would even have influx on the wind mill generators.

GALBRAITH said that this amendment did not apply to windmills on a farm. GREIDER said that he was not talking about a windmill for a farm, but felt that the rules were getting too stringent, tying up more people with more regulations in the County.

LYTLE remarked that the County has the same building codes as the City of Wichita and if it is a structure, it does require a permit.

ALLEN GWINN, amateur radio operator, stated that the radio operators have two primary areas of concern with this ordinance. First of which is the overall height of towers and the stipulations that are placed on them, and the second area of concern is the wires which is placed from the front curb of the street to the front easement of the house. He said that heights were controlled by local ordinances and by the Communication Act of the FCC and basically the rules stipulate that an antennae tower over 200 feet in height has to be filed with the Federal Aviation Authorities for airport safety information. Therefore, the FCC allows heights up to 200 feet in ground level for amateur antennae. With the proposed ordinance future antennae construction would be limited for noncommercial towers to 60 feet. He pointed out that the amateur radio service has distinguished itself numerous times during disasters. He said that they would ask if a height limitation was going to be placed on amateur towers that an addendum be attached to it whereby by special permit or by special inspection, at the request of the amateur radio operation, which would allow a ham operator to exceed the 60 feet level. GWINN said that his other concern was the wires. In many cases in Wichita property lines were drawn so that the front of the house is narrower than the lot is long. Wire antennae are the most reasonable to build for the amateur radio operators and are the longest which means it has to be stretched from the back of the lot to the front of the lot. The line needs to be high and in the clear to get proper radiation patterns. GWINN stated that ham radio operators attempt to improve on what they see is a fairly good safety record. He requested that amateurs be allowed to maintain wire antennae placed between the curb and the front easement. He emphasized that no ham operator would not get a guy wire close to a utility line because of the fear of being shocked.

BELL asked if Mr. Gwinn realized the existing state of the law, that legally now ham operators are limited in most cases to a much lesser height than 60 feet. Ham operators are illegal now and the ordinance would make them less illegal.

MAY stated that she was unable to use her stereo or radio from 9 a.m. until 1 p.m. any day because of a radio operator. She said she was very interested in hearing from KG&E about this before she made a decision, and have a little more time to consider the kind of things that have been suggested. She was also concerned about the safety factors.

BERNARD V. BORST, 3946 N. St. Clair, said that he was appearing as an amateur radio operator and has been one for 30 years. He said that in his experience as an amateur radio operator, he has had the opportunity to research back into the past for the reason of the existence of radio operators. It was a service created by the Federal Government because there was a need for it at the time it was created and there still is a need for it. If it had not been for the amateur operators, who after World War I were given what was thought to be a no-man's-land which could not be used for communication and now consist of that area of the radio frequencies that is presently used for all communications. The amateur radio operators over the years have been the largest free of charge radio laboratory and it has all been done and financed by the amateur out of his own pocket. He felt that this deserves to be accredited for that kind of activity and it will continue to furnish the public with a certain type of public service that is expected from it in the future. BORST said that a radio tower, to him, was as pretty as any tree and it has been his experience that it was a lot less likely to get struck by lightning than a tree. He said that in 30 years he has only seen one amateur radio tower that had been struck by lightning. He said that he had taken down and put up towers many times and not one accident has occurred in any of those instances. He said that it was difficult to understand how one could put up lights to light tennis courts, back-

stops on baseball diamonds, utility poles in the alleys, etc., and yet deny the radio amateur operator the right to put up an antennae tower to hold up antennae. BORST said that as a citizen and property owner, he felt he had some rights to use his property in a way that pleases him and if radio operating pleases him then he should be able to do this and not be controlled by someone who lives next door to him merely because they like something else in their house and do not like what he does in his house. He did agree that radio and television interference has in some instances been a problem and because it has been a problem, the Wichita Amateur Radio Club has for years maintained a TV eye committee, that whenever a complaint is called into the radio club, they would investigate that problem and determine what caused it. He said that he had investigated many TV eye complaints and in each instance he has found that the problem was not in the transmitting equipment, the problem was in the defective condition of the equipment which was being interfered with. He said that this has become more prevalent in recent years because of the use of transistors and they are more susceptible to interference than others. To cope with this, the FCC has passed regulations requiring tight certification. He said that he was in favor of the 60 foot heights and was also in favor of more than 60 feet because amateur radio being in an experimental area and because the frequencies on the broad spectrum from low frequencies from the VHF and into the UHF determines the size of your antennae and height. If the amateur is restricted you restrict him fully from experimenting in this area. He suggested that 60 foot was a reasonable height subject to one limitation, if an amateur wanted to exceed the 60 foot limitation, that he be required to present his plans to Central Inspection with Engineering data for the purpose of determining the safety factors of the tower which would support the antennae, the guy wires and upon receiving Central Inspection's approval the permit would be allowed.

BAYOUTH said that there has to be a way to handle the neighborhood without approving a blanket ordinance that would let everyone put up a tower at least 60 feet high.

BORST said his concern in radio towers was safety. If his unit was safe then he was protected and so were other people.

BELL asked if Mr. Borst would prepare a draft of what he was suggesting for the Planning Commission's consideration. BORST said that he would be happy to prepare a draft.

MOTION: That the Planning Commission defer this matter for 60 days and that this be looked into by Central Inspection, Planning staff, and that KG&E be asked for their input as to the distance from their service entrance cables including transmission cables. Savina moved, Hennessy seconded.

GALBRAITH stated that he was disturbed by the unlimited heights that Mr. Borst was suggesting. The comments and concerns about structural safety was mentioned, but nothing was said about whether or not the tower in a residential area was going to be unacceptable to the character of the area. He said that 60 foot heights was thought to be out of character with single story residences and yet it was suggested that there be unlimited heights as long as it was safe and Central Inspection looks at the plans.

BELL said that in those areas where everything was underground there might be a problem, but the existing areas that allow telephone poles there may be a double set of standards.

VOTE ON THE MOTION: It carried unanimously. Cole, Jones and Barrier were absent.

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

December 28, 1978

TO Metropolitan Area Planning Commission
FROM Glen E. Lytle, Special Assistant for Zoning
SUBJECT DR 78-15 - Possible Amendment to Wichita Zoning Ordinance
DR 78-24 - Possible Amendment to Sedgwick County Zoning
Resolution
Re: Exemptions to height regulations - TV and Radio Towers

At the October 12, 1978 meeting, the Planning Commission deferred any action on these two possible amendments for eight weeks to allow Bernie Borst, a representative of the ham radio operators, to prepare an alternate proposal. At the December 7, 1978 meeting, an additional deferral of four weeks was requested by the staff. These amendments will again be considered at the MAPC meeting of January 4, 1979.

Attached is the previous material that was presented at the October 12, 1978 meeting. I have also included, for your information, a copy of a letter received from Don Elliott, Regional Manager of KG&E, in response to a letter requesting comments on the proposed changes.

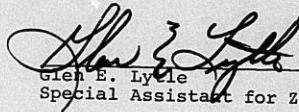
As you will note by the proposed change that was submitted by Mr. Borst, an owner could erect a tower up to a height of 200 feet. After considerable discussion between Mr. Borst and the staff, we have prepared an alternate proposal which would permit the Superintendent of Central Inspection to grant exceptions to the height limitation of 60 feet under specific conditions. The conditions would be mandatory for administrative approval by the Superintendent of Central Inspection. A variance could also be requested through the Board of Zoning Appeals which would require notification of adjacent property owners of the public hearing prior to action by the BZA.

