

# ACTION

DATE

COMMITTEE

M.A.P.C. Referred to Executive 10-12-78  
NAPC Deferred for 4 weeks 12-7-78  
~~R.C.C./B.C.C.G.~~  
NAPC Approval of amendment 1-4-78  
Body Col. Am. Accepted Approval 1-31-78

DR 78-24 - Amendment to the County  
Zoning Resolutions - Radio, TV Tower  
Heights.

MAPD

(*non-guar*) Published in the Wichita Beacon on Feb 7, 1979

R. # 31-1979

RESOLUTION

A RESOLUTION AMENDING THE ZONING RESOLUTION OF SEDGWICK COUNTY, KANSAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS AND EFFECTIVE AFTER MARCH 3, 1958, WITH AMENDMENTS TO SEPTEMBER 11, 1978, FOR THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS: BY AMENDING SECTION 11 OF THE SEDGWICK COUNTY, KANSAS ZONING RESOLUTION: ALL IN ACCORDANCE WITH THE AUTHORITY GRANTED IN SECTION 14.C THEREOF.

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

SECTION I. That upon the recommendation of the Wichita-Sedgwick County Metropolitan Area Planning Commission on January 4, 1979, after notice and public hearing as provided by law under authority granted by Section 14.C of the Sedgwick County Zoning Resolution, as adopted March 3, 1958, and subsequently amended, Section 12 - "EXCEPTIONS" shall be amended by amending Subsection C - "HEIGHT" to read as follows:

C. HEIGHT

1. Structures Permitted Above Height Limit: Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; fire or parapet walls, skylights, towers, steeples, roof signs, flagpoles, chimneys, smoke stacks, wireless masts, water tanks, silos, oil refinery structures or similar structures may be erected above the height limits herein prescribed. But, no penthouse or roof structure, or any space above the height limit shall be allowed for the purpose of providing additional living or working space.
2. Additional Structures Permitted Above Height Limit:
  - a. Noncommercial, ground or structure supported, antennas and aerials which do not exceed a total aggregate height of sixty (60) feet above natural grade; provided, however, 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, no portion of the antenna, aerial or any anchor or guy shall extend into any required front yard setback, or into any utility easement.



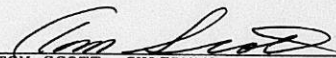
EXCEPTION:

The Zoning Administrator may grant exceptions to the height limitation provided 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 of the boundary line of the applicant's property 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.
- b. 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.
- c. 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.
3. Regardless of heights permitted by this zoning resolution, all structures located within the zones (landing, clear, approach, horizontal, conical and transitional) established adjacent to McConnell Air Force Base, Beech Airport and Wichita Mid Continent Airport, by the "Wichita Airport Zoning Ordinance" (Adopted October 25, 1955), shall not exceed the heights regulated therein.

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


PASSED AND ADOPTED this 31<sup>st</sup> day of January, 1979.

  
TOM SCOTT, CHAIRMAN

  
DONALD GRAGG, COMMISSIONER

  
EVERETT PATRICK, COMMISSIONER

ATTEST:

  
Dorothy K. White, County Clerk

(SEAL)

APPROVED AS TO FORM BY:

  
Theodore H. Hill, County Counselor

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

January 19, 1979

TO Board of County Commissioners

FROM Robert A. Lakin, Director of Planning

SUBJECT DR 78-24 Amendment to County Zoning Resolution --  
Re: Exceptions to height regulations.

Attached hereto is a delineated copy of an amendment to the Sedgwick County Zoning Resolution providing for additional exceptions to the height regulations for towers, particularly those used by ham radio operators and for energy generating structures. Also attached are excerpts of the MAPC minutes of the meetings of October 12, 1978 and January 4, 1979. This item should be scheduled for the regular meeting of January 31, 1979.

BACKGROUND

The present Sedgwick County Zoning Resolution establishes height limits on structures which restrict, in several districts, the height of radio towers below that deemed appropriate by the ham and amateur radio operators. We felt, at the time the Planning Commission was considering amending the City of Wichita Zoning Ordinance, it would be appropriate to make a similar amendment to the Sedgwick County Zoning Resolution.

