

DR 80-22 - Possible Amendment to Zoning Ordinance - Re: Home Occupations. Requested by Board of City Commissioners.

ACTION

COMMITTEE	DATE
M.A.P.C. <i>Referred to X Committee</i>	<i>12/18/80</i>
M.A.P.C. <i>Referred to X Committee</i>	<i>12-29-80</i>
B.C.C./B.C.C. <i>Referred to X Committee</i>	<i>1-27-81</i>
<i>advertising for Public Hearing to remove out-of-state employees from "A" District</i>	
M.A.P.C. <i>Referred and not to be approved</i>	<i>2-26-81</i>
B.C.C. <i>Denied</i>	<i>3-10-81</i>
M.A.P.C. <i>[Signature]</i>	<i>3-17-81</i>
B.C.C. <i>[Signature]</i>	<i>3-24-81</i>

Closed

RAE

MAPC Feb 26, 1981
Preferred BCC (12 days later) Mar 10, 1981
If necessary, we could take item to manager's office
on Feb 23, 1981 and schedule for an off planning agenda
for BCC on March 3rd. Would have to work all
week end on minutes (not realistic)

If returned on the ¹⁰~~26~~th, we could bring up
as an off agenda item on the 12th of March,
no notice would be sent out, although it could
be announced at BCC meeting that it would
be on MAPC agenda the 12th of March.

MAPC March 12, 1981
BCC (12 days later) March 24, 1981
Second Reading March 31, 1981

We can reasonably live with the dates underlined.
Will require someone to work on minutes two
times over the week end.

Please advise Dean or I what date
you want to go with.

JH

2/5/81 Funch says CM wants to go with the Red line

WICHITA-SEDGWICK COUNTY

DATE
March 2, 1981

METROPOLITAN AREA PLANNING DEPARTMENT

TO E. H. Denton, City Manager
FROM Robert A. Lakin, Director of Planning
SUBJECT DR-80-22 - Possible amendment to Wichita Zoning Ordinance
Re: Elimination of permitted employee in a home occupation in the "A"
Two-family Dwelling District

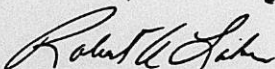
Attached is a copy of the amendment that was prepared and advertised for public hearing to revise the home occupation provision of the zoning ordinance to eliminate the permitted employee in "A" Two-family Dwelling District. Also included is a copy of the memo to the Planning Commission giving the background of events leading to the consideration of this amendment.

The Planning Commission considered this amendment at their regular meeting on February 26, 1981. A copy of the excerpt of the minutes of that meeting are attached for your information.

It was the unanimous action of the Planning Commission that this amendment to the ordinance not be recommended and that the City Commission maintain the existing ordinance and discontinue further consideration of amending the ordinance to delete the one employee in the "A" Two-family Dwelling District for a home occupation.

RECOMMENDED ACTION

1. Concur in the action of the Planning Commission and deny the amendment.
2. Return the amendment to the Planning Commission for reconsideration. The City Commission states the following reasons for such reconsideration.



Robert A. Lakin
Director of Planning

RAL:GEL:sad

Attachment

cc: Don Anderson, Director of Housing & Economic Development
Robert Feldner, Superintendent of Central Inspection
Fred Linde, Grievance Officer
Ray Waldo, 1316 North Dellrose, Wichita 67208
K. W. Long, 427 North Tyler Road, Wichita 67212
Wichita Board of Realtors, 717 North Emporia, Wichita 67214
Wichita Builders Association, 730 North Main, Suite 1, Wichita 67203
Wichita Chamber of Commerce, 350 West Douglas, Wichita 67202

1-30-81

DR 80-22

Possible Amendment to the
City of Wichita Zoning Ordinance Scheduled for
Public Hearing before the MAPC - Thursday, February 26, 1981

Recommended that the portion of the definition of "Home Occupation" as included in Section 28.04.020 and set forth below, be amended to read as follows:

Home Occupations shall consist of the following:

HOME OCCUPATIONS.

A. Authorization. Home occupations shall be permitted in any dwelling unit unless otherwise prohibited or restricted by this section.

B. Definition. A business, profession, occupation or trade conducted for gain or conducted entirely within a residential building or, when permitted by Subsection C., within a structure that is accessory to a residential building.

C. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

1. In all districts permitting dwellings:

a. No alteration of the principal building or premises shall be made which changes the character or appearance.

b. The home occupation shall not occupy more floor area than floor area devoted to the primary use as a residence.

c. No equipment shall be used which shall create undue noise, vibration, electrical interference, smoke or particulate matter emission, power demands, or odors. In determining what is undue noise, such activity shall not cause or create noise at the lot lines in excess of the sound levels contained in the schedule on file with the city clerk and the enforcing officer, approved by the metropolitan area planning commission and titled, "Noise Standards for Home Occupations, October, 1966".

d. There shall be no outdoor storage of equipment, materials or vehicles used in the home occupation.