Another alternative would be to reduce the permitted height to 35 feet and permit any additional height up to the 60 foot limit by requiring a setback from adjacent property lines or easements equal to one-half the height of the tower or antenna. This could be permitted simply by complying with the setback requirements, or it could also include the requirement of agreement by all adjacent property owners.

Page Two
MAPC
December 28, 1978
Re: DR 78-15 and DR 78-24

RECOMMENDATION:

Make whatever changes the Planning Commission deems appropriate and forward each amendment to the appropriate governing body with a recommendation for adoption.



Glen E. Lytle
Special Assistant for Zoning

GEL:bbc

cc: Robert A. Lakin, Director of Planning
Don Anderson, Director of Economic Development
Robert Feldner, Superintendent of Central Inspection
Gene Beaver, Director of Civil Preparedness
Bernie Borst, 3946 N. St. Clair, 67204
Wichita Area Builders Assn., 730 N. Main, 67203
Wichita Board of Realtors, 717 N. Emporia, 67214
R-A-C-E-S, c/o Bob Serpan, 426 Brown Thrush, 67212
C-R-E-S-T, c/o A. F. Brown, 3300 S. Seneca, 67217
Air Capitol Radio Club, c/o Al Koster, 1206 Dallas, 67217
Don Elliott, Division Manager, KG&E
Syd Werbin, County Zoning Officer

December 19, 1978

RE: DR-78-15
DR-78-24

POSSIBLE CHANGE TO THE PROPOSED AMENDMENTS

Addition to Section 28.04.187 (10)

EXCEPTION: The Superintendent of Central Inspection may grant exceptions to the height limitation providing all of the following conditions are found to exist:

- (a) The antenna structure shall not be located any closer to an interior side property line, a rear property line or utility easement, than one-half the height of the structure above grade.
- (b) An agreement signed by all adjacent property owners within 50 feet giving consent for the antenna structure to exceed the height limitation.
- (c) No antenna shall exceed the height permitted by Federal Communications Rules and Regulations pertaining to the Amateur Radio Service, and Citizens Radio Service.

Addition to Section 12-C-(2).

Same as above but use the term "Zoning Administrator" for "Superintendent of Central Inspection".

December 28, 1978

Metropolitan Area Planning Commission

Glen E. Lytle, Special Assistant for Zoning

DR 78-15 - Possible Amendment to Wichita Zoning Ordinance
DR 78-24 - Possible Amendment to Sedgwick County Zoning
Resolution

Re: Exemptions to height regulations - TV and Radio Towers

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Attached is the previous material that was presented at the October 12, 1978 meeting. I have also included, for your information, a copy of a letter received from Don Elliott, Regional Manager of KG&E, in response to a letter requesting comments on the proposed changes.

As you will note by the proposed change that was submitted by Mr. Borst, an owner could erect a tower up to a height of 200 feet. After considerable discussion between Mr. Borst and the staff, we have prepared an alternate proposal which would permit the Superintendent of Central Inspection to grant exceptions to the height limitation of 60 feet under specific conditions. The conditions would be mandatory for administrative approval by the Superintendent of Central Inspection. A variance could also be requested through the Board of Zoning Appeals which would require notification of adjacent property owners of the public hearing prior to action by the BZA.

Another alternative would be to reduce the permitted height to 35 feet and permit any additional height up to the 60 foot limit by requiring a setback from adjacent property lines or easements equal to one-half the height of the tower or antenna. This could be permitted simply by complying with the setback requirements, or it could also include the requirement of agreement by all adjacent property owners.

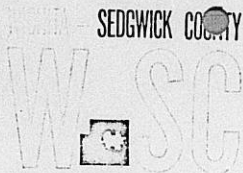
Page Two
MAPC
December 28, 1978
Re: DR 78-15 and DR 78-24

RECOMMENDATION:

Make whatever changes the Planning Commission deems appropriate and forward each amendment to the appropriate governing body with a recommendation for adoption.

Glen E. Lytle
Special Assistant for Zoning

GEL:bbc
cc: Robert A. Lakin, Director of Planning
Don Anderson, Director of Economic Development
Robert Feldner, Superintendent of Central Inspection
Gene Beaver, Director of Civil Preparedness
Bernie Borst, 3946 N. St. Clair, 67204
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Air Capitol Radio Club, c/o Al Koster, 1206 Dallas, 67217
Don Elliott, Division Manager, KG&E
Syd Werbin, County Zoning Officer



METROPOLITAN AREA PLANNING
DEPARTMENT
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4561

December 5, 1978

Re: DR 78-15
DR 78-24

TO ALL INTERESTED PERSONS:

Please be advised that the proposed amendments to the zoning regulations related to Radio-TV Towers will be returned to the Planning Commission for their consideration at the regular Metropolitan Area Planning Commission meeting on January 4, 1978.

A copy of the alternate proposal that has been prepared by Bernard V. Borst is attached for your information. Additional changes are also being developed by the staff and will be furnished to you at a later date.

Sincerely,

Glen E. Lytle
Special Assistant
for Zoning

GEL:el
Att.

Proposed Amendment to the Possible Amendment to the City of Wichita Zoning Ordinance Previously Scheduled for Public Hearing Before the MAPC Thursday, October 12, 1978, and Rescheduled for Public Hearing on December 3, 1978.

At the suggestion of members of MAPC I have prepared a proposed amendment to the possible amendment to the city's Zoning Ordinance Section 28.04.187 of the Code of the City of Wichita, Kansas.

The amendment which I propose has the following purposes in mind:

1. It permits the recognition of the Amateur Radio Service as a worldwide communications service with worldwide importance.
2. It permits the recognition of the Amateur Radio Service and Citizens Band Radio Service as communication systems with significant national importance.
3. It permits the licensed amateur CB'er in Wichita to function in the furtherance of its declared national and international purpose.
4. To adopt the amendment as proposed denies no one of their personal and individual rights to live and function in a manner most self-fulfilling and meaningful to such person; whereas, the adoption of anything less than the proposed amendment relegates licensed amateur and CB operators in the City of Wichita to a second class status of citizenship because of their interest in electronics.

As an individual and a licensed amateur radio operator I urge that you adopt the proposed amendment as initially suggested by MAPC staff with paragraph 10 being amended to read as proposed in the amendment attached hereto.

Bernard V. Borst
Bernard V. Borst - W6LNS
3946 North St. Clair
Wichita, Kansas

28.04.187 Exceptions to height regulations.

10. Non-commercial, ground or structure supported antennas and aeriels which do not exceed a total aggregate height of sixty (60) feet above natural grade; provided that ground or structure supported antennas and aeriels which are a part of any amateur radio station or any Citizen Band Radio Service station licensed by the Federal Communications Commission shall be subject only to such height regulations as are provided in Part 97, particularly Part 97.45 of the Federal Communications Rules and Regulations pertaining to the Amateur Radio Service, and Part 95, Subpart D, particularly Part 95.437, of the Federal Communications Rules and Regulations pertaining to the Citizens Radio Service, and further provided, however, that no portion of the antenna, aerial or any anchor or guy may encroach upon the land area or airspace of any adjoining or abutting property; and, provided further, that no portion of the antenna, aerial or any anchor or guy shall extend into any required front yard setback or into any utility easement.

December 5, 1978

(See reverse side for mailing)

Re: Radio-TV Tower
amendments to zoning
regulations

Gentlemen:

Attached hereto are copies of the possible amendments to the City of Wichita zoning ordinance and the Sedgwick County zoning resolution that were first considered by the Planning Commission at their meeting of October 12, 1978. These amendments were prepared as a result of discussions before the Planning Commission by the amateur radio groups on the limitation on height of towers within the existing zoning regulations.