At the present time, noncommercial radio towers would be limited to 35 feet in the "R", "R-1", and "AA" districts, but with a 25 foot sideyard setback the height would be increased to 45 feet. Radio and television transmitting towers are permitted in the "R" and "R-1" districts as a conditional use and would be limited in height only by the safety regulations of the building code and restrictions, and when applicable, by the airport zoning ordinance.

This matter was discussed by the Planning Commission at the October 12, 1978 MAPC meeting. The Planning Commission deferred the matter until Mr. Bernard Borst could prepare an alternate proposal to allow heights greater than the 60 feet that was being considered for noncommercial antennas. Mr. Borst submitted an alternate proposal which would allow a height up to 200 feet in accordance with FCC regulations. The staff prepared a compromise proposal which will allow such heights when the tower is located a distance of one-half the height from a side or rear lot line, or an easement and an agreement with the adjacent property owners is furnished to the Zoning Administrator stipulating that the tower may exceed 60 feet.



Page Two  
January 19, 1979  
Board of County Commissioners  
Re: DR 78-24

At the January 4, 1979 MAPC meeting, the Planning Commission recommended that the attached resolution be forwarded to the County Commission with a recommendation for adoption.

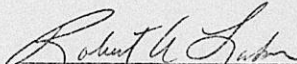
SUMMARY

This amendment to the Sedgwick County Zoning Resolution will provide the following changes:

1. Noncommercial ground or structure supported antenna and aerials will be permitted to a height of 60 feet in any district that was previously restricted to 35 or 45 feet.
2. It will permit additional height for noncommercial ground or structure supported antenna and aerials up to heights permitted by the FCC Regulations when such towers are located on the property a distance not less than one-half the height from a side, rear, or easement line; and an agreement is submitted with all property owners within 50 feet consenting to the additional height above 60 feet.
3. It will permit commercial radio and TV transmitting towers in the "LC" Light Commercial District to exceed the 45 foot height limitation.
4. Energy generating structures will be permitted to a height of 45 feet in any zoning district.
5. Although it is not a new requirement, the inclusion of the statement about airport zoning regulations is a reminder to all that such restrictions are applicable within the areas of the Mid-Continent Airport, McConnell Air Force Base and the Beech Airport.

RECOMMENDATION

It is recommended that this resolution be adopted.



Robert A. Lakin  
Director of Planning

RAL:GL:bbc  
Attachments

Page Three  
January 19, 1979  
Board of County Commissioners  
Re: DR 78-24

cc: Theodore H. Hill, County Counselor  
Grover McLure, Director, Sedgwick County Public Works  
Syd Werbin, County Zoning Officer  
Wichita Board of Realtors, 717 N. Emporia 67214  
Wichita Area Builders Assn., 730 N. Main 67213  
Don Elliott, Division Manager, KG&E, 120 E. 1st 67202  
Gene Beaver, Director of Civil Preparedness  
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



( ) Published in the Wichita Beacon on \_\_\_\_\_

RESOLUTION

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C. HEIGHT

1. Structures Permitted Above Height Limit:  
Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; fire or parapet walls, skylights, towers, steeples, roof signs, flagpoles, chimneys, smoke stacks, wireless masts, water tanks, silos, oil refinery structures or similar structures may be erected above the height limits herein prescribed. But, no penthouse or roof structure, or any space above the height limit shall be allowed for the purpose of providing additional living or working space.
2. Additional Structures Permitted Above Height Limit:
  - a. Noncommercial, ground or structure supported, antennas and aerials which do not exceed a total aggregate height of sixty (60) feet above natural grade; provided, however, 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, 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 Zoning Administrator may grant exceptions to the height limitation provided 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 of the boundary line of the applicant's property 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.
- b. 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.
- c. 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.
3. Regardless of heights permitted by this zoning resolution, all structures located within the zones (landing, clear, approach, horizontal, conical and transitional) established adjacent to McConnell Air Force Base, Beech Airport and Wichita Mid Continent Airport, by the "Wichita Airport Zoning Ordinance" (Adopted October 25, 1955), shall not exceed the heights regulated therein.