•2. In the "AA" One Family Dwelling Districts:

a. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his residence.

b. No manufacturing or processing or conducting of a trade of any sort whatsoever shall be done and no stock-in-trade shall be displayed or sold on the premises.

c. The home occupation shall be conducted entirely within

the main residential building. No such home occupation shall be conducted in an accessory structure or in a garage, whether attached or detached.

d. No sign shall be permitted except when required by law. When such a sign is required, it shall not be larger than two square feet, provided that it shall not be illuminated and shall be mounted flat against the main face of the dwelling or building involved.

3. In the "A" Two Family Dwelling District:

a. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his residence.

b. No stock-in-trade (except articles produced by members of the immediate family residing on the premises) shall be displayed or sold on the premises.

c. The home occupation shall be conducted entirely within the principal residential building or in a permitted accessory structure thereto.

d. No sign shall be permitted larger than two square feet, provided that it shall not be illuminated and shall be mounted flat against the main face of the dwelling or building involved.

49. In all other districts permitting residences:

a. No more than one person other than a person(s) occupying such dwelling unit as their residence shall be employed.

b. No stock-in-trade (except articles produced by members of the immediate family residing on the premises) shall be displayed or sold on the premises.

c. The home occupation shall be conducted entirely within the principal residential building or in a permitted accessory structure thereto.

d. No sign shall be permitted larger than two square feet, provided that it shall not be illuminated and shall be mounted flat against the main face of the dwelling or building involved.

EXERPT FROM PLANNING COMMISSION MINUTES OF FEBRUARY 26, 1981:

15. Case No. DR-80-22 - Possible Amendment to Zoning Ordinance
Re: Home Occupations

LAKIN reviewed the material in his memorandum with the Commission and called attention that they previously had discussed this matter and recommended that no change be made to the ordinance. When their recommendation was considered by the City Commission on January 27, 1981, by a split vote, the City Commission instructed that an amendment be advertised for public hearing which would delete the permissible employee in the "A" Two-family District. Mr. Waldo appeared at that City Commission meeting and discussed his concerns. He stated that Mr. Lytle is present, if there are questions on the amendment and that Mr. Waldo is also present.

MARTENS asked LAKIN if this was sent back on a split vote? LAKIN replied, that he believed it was a 3-2 vote to advertise for a public hearing.

HENNESSY asked if there was any discussion?

Mr. Waldo, 1316 North Dellrose, stated that there are other major metropolitan areas that don't allow any employees. It's not just the one employee but the extra clients that an additional employee generates. He thought a person could almost go along with the people that live in a home to operate a business but it creates a lot of variables when you hire outside help. He hoped the WAPC could see clear to recommend that the employee in the "A" district be eliminated.

HENNESSY asked if there were any questions of Mr. Waldo? None were asked.

Mrs. Delores Waldo, 1316 North Dellrose, stated that she lives right next door to a beauty shop operating at 1312 North Dellrose. She asked if there was anyone on the Board that actually adjoins a property with a home occupation with a similar situation that exists next to them. If not, they do not know what it is like until it actually happens to them. She continued by saying "ask yourself would I like a beauty shop next to my home?" Then ask "would I like a beauty shop next to my home with two beauty operators," that means double. She stated that she was not against home occupations, but was opposed to the extra employee. One operator can put through a lot of people, two can really put through a lot of people and the coming and going is terrible. She stated that they had lost the tranquility of their home, especially the part of the house that is located right next to the beauty shop and their driveway. They can never sleep late on Saturday morning after working hard all week. If they are ill and need to be in bed to rest, they can't rest in the bedroom, they have to go sleep on the divan in the living room because of the constant coming and going. They say mothers need to work at home because of their small children so that they can be there with them during the day. In this case, the mother either takes her child out or she has a babysitter in her home. She felt very strongly that the people who's property is zoned "A" are being discriminated against

by allowing home occupations to employ one employee while property zoned "AA" are not allowed an employee. She questioned the comments made at an earlier meeting that you had few complaints regarding home occupations. She felt that most people might not like certain situations but tolerate them because they feel that is how it is, nothing can be done no matter what. It takes a lot nerve and creates a lot of emotion to call up someone and complain about something that involves laws, rules, regulations, set up by our governing bodies. Most people say "well, nothing can be done about it anyway let someone else do it." She felt that they had been subjected to a great amount of emotional stress and strain since this beauty shop has been in operation next to their home. She asked the commission to please make the change by not allowing home occupations to have employees. She asked this not only for herself but all the people in the City of Wichita who sit back and say, "let someone else do it".