As you will note, the proposed amendment would allow radio towers to be exempt from the height limitations of the residential zoning districts and would permit such towers to be erected to a height of 60 feet. This is an exemption of such uses from the 21 foot height limitation now generally permitted for accessory structures in most residential zoning districts.

In discussion at the Planning Commission meeting of October 12, 1978, there were mixed feelings on the part of the Planning Commission and the staff of the proposal. There was concern expressed by some of such towers being erected to such heights in new residential areas where all utilities are underground. Others indicated such towers are objectionable in neighborhoods and should be permitted to exceed the normal height limitations for accessory structures only after public hearing and approval by the Board of Zoning Appeals.

Representatives of the amateur radio clubs indicated their desire for even more flexibility in the height limitations than the 60 foot proposal. After considerable discussion, the Planning Commission deferred any action on the ordinance change

Environmental Resources
Advisory Board
c/o Jim Aiken, Director
Environmental Health

Project Beauty
c/o Pat Guinan
135 North Pershing
Wichita, KS 67208

Wichita Board of Realtors
717 North Emporia
Wichita, KS 67214

Wichita Area Builders Assoc
730 N. Main - Suite A
Wichita, KS 67203

Page Two

December 5, 1978

until a proposal was submitted for their consideration by Mr. Bernard Borst as a representative of the amateur radio operators. A copy of his proposal is attached for your information. As you will note, he refers to Federal Communication Rules and Regulations for the control of the air waves which would place a maximum height of 200 feet above ground level for antenna structures.

This proposal will be returned to the MAPC for further consideration at their regular meeting of January 4, 1979. Should your organization or individuals wish to comment on this matter, they can be presented at the MAPC hearing or may be submitted to this office for distribution to the Planning Commission.

Sincerely,

Glen E. Lytle
Special Assistant
for Zoning

GEL:el

cc: Robert A. Lakin, Director of Planning
Jack H. Galbraith, Chief Planner

WICHITA-SEDGWICK COUNTY

DATE


November 20, 1978

METROPOLITAN AREA PLANNING DEPARTMENT

TO Glen E. Lytle
Special Assistant for Zoning
FROM Robert A. Lakin, Director of Planning

SUBJECT Radio Tower-TV Amendments

On the radio tower-TV amendments, please provide homebuilders and realtors and Project Beauty, as well as the Environmental Task Force, with a note to the effect that we are examining the ordinance and proposing to amend it. Note that we have one series of proposals which would open it up to either 60 feet and there is a counterproposal from Mr. Borst representing the ham group which would allow towers to go to 200 feet.


Robert A. Lakin
Director of Planning

RAL:rme



KANSAS GAS AND ELECTRIC COMPANY

October 25, 1978

DON H ELLIOTT
REGIONAL MANAGER — WICHITA REGION

Mr. Jack Galbraith
Metropolitan Area
Planning Department
City of Wichita
455 North Main
Wichita, Kansas 67202

RE: DR 78-15 and DR 78-24
Height exceptions

Dear Jack:

We reviewed the possible amendments to the zoning regulations provided by your office. Under Section 28.04.187 (10) we recommend some additional wording as follows:

. . aggregate height of sixty (60) feet above natural grade provided the structure shall not be located closer to the utility easement than the height of the structure; provided, however, that no portion . .

We feel this is needed to provide adequate safety to the public and assure continuity of electric service. We do not believe it imposes an unwarranted restriction on the property owner any more than that covered under paragraph 3 of DR 78-24 under "energy generating structures".

From time to time we receive requests from customers wishing to install base station radios, ham operations, etc., regarding the proximity of electric lines. It would be appropriate that those requesting permits to install these facilities be directed to contact us for information regarding the location and voltage of lines in the immediate area.

We will be happy to work with Central Inspection and customers in this regard. We do appreciate your consideration on this matter and are available to discuss it further at your convenience.

Sincerely,

DHE/ts

cc: Bob Feldner



WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

October 5, 1978

TO Metropolitan Area Planning Commission
FROM Glen E. Lytle, Special Assistant for Zoning
SUBJECT DR 78-15 - Possible Amendment to Zoning Ordinance -
Re: Exceptions to height regulations-TV and Radio Towers

Attached hereto is a copy of a proposed amendment to the City of Wichita Zoning Ordinance that has been advertised for public hearing before the Planning Commission at the meeting of October 12, 1978. Also attached is a copy of a letter received from Mr. Beaver, Director of Civil Preparedness.

BACKGROUND

In April 1978, Robert Feldner, Superintendent of Central Inspection informed the Planning Department of problems his Division was encountering in the administration of the Zoning Ordinance as it related to heights of radio towers. The Inspection Division is responsible for the administration of the Zoning Ordinance, and also the Building Code regulating safety. Both the Zoning Ordinance and the Building Code place most antennae and towers in the category of being "accessory structures".

Under the provisions of the existing zoning ordinance, an accessory structure is limited to 60 percent of the permitted height for a main structure. In the more restricted zoning districts ("AA", "A" and "RB"), the height of an accessory structure not a part of the main structure would be 21 feet. In the "R-5" and "R-6" Districts, accessory structures must comply with the same limitations of the main use or 35 feet in height. Within the "B" Multiple Family District, an accessory structure may be 60 percent of the height of the main structure. The permitted height for a main use is 55 feet at the required setback lines and may be increased 1 foot for each foot the structure or portion thereof is set back from the required yard lines. In using this formula in the "B" District, on a lot 100 feet wide, an accessory structure such as a radio tower could be 60 feet in height when 45 feet from a required setback line.

Within the Commercial or Industrial Districts, this has not been a problem as most structures are not erected to a maximum height and the addition of a transmitting or receiving tower is regulated only by the provisions of the building code. There could, however, be some conflict with a strict application of the Zoning Ordinance.

Page 2
October 5, 1978
MAPC
Re: DR 78-15

During the discussions of the proposed new Zoning Ordinance, some representatives of the amateur radio clubs stated their views on the problems that the height restrictions on towers presented to them. There has also been a concern expressed by the City Commission on the height limitations in the Zoning Ordinance which would be a hindrance to an individual homeowner in erecting an energy-generating structure on his property.

In reviewing the provisions of the existing Ordinance, and discussing the provisions with the amateur radio club representatives and the City Energy Resource and Planning Office, this Ordinance Amendment was prepared for consideration by the Planning Commission.

SUMMARY

The original section 28.04.187 of the Zoning Ordinance relating to exceptions to height regulations has been redrafted and expanded. The following is a summary of the Amendment:

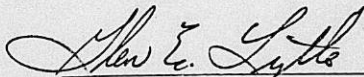
1. Included in the general statement of exemptions is a reference to the Airport Zoning Ordinance. Although this language is new to this section of the Ordinance, it is placed in this section as a reminder that regardless of heights that may be permitted by this section, the limitations of the Airport Zoning Ordinance take precedence.
2. In paragraph 1, the "R-5" and "R-6" Zoning Districts are added so that the 35 foot height limitation would not be applicable to churches, schools, etc.
3. Paragraphs 2 through 8 are not changes, but a list of most of the uses previously exempted by the original paragraph number 2.
4. Paragraph 9 is the exemption of all communication structures in any commercial or industrial district.
5. Paragraph 10 is the exemption for non-commercial antennas and aerials up to a height of 60 feet in any zoning district.
6. Paragraph 11 is the exemption for energy-generating structures up to a height of 45 feet in any zoning district, provided the structure shall not be closer to adjacent property than the height of the structure.
7. Paragraph 12 is not a change but simply a provision being retained in the Ordinance.