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

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

\_\_\_\_\_  
TOM SCOTT, CHAIRMAN

\_\_\_\_\_  
DONALD GRAGG, COMMISSIONER

\_\_\_\_\_  
EVERETT PATRICK, COMMISSIONER

ATTEST:

\_\_\_\_\_  
Dorothy K. White, County Clerk

(SEAL)

APPROVED AS TO FORM BY:

\_\_\_\_\_  
Theodore H. Hill, County Counselor



WICHITA-SEDGWICK COUNTY

DATE

Page Two

MAPC

December 28, 1978

Re: DR 78-15 and DR 78-24

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

RECOMMENDATION:

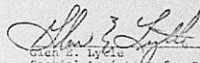
Make whatever changes the Planning Commission deems appropriate and forward each amendment to the appropriate governing body with a recommendation for adoption.

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 KGEZ, 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.

  
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-E-T, c/o A. F. Brown, 3300 S. Seneca, 67217  
Air Capitol Radio Club, c/o Al Roster, 1206 Dallas, 67217  
Don Elliott, Division Manager, KGEZ  
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".



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



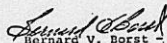
Proposed Amendment to the Possible Amendment to the City of Wichita Zoning Ordinance Previously Scheduled for Public Hearing Before the MAPC Thursday, October 12, 1978, and Rescheduled for Public Hearing on December 3, 1978.

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 - WJLNS  
1946 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.

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 KGE, 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 not 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.

GHEIDER 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 antennas, 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 FELNER, 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.

COLL asked if this takes care of the concern of KGE 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 KGE 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.

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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 appurtenance 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-8" District. Although some of these uses would not be permitted in those districts, they are permitted the same height limitations as in the "A-1", "A-2" and "R-1" 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 KGEZ had been contacted.

GALBRAITH said that he was not certain whether KGEZ 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 KGEZ.

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 antennas 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 are 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 antenna 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 operator, which would allow a ham operator to exceed the 60 foot 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. Gwin 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 KGEZ 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, 2946 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.

BAYNOUTH 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 KGEZ be asked for their input as to the distance from their service entrance cables including transmission cables. Savina moved, Hennessey 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 standard.

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

( \_\_\_\_\_ ) Published in the Wichita Beacon on \_\_\_\_\_

RESOLUTION

A RESOLUTION AMENDING THE ZONING RESOLUTION OF SEDGWICK COUNTY, KANSAS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS AND EFFECTIVE AFTER MARCH 3, 1958, WITH AMENDMENTS TO SEPTEMBER 11, 1978, FOR THE UNINCORPORATED TERRITORY LYING WITHIN THREE MILES OF THE CITY OF WICHITA, THE CITY OF HAYSVILLE, THE CITY OF DERBY, THE CITY OF MULVANE, THE CITY OF VALLEY CENTER, THE CITY OF GODDARD, AND THAT PORTION OF THE AREA WITHIN THREE MILES OF THE CITY OF CHENEY AS ESTABLISHED BY THE BOARD OF COUNTY COMMISSIONERS ON OCTOBER 3, 1973, ALL IN SEDGWICK COUNTY, KANSAS: BY AMENDING SECTION 11 OF THE SEDGWICK COUNTY, KANSAS ZONING RESOLUTION: ALL IN ACCORDANCE WITH THE AUTHORITY GRANTED IN SECTION 14.C THEREOF.

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

SECTION I. That upon the recommendation of the Wichita-Sedgwick County Metropolitan Area Planning Commission on January 4, 1979, after notice and public hearing as provided by law under authority granted by Section 14.C of the Sedgwick County Zoning Resolution, as adopted March 3, 1958, and subsequently amended, Section 12 - "EXCEPTIONS" shall be amended by amending Subsection C - "HEIGHT" to read as follows:

C. HEIGHT

1. Structures Permitted Above Height Limit:  
Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; fire or parapet walls, skylights, towers, steeples, roof signs, flagpoles, chimneys, smoke stacks, wireless masts, water tanks, silos, oil refinery structures or similar structures may be erected above the height limits herein prescribed. But, no penthouse or roof structure, or any space above the height limit shall be allowed for the purpose of providing additional living or working space.
2. Additional Structures Permitted Above Height Limit:
  - a. Noncommercial, ground or structure supported, antennas and aerials which do not exceed a total aggregate height of sixty (60) feet above natural grade; provided, however, 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, 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 Zoning Administrator may grant exceptions to the height limitation provided 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 of the boundary line of the applicant's property 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.
- b. 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.
- c. 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.
3. Regardless of heights permitted by this zoning resolution, all structures located within the zones (landing, clear, approach, horizontal, conical and transitional) established adjacent to McConnell Air Force Base, Beech Airport and Wichita Mid Continent Airport, by the "Wichita Airport Zoning Ordinance" (Adopted October 25, 1955), shall not exceed the heights regulated therein.