HENNESSY asked if there were any questions of Ms. Waldo? None were asked.

Mr. Waldo stated regardless of how late the meeting would last this evening, he would like the Planning Commission to come out and just count the business the shop will be doing this evening. He realized that this will become a non-conforming use if the ordinance is changed but he also realized that if they bought another home in Wichita, they wouldn't come up against this situation again. He believed it would make Wichita a better place to live if they limit the home occupations to the people that live in the home.

GARDNER stated he was not in sympathy with their predicament. He expressed that at the last meeting and was going to address the present situation. He commented to Mr. Waldo that he was continuing to pursue a cause that he felt justified in which even if the City Commission approves the change, it will do nothing to improve his particular situation. The non-conforming use will be permitted to continue. He believed that Mr. Waldo's approach was single-minded and of a very narrow perspective in terms of viewpoint as regards to how this will affect the other people in Wichita who have situations where the ability to employ another person to operate a home occupation on their property, whether it be a secretary, a sales person, a beauty operator or any one of a dozen varieties of employees that are legitimate enterprises are going to be severely curtailed, or infringed upon. Such a change will limit the ability to conduct businesses in many new situations largely as a result of the Waldo's inability to work out a difficulty with a neighbor next door. He pointed out that in fifteen years of apartment operation, dealing with people in high density situations next door to each other and in much closer circumstances than is being exposed to here, that this sort of problem is surmountable in fashions other than seeking changes in the ordinances, which really in this case won't provide relief for the problem. He stated that I'm a person who philosophically believes that because of the emotionalism in this situation, that perhaps you are not able to understand the impact that this will create for other people in Wichita. He stated that he would make a special point of encouraging the City Commission to reconsider their action and stay with the present regulation. Although he had empathy with the difficulties that had been experienced, in no way could he feel that it merits this scope of change, that would create a hardship for other persons in the city.

MOTION: GARDNER moved that the amendment not be recommended, and that the City Commission maintain the existing ordinance and discontinue further consideration of amending the ordinance to delete the one employee in the "AA" Two-family Dwelling District for a home occupation. GOEBEL seconded. Motion passed unanimously.

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

February 19, 1981

TO Wichita-Sedgwick County Metropolitan Area Planning Commission

FROM Robert A. Lakin, Director of Planning

SUBJECT DR-80-22 - Possible amendment to Wichita Zoning Ordinance
Re: Elimination of permitted employee in a
home occupation in the "A" Two-family
Dwelling District

Attached is a delineated copy of a proposed amendment to the City of Wichita Zoning Ordinance related to the elimination of a permitted employee as a home occupation in the "A" Two-family Dwelling District. This has been advertised for public hearing at the Planning Commission meeting of February 26, 1981 at the direction of the City Commission by their action on January 27, 1981.

BACKGROUND:

Home occupations have been permitted on a very limited basis since the adoption of zoning in 1922. Prior to 1966, home occupations were limited to those occupations deemed to be personal services performed by those residing in the residence.

In 1966, after a very lengthy public hearing, the present regulations on home occupations were adopted into the zoning ordinance. It was at this time the provision to permit one employee, in addition to the individuals residing in the residence, in any zoning district except the "AA" One-family Dwelling District was amended into the text.

At the City Commission meeting of November 24, 1980 Mr. Ray Waldo appeared on the public agenda stating his complaints on the home occupation provisions of the Code. It was at that time Mr. Waldo stated the problems with a beauty shop which is located immediately adjacent to his home on North Dellrose which is in the "A" Two-family Dwelling District. The City Commission then referred the matter to the Planning Commission for a recommendation on the regulations.

On December 29, 1980 the Planning Commission did consider all the facts presented at the meeting, including comments by Mr. Waldo and Mr. K. W. Long as well as a staff report. It was the recommendation of the Planning Commission, on that date, to not recommend an amendment to the zoning ordinance, but to recommend that consideration be given to a change in the licensing fee to assist in better administration of the provisions of the ordinances.

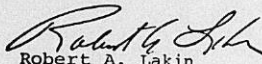
When the Planning Commission's recommendation was presented to the City Commission on January 27, 1981, it was the direction of the City Commission to advertise an amendment to delete the provision permitting an employee in the "A" Two-family Dwelling District. A copy of the Planning Commissions recommendation and a copy of the MAPC minutes of your previous discussion are attached for your information.