Page 3
October 5, 1978
MAPC
Re: DR 78-15

There has been some concern expressed by a few of the amateur radio operators that the towers cannot always be located in compliance with the proposed regulations as related to required yard setbacks. I would simply point out that we have not established any new regulations as related to setback requirements of the zoning districts. We have merely reminded everyone that the regulations are applicable. Should an owner desire to locate a tower, antenna, guy, anchor, etc., within a required setback, the Board of Zoning Appeals may grant a variance after holding a public hearing as required by law.

RECOMMENDATION

Make whatever changes the Planning Commission deems necessary and forward to the Governing Body with a recommendation for adoption.



Glen E. Lytle
Special Assistant for Zoning

GEL:bbc

cc: Robert A. Lakin, Director of Planning
Robert Feldner, Superintendent of Central Inspection
Gene Beaver, Director of Civil Preparedness, Sedgwick County
R-A-C-E-S, c/o Bob Serpan, 426 Brown Thrush, 67212
C-R-E-S-T, c/o A. F. Brown, 3300 S. Seneca, 67217
Air Capitol Radio Club, c/o Al Koster, 1206 Dallas, 67217

October 16, 1978

Mr. Bernard Borst
3946 North St. Clair
Wichita, Kansas 67204

Re: DR 78-15 and 78-24
Height exceptions

Dear Bernie:

You are no doubt aware of the Planning Commission's decision to defer action on the proposed amendments to the zoning regulations for sixty (60) days. It was also included in their motion that you would submit your language for the ordinance that would allow an individual to deviate from the height limitation on an individual basis.

I would point out to you, as I did to the Planning Commission, that your suggestions to vary the height of a structure on the basis of safety in design is not a basis for a variance as set forth in KSA 12-715 that can be granted by the Board of Zoning Appeals.

I am of the opinion that the majority of objections to radio towers in a residential neighborhood is that of appearance and not of a safety concern. When you have some suggestions on this, I would like to set a meeting with Lakin and myself to discuss the possibilities of handling the height restrictions in an administrative procedure rather than the Board of Zoning Appeals.

As these amendments will be reconsidered by the Planning Commission on December 7, 1978, we would appreciate any proposal you have by the middle of November.

If I, or any of the staff can be of help to you, please let me know.

Sincerely,

Jack H. Galbraith
Chief Planner
JHG:bbc

October 16, 1978

Mr. Don Elliott
Division Manager
KG&E
120 E. 1st Street
Wichita, Kansas 67202

Re: DR 78-15 and DR 78-24
Height exceptions

Dear Don:

Attached hereto are copies of proposed amendments to the Zoning Ordinance for Wichita, and to the Sedgwick County Zoning Resolution. These amendments were before the Planning Commission on Thursday, October 12, 1978, and have been deferred for sixty (60) days for further study.

During the discussion of these amendments, one of the planning commissioners expressed his concern of the safety of the erection of radio towers and the manner in which some guy wires for the towers might interfere with the electrical drops to a residence or KG&E power lines. As you will note, we have indicated that no guy, antenna, aerial or anchor should extend into any utility easement. Specifically, this amendment would permit radio towers on residential lots to a height of 60 feet, and the local "ham" operators are wanting to go even higher.

The concerns expressed are primarily a matter of safety and are not really a part of the Zoning Ordinance and should be controlled as a part of the permit and inspection procedures by Central Inspection. Since the questions were raised, however, we feel that any suggestions you may have in establishing these procedures would be appreciated by the Planning Commission and Central Inspection.

Prior to the return of this item to the Planning Commission for their consideration, it is hoped that a written procedure can be established by the Central Inspection Division for the issuance of permits for the erection of radio towers. This

Page 2
October 16, 1978
Don Elliott
Re: DR 78-15 and DR 78-24

would not only be helpful to the Planning Commission in their decision on the amendment, but would be helpful to the "ham" operators in the installation of their transmitting and receiving towers.

If you have any questions on this matter, please call either Glen Lytle or me at 268-4421. Your comments will be appreciated.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:bbc
cc: Robert Feldner, Superintendent of Central Inspection

October 16, 1978

Gene Beaver
Director of Civil Preparedness
Sedgwick County Courthouse
525 N. Main
Wichita, Kansas 67202

Re: DR 78-15 and DR 78-24
Height Amendments

Dear Sir:

Please be advised that on October 12, 1978, the Planning Commission deferred, for sixty (60) days, any action on the proposed amendments to the Zoning Regulations related to radio tower height exceptions. They indicated that the amendments needed further study to resolve some of their concerns.

I will try to keep you advised of any changes that are made and of any future meeting dates established.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL:bbc

October 16, 1978

R-A-C-E-S
c/o Bob Serpan
426 Brown Thrush
Wichita, Kansas 67212

Re: DR 78-15 and DR 78-24
Height Amendments

Dear Sir:

Please be advised that on October 12, 1978, the Planning Commission deferred, for sixty (60) days, any action on the proposed amendments to the Zoning Regulations related to radio tower height exceptions. They indicated that the amendments needed further study to resolve some of their concerns.

I will try to keep you advised of any changes that are made and of any future meeting dates established.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL:bbc

October 16, 1978

C-R-E-S-T
c/o A. F. Brown
3300 S. Seneca
Wichita, Kansas 67217

Re: DR 78-15 and DR 78-24
Height Amendments

Dear Sir:

Please be advised that on October 12, 1978, the Planning Commission deferred, for sixty (60) days, any action on the proposed amendments to the Zoning Regulations related to radio tower height exceptions. They indicated that the amendments needed further study to resolve some of their concerns.

I will try to keep you advised of any changes that are made and of any future meeting dates established.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL:bbc

October 16, 1978

Air Capital Radio Club
c/o Al Koster
1206 Dallas
Wichita, Kansas 67217

Re: DR 78-15 and DR 78-24
Height Amendments

Dear Sir:

Please be advised that on October 12, 1978, the Planning Commission deferred, for sixty (60) days, any action on the proposed amendments to the Zoning Regulations related to radio tower height exceptions. They indicated that the amendments needed further study to resolve some of their concerns.

I will try to keep you advised of any changes that are made and of any future meeting dates established.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL:bbc

October 16, 1978

Mr. Allen Gwinn
2927 South Hiram
Wichita, Kansas 67217

Re: DR 78-15 and DR 78-24
Height Amendments

Dear Mr. Gwinn:

Please be advised that the Planning Commission deferred, for sixty (60) days, action on the proposed amendments to the Zoning Regulations affecting radio tower heights.

You are no doubt aware that the Planning Commission expressed some concerns that need further study. The Planning Commission also requested that Mr. Bernie Borst submit some type of amendment to the proposal to accommodate greater heights under special circumstances.

We will keep you advised on the changes that are made and of any meetings.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL:bbc

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

October 5, 1978

TO Metropolitan Area Planning Commission
FROM Glen E. Lytle, Special Assistant for Zoning
SUBJECT DR 78-15 - Possible Amendment to Zoning Ordinance -
Re: Exceptions to height regulations-TV and Radio Towers

Attached hereto is a copy of a proposed amendment to the City of Wichita Zoning Ordinance that has been advertised for public hearing before the Planning Commission at the meeting of October 12, 1978. Also attached is a copy of a letter received from Mr. Beaver, Director of Civil Preparedness.