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

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 1979.

\_\_\_\_\_  
TOM SCOTT, CHAIRMAN

\_\_\_\_\_  
DONALD GRAGG, COMMISSIONER

\_\_\_\_\_  
EVERETT PATRICK, COMMISSIONER

ATTEST:

\_\_\_\_\_  
Dorothy K. White, County Clerk

(SEAL)

APPROVED AS TO FORM BY:

\_\_\_\_\_  
Theodore H. Hill, County Counselor

January 19, 1979

Board of County Commissioners

Robert A. Lakin, Director of Planning

DR 78-24 Amendment to County Zoning Resolution --  
Re: Exceptions to height regulations.

Attached hereto is a delineated copy of an amendment to the Sedgwick County Zoning Resolution providing for additional exceptions to the height regulations for towers, particularly those used by ham radio operators and for energy generating structures. Also attached are excerpts of the MAPC minutes of the meetings of October 12, 1978 and January 4, 1979. This item should be scheduled for the regular meeting of January 31, 1979.

BACKGROUND

The present Sedgwick County Zoning Resolution establishes height limits on structures which restrict, in several districts, the height of radio towers below that deemed appropriate by the ham and amateur radio operators. We felt, at the time the Planning Commission was considering amending the City of Wichita Zoning Ordinance, it would be appropriate to make a similar amendment to the Sedgwick County Zoning Resolution.

At the present time, noncommercial radio towers would be limited to 35 feet in the "R", "R-1", and "AA" districts, but with a 25 foot sideyard setback the height would be increased to 45 feet. Radio and television transmitting towers are permitted in the "R" and "R-1" districts as a conditional use and would be limited in height only by the safety regulations of the building code and restrictions, and when applicable, by the airport zoning ordinance.

This matter was discussed by the Planning Commission at the October 12, 1978 MAPC meeting. The Planning Commission deferred the matter until Mr. Bernard Borst could prepare an alternate proposal to allow heights greater than the 60 feet that was being considered for noncommercial antennas. Mr. Borst submitted an alternate proposal which would allow a height up to 200 feet in accordance with FCC regulations. The staff prepared a compromise proposal which will allow such heights when the tower is located a distance of one-half the height from a side or rear lot line, or an easement and an agreement with the adjacent property owners is furnished to the Zoning Administrator stipulating that the tower may exceed 60 feet.



Page Two  
January 19, 1979  
Board of County Commissioners  
Re: DR 78-24

At the January 4, 1979 MAPC meeting, the Planning Commission recommended that the attached resolution be forwarded to the County Commission with a recommendation for adoption.

SUMMARY

This amendment to the Sedgwick County Zoning Resolution will provide the following changes:

1. Noncommercial ground or structure supported antenna and aerials will be permitted to a height of 60 feet in any district that was previously restricted to 35 or 45 feet.
2. It will permit additional height for noncommercial ground or structure supported antenna and aerials up to heights permitted by the FCC Regulations when such towers are located on the property a distance not less than one-half the height from a side, rear, or easement line; and an agreement is submitted with all property owners within 50 feet consenting to the additional height above 60 feet.
3. It will permit commercial radio and TV transmitting towers in the "LC" Light Commercial District to exceed the 45 foot height limitation.
4. Energy generating structures will be permitted to a height of 45 feet in any zoning district.
5. Although it is not a new requirement, the inclusion of the statement about airport zoning regulations is a reminder to all that such restrictions are applicable within the areas of the Mid-Continent Airport, McConnell Air Force Base and the Beech Airport.

RECOMMENDATION

It is recommended that this resolution be adopted.

\_\_\_\_\_  
Robert A. Lakin  
Director of Planning

RAL:GL:bbc  
Attachments

Page Three  
January 19, 1979  
Board of County Commissioners  
Re: DR 78-24

cc: Grover McLure, Director, Sedgwick County Public Works  
Syd Werbin, County Zoning Officer  
Wichita Board of Realtors, 717 N. Emporia 67214  
Wichita Area Builders Assn., 730 N. Main 67213  
Don Elliott, Division Manager, KG&E, 120 E. 1st 67202  
Gene Beaver, Director of Civil Preparedness  
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



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

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 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.