BACKGROUND

In April 1978, Robert Feldner, Superintendent of Central Inspection informed the Planning Department of problems his Division was encountering in the administration of the Zoning Ordinance as it related to heights of radio towers. The Inspection Division is responsible for the administration of the Zoning Ordinance, and also the Building Code regulating safety. Both the Zoning Ordinance and the Building Code place most antennae and towers in the category of being "accessory structures".

Under the provisions of the existing zoning ordinance, an accessory structure is limited to 60 percent of the permitted height for a main structure. In the more restricted zoning districts ("AA", "A" and "RB"), the height of an accessory structure not a part of the main structure would be 21 feet. In the "R-5" and "R-6" Districts, accessory structures must comply with the same limitations of the main use or 35 feet in height. Within the "B" Multiple Family District, an accessory structure may be 60 percent of the height of the main structure. The permitted height for a main use is 55 feet at the required setback lines and may be increased 1 foot for each foot the structure or portion thereof is set back from the required yard lines. In using this formula in the "B" District, on a lot 100 feet wide, an accessory structure such as a radio tower could be 60 feet in height when 45 feet from a required setback line.

Within the Commercial or Industrial Districts, this has not been a problem as most structures are not erected to a maximum height and the addition of a transmitting or receiving tower is regulated only by the provisions of the building code. There could, however, be some conflict with a strict application of the Zoning Ordinance.

Page 2
October 5, 1978
MAPC
Re: DR 78-15

During the discussions of the proposed new Zoning Ordinance, some representatives of the amateur radio clubs stated their views on the problems that the height restrictions on towers presented to them. There has also been a concern expressed by the City Commission on the height limitations in the Zoning Ordinance which would be a hindrance to an individual homeowner in erecting an energy-generating structure on his property.

In reviewing the provisions of the existing Ordinance, and discussing the provisions with the amateur radio club representatives and the City Energy Resource and Planning Office, this Ordinance Amendment was prepared for consideration by the Planning Commission.

SUMMARY

The original section 28.04.187 of the Zoning Ordinance relating to exceptions to height regulations has been redrafted and expanded. The following is a summary of the Amendment:

1. Included in the general statement of exemptions is a reference to the Airport Zoning Ordinance. Although this language is new to this section of the Ordinance, it is placed in this section as a reminder that regardless of heights that may be permitted by this section, the limitations of the Airport Zoning Ordinance take precedence.
2. In paragraph 1, the "R-5" and "R-6" Zoning Districts are added so that the 35 foot height limitation would not be applicable to churches, schools, etc.
3. Paragraphs 2 through 8 are not changes, but a list of most of the uses previously exempted by the original paragraph number 2.
4. Paragraph 9 is the exemption of all communication structures in any commercial or industrial district.
5. Paragraph 10 is the exemption for non-commercial antennas and aerials up to a height of 60 feet in any zoning district.
6. Paragraph 11 is the exemption for energy-generating structures up to a height of 45 feet in any zoning district, provided the structure shall not be closer to adjacent property than the height of the structure.
7. Paragraph 12 is not a change but simply a provision being retained in the Ordinance.

Page 3
October 5, 1978
MAPC
Re: DR 78-15

There has been some concern expressed by a few of the amateur radio operators that the towers cannot always be located in compliance with the proposed regulations as related to required yard setbacks. I would simply point out that we have not established any new regulations as related to setback requirements of the zoning districts. We have merely reminded everyone that the regulations are applicable. Should an owner desire to locate a tower, antenna, guy, anchor, etc., within a required setback, the Board of Zoning Appeals may grant a variance after holding a public hearing as required by law.

RECOMMENDATION

Make whatever changes the Planning Commission deems necessary and forward to the Governing Body with a recommendation for adoption.



Glen E. Lytle
Special Assistant for Zoning

GEL:bbc

cc: Robert A. Lakin, Director of Planning
Robert Feldner, Superintendent of Central Inspection
Gene Beaver, Director of Civil Preparedness, Sedgwick County
R-A-C-E-S, c/o Bob Serpan, 426 Brown Thrush, 67212
C-R-E-S-T, c/o A. F. Brown, 3300 S. Seneca, 67217
Air Capitol Radio Club, c/o Al Koster, 1206 Dallas, 67217

August 15, 1978
DR-78-15

Deletions ~~marked through~~
Additions underlined

Possible Amendment to the
City of Wichita Zoning Ordinance Scheduled for
Public Hearing Before the MAPC-Thursday, October 12, 1978

Recommended that Section 28.04.187 be amended to read as follows:

28.04.187 Exceptions to height regulations. The following structures and accessory structures shall not be subject to the height limitations of the district in which they are located; provided, however, regardless of the heights permitted by this chapter, all structures and accessory structures located within zones (landing, clear, approach, horizontal, conical and transitional), established adjacent to the McConnell Air Force Base, Beech Airport and Wichita Mid Continent Airport, by Chapter 28.08 (Airport Zoning), shall not exceed the heights regulated therein:

1. Public, semipublic or public service buildings, hospitals, institutions, schools and churches or temples, when permitted in the "AA," "A," "RB," "R-5," and "R-6" districts may be erected to a height not exceeding seventy-five feet, if the building is set back from each yard line at least one foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.
2. ~~Chimneys, cooling-towers, elevator-bulkheads, fire-towers, grain-elevators, flour-mills, monuments, stacks, scenery, towers, tanks, water-towers, ornamental-towers, spires, church-steeples, radio-towers or necessary mechanical appurtenances, may be erected to a height in accordance with existing or hereafter adopted ordinances in the city, provided that in the absence of any such ordinance there shall be no height limitation on these structures.~~
2. Chimneys, smokestacks or flues.
3. Cooling Towers and ventilators.
4. Elevator bulkheads and stairway enclosures.
5. Fire towers.
6. Belfries, spires and church steeples.

Possible Amendment to
Section 28.04.187

Page 2

7. Tanks, water towers, and silos.
8. Monuments and ornamental towers.
9. Communication structures in any commercial or industrial district, including radio and television transmitting towers; provided, however, no portion of the tower, antenna, aerial or any anchor or guy may encroach upon the land area or airspace of any required front yard setback or into any utility easement.
10. Non-commercial, ground or structure supported, antennas and aerials which do not exceed a total aggregate height of sixty (60) feet above natural grade; provided, however, that no portion of the antenna, aerial or any anchor or guy may encroach upon the land area or airspace of any adjoining or abutting property and provided further, that no portion of the antenna, aerial or any anchor or guy shall extend into any required front yard setback or into any utility easement.
11. Energy generating structures not exceeding forty-five (45) feet in height above natural grade; provided, however, such structure shall not be located in any required yard, nor be located closer to any adjacent property than the height of the energy generating structure.
12. 3. On through lots one-hundred-twenty feet or less in depth, the height of a building may be measured from the grade on either street. On through lots of more than one-hundred-twenty feet in depth, the height regulations and basis on height measurements for the street permitted, the greater height shall apply to a depth of not more than one-hundred-twenty feet from that street.



SEDGWICK COUNTY CIVIL PREPAREDNESS

SEDGWICK COUNTY COURTHOUSE • 535 NORTH MAIN - BSMT. RM. 10 • WICHITA, KANSAS 67203

E. R. BEAVER
Coordinator

August 31, 1978

TELEPHONE:
316-268-7546

TO: Glen E. Lytle
Special Assistant for Zoning
Metropolitan Area Planning Commission
FROM: Gene Beaver, Coordinator
SUBJECT: Proposed Amendments to Zoning

Re: DR-78-15 and DR-78-24

Thank you for furnishing a copy of the proposed amendments to the City of Wichita Zoning Ordinance and the Sedgwick County Zoning Resolution related to antenna heights.