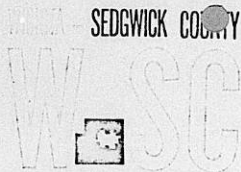
This proposal will be returned to the MAPC for further consideration at their regular meeting of January 4, 1979. Should your organization or individuals wish to comment on this matter, they can be presented at the MAPC hearing or may be submitted to this office for distribution to the Planning Commission.

Sincerely,

Glen E. Lytle  
Special Assistant  
for Zoning

GEL:el

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



METROPOLITAN AREA PLANNING  
DEPARTMENT  
CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4501

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 - W6LNB  
3946 North St. Clair  
Wichita, Kansas

28.04.187 Exceptions to height regulations.

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 that ground or structure supported antennas and aerials 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.

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





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



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 80 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 18, 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

October 5, 1978

**METROPOLITAN AREA PLANNING DEPARTMENT**

TO Metropolitan Area Planning Commission  
FROM Glen E. Lytle, Special Assistant for Zoning  
SUBJECT DR 78-24 - Possible Amendment to Zoning Resolution -  
Re: Exceptions to height regulations-Tower Heights

Attached hereto is a copy of a proposed amendment to the Sedgwick County Zoning Resolution that has been advertised for public hearing before the Planning Commission at the meeting of October 12, 1978. A copy of the letter received from Mr. Beaver, Director of Civil Preparedness is attached to DR 78-15.

BACKGROUND

In reviewing the Sedgwick County Zoning Resolution related to radio and T.V. towers, antennas, etc., it was decided to recommend revisions to allow similar exceptions as that proposed in the City of Wichita Zoning Ordinance.

Since there are no height limitations in the commercial or industrial districts, the exemptions to height are applicable only in the "R", "R-1", "AA" and "BB" Districts. The height limits in the "R", "R-1", and "AA" Districts is 35 feet, but with a 25-foot sideyard this may be increased to 45 feet. In the "BB" District, the height limitation is 45 feet at any setback line. This amendment will, therefore, make a permitted increase in non-commercial tower or antenna height of 15 feet in most instances. The section related to energy generating structures will pertain mainly to the location on the property.

SUMMARY

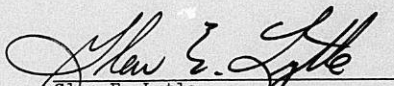
This amendment will permit the erection of non-commercial ground or structure supported antenna and aials to a height of 60 feet in any zoning district. It will also permit the erection of energy generating structures to a height of 45 feet providing such structures are not located closer to adjacent property than the height of the structure.

Also included is the reference to the Airport Zoning Ordinance as a reminder of the applicability of the height limitations of all structures adjacent to the three named airports when in designated zones.

Page 2  
October 5, 1978  
MAPC  
Re: DR 78-24

RECOMMENDATION

Make any amendments deemed to be in the public interest and forward to the Board of County Commissioners with a recommendation for adoption.

  
Glen E. Lytle  
Special Assistant for Zoning

GEL:bbc

cc: Robert A. Lakin, Director of Planning  
Syd Werbin, Director of Planning, Building & Zoning,  
Sedgwick County  
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  
Wichita Board of Realtors, 626 N. Broadway, 67214  
Wichita Assn. of Homebuilders, 730 N. Main, 67203



Deletions - Marked Through  
Additions - Underlined

August 11, 1978  
DR-78-24

Possible Amendment to the  
Sedgwick County Zoning Resolution Scheduled For  
Public Hearing Before the MAPC, Thursday, October 12, 1978

Recommended that Section 12-C be amended to read as follows:

C. HEIGHT

1. Structures Permitted Above Height Limit:  
Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; fire or parapet walls, skylights, towers, steeples, roof signs, flagpoles, chimneys, smoke stacks, wireless masts, water tanks, silos, oil refinery structures or similar structures may be erected above the height limits herein prescribed. But, no penthouse or roof structure, or any space above the height limit shall be allowed for the purpose of providing additional living or working space.
2. Structures Permitted Above Height Limit:  
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, 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, no portion of the antenna, aerial or any anchor or guy shall extend into any required front yard setback, or into any utility easement.
3. Structures Permitted Above Height Limit:  
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.