I have discussed the proposed amendments with two of my units interested in them. Although there is some hesitancy on the part of amateur radio operators, I believe they can live with the regulations. The Citizen's Band people are quite happy with the wording. The hesitancy on the part of the "hams" simply comes from the fact that they wonder how difficult it is going to be to get approval of the Planning Commission for any possible exceptions to the limitations. They are not too concerned about the height limit, but say that in some instances it is impossible to keep guy wires from extending into front yard setbacks or utility easements, and still maintain proper guy wire distances. If the Planning Commission will readily grant exceptions where justified and practical, they would not object to the proposed amendments.

Thank you for sending me the proposed changes. All our radio operators appreciate the consideration.

ERS

ERB/lh



(Published in The Daily Record on September 19, 1978.)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED.

NOTICE IS HEREBY GIVEN, that on Thursday, October 12, 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 change in Title 28, the Code of the City of Wichita, Kansas:

An amendment to Section 28.04.187 of the Zoning Ordinance allowing exceptions to the height regulations of the various zoning districts for specified types of uses.

Copies of the proposed amendment are available upon request from the Wichita-Sedgwick County Metropolitan Area Planning Department.

The proposed amendment will there be discussed and considered by the 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 of the zoning ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal this 15th day of September, 1978.

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

(SEAL)

(Published in The Daily Record on September 19, 1978.)

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WITNESS my hand and seal this 15th day of September, 1978.

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

(SEAL)

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WITNESS my hand and seal this 15th day of September, 1978.

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

(SEAL)

September 27, 1978

Robert B. Feldner, Superintendent of Central Inspection

Glen E. Lytle, Special Assistant for Zoning

DR-78-15 - Possible Amendment to Zoning Ordinance
Regarding Exceptions to Height Regulations - Radio and Television Towers

I am in receipt of your memorandum of September 14, 1978, related to the proposed amendment to the Zoning Ordinance regarding height exceptions. I would certainly agree that ordinary television and small radio receiving antennae could be exempted from any permit provisions, and could be so designated by a Superintendent's directive.

Your request for the inclusion of a compliance date for securing permits for towers heretofore erected, does present problems. The Zoning Ordinance, when amended, is not retroactive against existing uses, so to include a compliance date would be inappropriate. In discussing this with the Department of Law, it was suggested that any tower erected without a permit required by the building code, be handled entirely separate from the requirements of the Zoning Ordinance.

The proposed amendment to the Zoning Ordinance is actually a reduction in the restrictions on such towers; therefore, the requirements for permits has not changed, only the limitations for the height of towers has been increased in most cases.

The main purpose of my memorandum to you on August 21, 1978, was to point out that some administrative procedures should be worked out for those towers that have been erected without benefit of a required permit. This was mentioned to me by one representative of an amateur radio club, who has been aware of the need for a permit as you have mentioned, but knows that many towers have been installed without permits due to the inability of securing a permit in violation of the Zoning Ordinance limitations.

I would still hope that Central Inspection will be able to establish an administrative procedure that could be reviewed with the amateur radio clubs prior to the public hearing before the MAPC, as the permit requirement should not be a part of the discussion.

Glen E. Lytle, Special Assistant for Zoning

GEL:vn

THE CITY OF WICHITA

OFFICE OF Central Inspection Division

DATE September 14, 1978



TO Glen E. Lytle, Special Assistant for Zoning

FROM Robert B. Feldner, Superintendent of Central Inspection

SUBJECT DR-78-15 - Possible Amendment to
Zoning Ordinance

Re: Exception to Height Regulations -
Radio and TV Towers

Your memo dated August 21, 1978 forwarded a copy of the proposed subject amendment. The concern you mentioned about existing towers and permits that would be required for them is an issue that needs to be resolved.

It is expected that a permit would be required for any antenna or radio tower that could become a potential public hazard if it is improperly supported or stabilized. We certainly would not want to become involved in ordinary television or small radio antennae unless they were atop a tall tower.

Any tower that is self-supporting, or is attached to a building, or is stabilized with cables and wires should require a permit as stated in Section 301(a) of the Uniform Building Code. Permits would be required upon adoption of the proposed amendment.

For existing towers that are erected without a permit, a permit should be obtained upon presentation of evidence that the installation meets code requirements. Such evidence should consist of a plot plan showing property lines, location of buildings including the tower and its support. A sketch should also be provided that shows the type of tower and method of support and stabilizing.

It would be expected to allow some period of time for compliance by existing towers similar to what was required for the mobile home anchoring ordinance. A reasonable time might be nine months to a year. Some specific date ought to be included in the ordinance.

Antennae below some minimum height or construction type could be excluded from the permit requirement; for example, a whip type antenna attached to a house in such a location or manner that its failure would not present a particular hazard. Such exclusions could be covered by superintendent's directive rather than trying to anticipate all exceptional cases in the ordinance. Also, there would be the question of the proper appeal procedure for exceptional cases where the height limitation might work a hardship.

Robert B. Feldner

Robert B. Feldner
Superintendent of Central Inspection

RBF:jml



SEDGWICK COUNTY CIVIL PREPAREDNESS

SEDGWICK COUNTY COURTHOUSE • 535 NORTH MAIN - 85MT. RM. 10 • WICHITA, KANSAS 67203

E. R. BEAVER
Coordinator

August 31, 1978

TELEPHONE:
316-268-7546

TO: Glen E. Lytle
Special Assistant for Zoning
Metropolitan Area Planning Commission

FROM: Gene Beaver, Coordinator

SUBJECT: Proposed Amendments to Zoning

Re: DR-78-15 and DR-78-24

Thank you for furnishing a copy of the proposed amendments to the City of Wichita Zoning Ordinance and the Sedgwick County Zoning Resolution related to antenna heights.

I have discussed the proposed amendments with two of my units interested in them. Although there is some hesitancy on the part of amateur radio operators, I believe they can live with the regulations. The Citizen's Band people are quite happy with the wording. The hesitancy on the part of the "hams" simply comes from the fact that they wonder how difficult it is going to be to get approval of the Planning Commission for any possible exceptions to the limitations. They are not too concerned about the height limit, but say that in some instances it is impossible to keep guy wires from extending into front yard setbacks or utility easements, and still maintain proper guy wire distances. If the Planning Commission will readily grant exceptions where justified and practical, they would not object to the proposed amendments.

Thank you for sending me the proposed changes. All our radio operators appreciate the consideration.

ERS

ERB/lh



August 21, 1978

Robert B. Feldner, Superintendent of Central Inspection

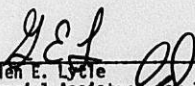
Glen E. Lytle, Special Assistant for Zoning

DR-78-15 - Possible amendment to Zoning Ordinance -
Re: Exception to Height Regulations - Radio & TV
Towers.

Attached hereto is a copy of an amendment to the City of Wichita zoning ordinance that has been prepared at your request. This amendment will be discussed by the Planning Commission on October 12, 1978.

As I discussed with Leland Johnson by phone, some of the radio club representatives have expressed their concern of what happens to the existing towers that have been erected without benefit of permits or inspection. There is also some concern of those that may exceed the height of sixty-feet which is proposed by the amendment. You will probably be getting some inquiries as to what the inspection department will require once the amendment is passed.

Should you have any concerns with this proposed amendment, I will be back in the office on September 11, 1978 and I will discuss it with you at that time.


Glen E. Lytle
Special Assistant for Zoning

GEL:gb
Attachment

August 15, 1978
DR-78-15

Deletions marked-through
Additions underlined

Possible Amendment to the
City of Wichita Zoning Ordinance Scheduled for
Public Hearing Before the MAPC-Thursday, October 12, 1978

Recommended that Section 28.04.187 be amended to read as follows:

28.04.187 Exceptions to height regulations. The following structures and accessory structures shall not be subject to the height limitations of the district in which they are located; provided, however, regardless of the heights permitted by this chapter, all structures and accessory structures located within zones (landing, clear, approach, horizontal, conical and transitional), established adjacent to the McConnell Air Force Base, Beech Airport and Wichita Mid Continent Airport, by Chapter 28.08 (Airport Zoning), shall not exceed the heights regulated therein:

1. Public, semipublic or public service buildings, hospitals, institutions, schools and churches or temples, when permitted in the "AA," "A," "RB," "R-5," and "R-6" districts may be erected to a height not exceeding seventy-five feet, if the building is set back from each yard line at least one foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.
2. ~~Chimneys, cooling-towers, elevator-bulkheads, fire-towers, grain-elevators, flour-mills, monuments, stacks, scenery lofts, tanks, water-towers, ornamental-towers, spires, church-steeples, radio-towers or necessary-mechanical appurtenances, may be erected to a height in accordance with existing or hereafter-adopted ordinances in the city, provided that in the absence of any such ordinance there shall be no height limitation on these structures.~~
2. Chimneys, smokestacks or flues.
3. Cooling Towers and ventilators.
4. Elevator bulkheads and stairway enclosures.
5. Fire towers.
6. Belfries, spires and church steeples.

Possible Amendment to
Section 28.04.187

Page 2

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8. Monuments and ornamental towers.
9. Communication structures in any commercial or industrial district, including radio and television transmitting towers; provided, however, no portion of the tower, antenna, aerial or any anchor or guy may encroach upon the land area or airspace of any required front yard setback or into any utility easement.
10. Non-commercial, ground or structure supported, antennas and aeriels which do not exceed a total aggregate height of sixty (60) feet above natural grade; provided, however, that no portion of the antenna, aerial or any anchor or guy may encroach upon the land area or airspace of any adjoining or abutting property and provided further, that no portion of the antenna, aerial or any anchor or guy shall extend into any required front yard setback or into any utility easement.
11. Energy generating structures not exceeding forty-five (45) feet in height above natural grade; provided, however, such structure shall not be located in any required yard, nor be located closer to any adjacent property than the height of the energy generating structure.
12. 3. On through lots one-hundred-twenty feet or less in depth, the height of a building may be measured from the grade on either street. On through lots of more than one-hundred-twenty feet in depth, the height regulations and basis on height measurements for the street permitted, the greater height shall apply to a depth of not more than one-hundred-twenty feet from that street.

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
COMMISSION

CITY HALL - TENTH FLOOR
485 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4561

8-17-78

Re: DR-78-15 & DR-78-24

Dear Sir:

Attached hereto are copies of possible amendments to the City of Wichita Zoning Ordinance and the Sedgwick County Zoning Resolution related to exceptions to the height regulations. We have tentatively set these amendments for public hearing at the regular meeting of the Planning Commission on Thursday, October 12, 1978. We will send you an official notice of the meeting when it is published.

I will be contacting you the week of September 11, 1978 to discuss with you any problems your organization might have with these proposed amendments. It might be well for you to contact Leland Johnson, Codes Engineer, of Central Inspection for questions on the requirements for building permits for any structures regulated by the building code in the City of Wichita.

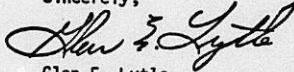
As you will note in the City of Wichita ordinance, communication structures in the commercial or industrial districts are exempt from the height limitations of the districts. In the County amendment you will note that we have not mentioned the commercial or industrial districts as there are no height limitations in the County jurisdictional area except in the "R", "R-1", "AA" and "BB" districts.

In both amendments there is made reference to the existing airport zoning ordinance that has been effective since 1955. This reference has been inserted into the regulations as a reminder to everyone that heights are regulated adjacent to these airports and in many instances more restrictive than what the zoning regulations will allow as to height.

WICHITA - SEDGWICK COUNTY

Should you have any questions, I will be back in the office on September 11, 1978.

Sincerely,



Glen E. Lytle
Special Assistant for Zoning

GEL:gb

cc: R-A-C-E-S
% Bob Serpan
426 Brown Thrush
W.K. 67212

C-R-E-S-T
% A.F. Brown
3300 So. Seneca
W.K. 67217

Gene Beaver
Dir. of Civil Preparedness
Court House
W.K. 67203

August 15, 1978
DR-78-15

Deletions marked-through
Additions underlined

Possible Amendment to the
City of Wichita Zoning Ordinance Scheduled for
Public Hearing Before the MAPC-Thursday, October 12, 1978

Recommended that Section 28.04.187 be amended to read as follows:

28.04.187 Exceptions to height regulations. The following structures and accessory structures shall not be subject to the height limitations of the district in which they are located; provided, however, regardless of the heights permitted by this chapter, all structures and accessory structures located within zones (landing, clear, approach, horizontal, conical and transitional), established adjacent to the McConnell Air Force Base, Beech Airport and Wichita Mid Continent Airport, by Chapter 28.08 (Airport Zoning), shall not exceed the heights regulated therein:

1. Public, semipublic or public service buildings, hospitals, institutions, schools and churches or temples, when permitted in the "AA," "A," "RR," "R-5," and "R-6" districts may be erected to a height not exceeding seventy-five feet, if the building is set back from each yard line at least one foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.
2. ~~Chimneys, cooling-towers, elevator-bulkheads, fire-towers, grain-elevators, flour-mills, monuments, stacks, scenery lofts, tanks, water-towers, ornamental-towers, spires, church-steeples, radio-towers or necessary-mechanical appurtenances, may be erected to a height in accordance with existing or hereafter-adopted ordinances in the city, provided that in the absence of any such ordinance there shall be no height limitation on these structures.~~
2. Chimneys, smokestacks or flues.
3. Cooling Towers and ventilators.
4. Elevator bulkheads and stairway enclosures.
5. Fire towers.
6. Belfries, spires and church steeples.

Possible Amendment to
Section 28.04.187

Page 2

7. Tanks, water towers, and silos.
8. Monuments and ornamental towers.
9. Communication structures in any commercial or industrial district, including radio and television transmitting towers; provided, however, no portion of the tower, antenna, aerial or any anchor or guy may encroach upon the land area or airspace of any required front yard setback or into any utility easement.
10. Non-commercial, ground or structure supported, antennas and aerials which do not exceed a total aggregate height of sixty (60) feet above natural grade; provided, however, that no portion of the antenna, aerial or any anchor or guy may encroach upon the land area or airspace of any adjoining or abutting property and provided further, that no portion of the antenna, aerial or any anchor or guy shall extend into any required front yard setback or into any utility easement.
11. Energy generating structures not exceeding forty-five (45) feet in height above natural grade; provided, however, such structure shall not be located in any required yard, nor be located closer to any adjacent property than the height of the energy generating structure.
12. 9. On through lots one-hundred-twenty feet or less in depth, the height of a building may be measured from the grade on either street. On through lots of more than one-hundred-twenty feet in depth, the height regulations and basis on height measurements for the street permitted, the greater height shall apply to a depth of not more than one-hundred-twenty feet from that street.