Possible Amendment to the Sedgwick County Zoning Resolution  
Page 2

4. Regardless of heights permitted by this zoning resolution, all structures located within the zones (landing, clear, approach, horizontal, conical and transitional) established adjacent to McConnell Air Force Base, Beech Airport and Wichita Mid Continent Airport, by the "Wichita Airport Zoning Ordinance" (Adopted October 25, 1955), shall not exceed the heights regulated therein.





E. R. BEAVER  
Coordinator

2/1/78  
**SEDGWICK COUNTY CIVIL PREPAREDNESS**

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

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/1h



(Published in The Wichita Beacon on September 21, 1978)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN, that on 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 to the Zoning Resolution of Sedgwick County, Kansas:

That Section 12 (Exceptions) be amended to allow exceptions to the height limitations for non-commercial antennas and aerials, and for energy structures.

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

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

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

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

(SEAL)



(Published in The Wichita Beacon on September 21, 1978)

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

(SEAL)

(Published in The Wichita Beacon on September 21, 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)



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

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on ~~July 6~~, <sup>October 12,</sup> 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 to the Zoning Resolution of Sedgwick County, Kansas:

That Section 12 (EXCEPTIONS) be amended to allow exceptions to the height limitations for non-commercial antennas and aeriols, and for energy generating structures.

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

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

WITNESS my hand and seal this <sup>15th</sup> ~~16th~~ day of <sup>September</sup> ~~June~~, 1978.

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

(SEAL)

August 21, 1978

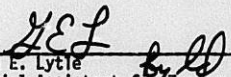
Syd Werbin, Director of Zoning,  
Building & Inspection  
Glen E. Lytle, Special Assistant for Zoning

DR-78-24 - Possible amendment to County Zoning  
Resolution - Re: Height exceptions, Radio Towers.

Attached hereto is a copy of an amendment to the County Zoning  
resolution that will be advertised for public hearing before the  
planning commission at their meeting of October 12, 1978.

This amendment will allow non-commercial radio antennas and towers  
to a height of 60 feet in any of the districts that presently have  
height limitations. Also included is an amendment to allow energy  
generating structures to a height of 45 feet.

If you have any problems with this proposed amendment, please contact  
me the week of September 11, 1978.

  
Glen E. Lytle  
Special Assistant for Zoning

GEL:gb  
Attachment





METROPOLITAN AREA PLANNING  
COMMISSION

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 254-4561

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.

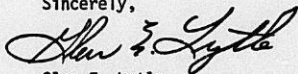
As you will note in the City of Wichita ordinance, communication structures in the commercial or industrial districts are exempt from the height limitations of the districts. In the County amendment you will note that we have not mentioned the commercial or industrial districts as there are no height 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



Deletions - Marked Through  
Additions - Underlined

August 11, 1978  
DR-78-24

Possible Amendment to the  
Sedgwick County Zoning Resolution Scheduled For  
Public Hearing Before the MAPC, Thursday, October 12, 1978

Recommended that Section 12-C be amended to read as follows:

C. HEIGHT

1. Structures Permitted Above Height Limit:  
Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; fire or parapet walls, skylights, towers, steeples, roof signs, flagpoles, chimneys, smoke stacks, wireless masts, water tanks, silos, oil refinery structures or similar structures may be erected above the height limits herein prescribed. But, no penthouse or roof structure, or any space above the height limit shall be allowed for the purpose of providing additional living or working space.
2. In addition to the exceptions in the above, 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, 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, no portion of the antenna, aerial or any anchor or guy shall extend into any required front yard setback, or into any utility easement.
3. 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.

Possible Amendment to the Sedgwick County Zoning Resolution  
Page 2

4. Regardless of heights permitted by this zoning resolution, all structures located within the zones (landing, clear, approach, horizontal, conical and transitional) established adjacent to McConnell Air Force Base, Beech Airport and Wichita Mid Continent Airport, by the "Wichita Airport Zoning Ordinance" (Adopted October 25, 1955), shall not exceed the heights regulated therein.



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.

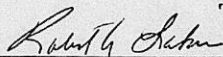
As I view the problem we have about five (5) separate classes of tower-type structures which should be dealt with. These include the amateur radio tower, the CB tower, TV antennas, professional broadcasting towers, and energy related towers. As I remember the regulations there is a provision for radio 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 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