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

July 17, 1978

TO Jack Galbraith, Chief Planner, Current Plans Division

FROM Robert A. Lakin, Director of Planning

SUBJECT Radio-TV Towers

I believe we have received some previous correspondence from Central Inspection concerning problems they are currently having administering the regulations as applied to amateur radio towers and/or CB towers. Please initiate a case file and prepare recommended revisions to the City zoning regulations and County zoning regulations concerning radio towers.

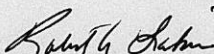
As I view the problem we have about five (5) separate classes of tower-type structures which should be dealt with. These include the amateur radio tower, the CB tower, TV antennas, professional broadcasting towers, and energy related towers. As I remember the regulations there is a provision for radio or TV towers-professional to be authorized in both the City and County codes. All other towers are treated as accessory structures or part of main structures in the district in which located. The energy related towers are one that we have talked about before but have not dealt with. These would include windmills for electrical generation, and solar panels or dishes to capture direct solar energy.

Some initial contact should be made with those involved in these areas to see what they perceive the problems to be and what they believe the solutions might be. Among those that we contact would be Dr. Myers, the Wichita Amateur Radio Club, the Air Capital TechnaChat Club (a repeater club) and/or any other repeater clubs which can be identified, one or more of the commercial radio/TV stations, and probably P. K. Smith of Custom Sound relative to the FM audio file. We should also check out FCC regulations relative to their limits. Gene Beaver of Civil Defense should also be contacted relative to the CB'ers. Another possible source is Lafayette Radio Agency here in Wichita which is apparently active in CB.

I don't know as we need to make a major production out of it but it is going to be necessary, I am sure, to make contact with these people as they are beginning to get organized and any proposed

July 17, 1978
Page Two
Jack Galbraith
Re: Radio-TV Towers

changes without them being aware of them and having an opportunity for input will surely result in considerable confusion and additional work for us. I would estimate that three (3) months should be sufficient to develop proposals for Planning Commission consideration.



Robert A. Lakin
Director of Planning

RAL:bbc

cc: Glenn Lytle, Special Assistant for Zoning, Current Plans Division
Robert Felder, Superintendent, Central Inspection

April 26, 1978

Robert B. Feldner, Superintendent of Central Inspection


Robert A. Lakin, Director of Planning

Radio Antennae, Height of

I know the problem of radio antennae has been a problem over the years. I'm also aware of Borst's interest in it from the Department of Law and his general view as to regulating antennae. I frankly am not sure what my personal view of is, as I have not looked at it very carefully.

If I understand your memorandum correctly, you're suggesting either the regular enforcement approach to force a resolution of the issue or to do away with regulation of them by the zoning ordinance. I am not sure that those are the only options we should consider. In addition to the issue of safety (regulated by the construction code presumably) I would think that there is also the issue of aesthetics which, like it or not, is part of the problem with radio tower and antennae construction. If there is to be an amendment it would appear that establishing reasonable heights or a process for obtaining permits for towers should also be considered. As an example, I am of the opinion now that the Board of Zoning Appeals has the right to grant a variance as to height exceptions for those that exceed the accessory heights structure. However, I am sure also that the general provisions in the zoning ordinance at the present time are written not for ham operators, but were written for the transmitter towers for commercial radio and television.

I would ask, frankly, that this matter be tabled at the present time until we have completed our public hearings on the new zoning ordinance. We simply do not have staff time to begin the process of working with ham groups and doing the investigation needed to provide revised text for the current zoning ordinance. As soon as we are through the hearings and have some indication as to how the zoning ordinance will be resolved, we will place this on our list of items to be worked on for correction of zoning texts, whichever ordinance we wind up being under.


Robert A. Lakin
Director of Planning

RAL:rme

cc: John Dekker, Director of Law
Ray Bruggeman, Director of Public Works

THE CITY OF WICHITA

OFFICE OF Central Inspection Division DATE April 20, 1978



TO Robert Lakin, Director of Metropolitan Area Planning Department
FROM Robert B. Feldner, Superintendent of Central Inspection
SUBJECT Radio Antennae, Height of

A continuing problem for our division is concerned with regulations governing radio antennae. We receive numerous inquiries requesting information about allowable height, construction, etc.

Severe wind storms often result in calls reporting antennae that have blown onto neighbor's property. So far, we do not have a record of any personal injury or significant property damage. Occasionally, we receive complaints about unsightly amateur radio masts; and, infrequently, have had calls from citizens who allege that nearby radio antennae adversely affect television reception.

The problem arises from two interpretations of the zoning ordinance regarding height. One interpretation holds that Section 28.04.187 specifically excludes radio towers from height restrictions since no other provision is legislated in the code (except for Section 28.04.181, par. 5, which applies only to non-conforming uses).

The other view states that radio antennae are structures by definition both in the zoning ordinance (Section 28.04.020, definition of "accessory") and in the building code (Section 420, definition of structure). As such, they must be regarded as accessory structures and thereby are subject to structural and height limitations imposed on them. In residential zones, the height amounts to 60% of the allowable height for main structures, or 21 feet (.60 x 35).

We have had strong vocal protest from amateur radio operators who state that the height limitation is unworkable. They have supplied us with literature showing various zoning codes which exclude radio antennae (CB, amateur, television, etc.) from height requirements.

They have further supplied a copy of a letter to Jon Rosenthal, Research Associate, American Society of Planning Officials from the Law Offices of Segal & Marmet, Washington, D.C., in answer to an inquiry of September 23, 1960 to the American Radio Relay League. One major point of the letter is that amateur operators are regulated by the Federal Communications Commission by authority of Congress - radio communications are interstate commerce and have never been regulated locally "as a menace to health, safety and general welfare." (The only exception would be in construction of the tower, and the structural requirements for towers are adequately covered in the building code.)

To resolve this problem it appears we have several options:


April 20, 1978
Re: Radio Antennae, Height of
Page 2

1. Begin rigorous enforcement of the zoning regulation with respect to height (considering the antennae as accessory structures), and require building permits for all radio antennae, retroactively;
2. Propose an amendment to the zoning ordinance which either (a) specifically excludes radio antennae from being an accessory structure, or (b) exempts radio antennae from the height restrictions in residential districts.

In the instance of the first, the furor would be sure to bring the issue promptly before the governing body via the city manager (to the delight of the media). Although the pursuit of this option would assure immediate attention, there would be the usual consumption of vast quantities of time explaining to the commissioners, the media and citizens the problem involved.

The second option, which could be accomplished with a minimum of explanation to the planning commission as well as the governing body, has the advantage of removing uncertainty and provides a start date for rigorous enforcement. Our preference would be the (b) part of the option since antennae are definitely classed as structures both in the zoning ordinance and in the building code.

A third option, not listed, would consist of the building official declaring the first interpretation correct and simply requiring a building permit to assure a safe structure. This does not appear a good course since the problem has already spanned two building official administrations and should probably be set into the code.


Robert B. Feldner
Superintendent of Central Inspection

RBF:jml

cc: John Dekker, Director of Law

Approved:


R. W. Bruggeman
Director of Public Works

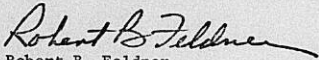
THE CITY OF WICHITA

OFFICE OF Central Inspection Division DATE April 20, 1978

TO John Dekker, Director of Law
FROM Robert B. Feldner, Superintendent of Central Inspection

SUBJECT Radio Antennae, Height of

Included with this memorandum is a copy of my inquiry to Robert Lakin on the above subject. I would appreciate your opinion on the various options outline in memorandum.


Robert B. Feldner
Superintendent of Central Inspection

RBF:jml

cc: / Robert Lakin, Director of Planning
 R. W. Bruggeman, Director of Public Works