SUMMARY:

The amendment as prepared and furnished to you makes only one change in the ordinance, and that is to delete the permission for a home occupation to have one employee in the "A" Two-family Dwelling District. It should be noted that the adoption of this amendment will in no way alleviate the problems alleged by Mr. Waldo relative to the existing beauty shop adjacent to his home. It would become nonconforming and would be permitted to continue at this location, as will all other existing home occupations affected by this amendment.

RECOMMENDATION:

Make such changes or recommendations deemed to be in the best interest of the community and forward the recommendation on the amendment to the City Commission for their action.


Robert A. Lakin
Director of Planning

RAL:GEL:sad
Attachment

cc: Don Anderson, Director of Housing & Economic Development
Robert Feldner, Superintendent of Central Inspection
Fred Linde, Grievance Officer
Ray Waldo, 1316 North Dellrose, Wichita 67208
K. W. Long, 427 North Tyler Road, Wichita 67212
Wichita Board of Realtors, 717 North Emporia, Wichita 67214
Wichita Builders Association, 730 North Main, Suite 1,
Wichita 67203
Wichita Chamber of Commerce, 350 West Douglas, Wichita 67202

EXCERPT FROM PLANNING COMMISSION MINUTES OF DECEMBER 29, 1980

6. DR 80-22 - Review of Home Occupation provisions of the Zoning Ordinance - Requested by City Commission.

GALBRAITH reviewed background materials sent to the Commission and pointed out why this item was before the Planning Commission. He said that a complaint was made to the City Commission a few weeks ago relative to a home occupation business next door to Ray Waldo. GALBRAITH said that in 1966, the Planning Commission liberalized the home occupation provisions. At that time, it was inserted in the text that all residential districts, other than single family, could have one paid assistant that did not live in the residence, to work on the premise. Also at that time it was clarified that home occupations could not be in detached accessory buildings in the single family district, but they can occur in detached buildings in the other residential districts. At that time, the Planning Commission attempted to eliminate such uses as beauty shops and barber shops as permitted home occupations. However, they were left as home occupations after considerable protest and debate from people with barber-shops and beauty shops in their homes.

GALBRAITH said that it seemed to the staff that home occupations, over the years, have worked quite well.

KENNETH W. LONG, 427 N. Tyler Road, stated that for two and one-half years they have had a situation where a chiropractor bought a house next door to him in "AA" zoning, and obtained a home occupation license. However, the chiropractor does not live there. LONG said that he would like to know if there was some way this law could be revised so as to more clearly define just what a residence is.

GALBRAITH stated that evidence has been furnished to the City Manager and it has been reviewed over the past few months. Central Inspection has found that this chiropractor's office on Tyler Road is not in violation. Apparently everyone is satisfied but Mr. Long.

BAYOUTH asked if one has to live on the premises to get a home occupation license. GALBRAITH said yes.

GARDNER asked if there was some way, in the ordinance, that a person could be prohibited from maintaining several residences. GALBRAITH said no, not that he was aware of.

FRED LINDE, Grievance Officer, stated that it has been their observation in the Grievance Office that the home occupation code, while it is not completely perfect and satisfactory to everybody, it does work quite well. He said that they have had a few complaints about it, but generally the complaints are about neighborhood disagreement or auto repair in "AA" which is not permitted and can not be licensed anyway. He said that their observations do not show any need for revising this particular part of the zoning code.

WRIGHT, in referring to Mr. Linde's memorandum, said that she was interested in Mr. Linde's third suggestion (enlarging the authority of BZA to hear arguments against home occupation licenses).

LINDE commented that there probably would be some complications to constructing a mechanism for bringing the complaint to the Board of Zoning Appeals. He said that one of the suggestions that he made might have some merit, and that was to increase the fee for home occupation licenses.

SNOOK asked Linde if he felt that based on the history of the home occupation, there is a need for a public hearing process. LINDE said no.

GLEN E. LYTLE, Special Assistant for Zoning, commented that he felt the Board of Zoning Appeals would be the body that one could appeal to as to whether Central Inspection was making the appropriate interpretation of the requirements on the home occupation.

RAY WALDO, 1316 N. Dellrose, stated that he was appearing before the Commission today to ask that they show the same consideration to homeowners in "A" zoning as shown to homeowners in "AA" zoning. He said that he asked the City Commission for this consideration and felt that they were leaning that way. The City Manager thought it would be proper procedure to obtain a recommendation from the MAPC. He said that he did not know what the zoning or their home was for the first 16 years that they lived in it. In the last two years, they have become painfully aware that they were in "A" zoning. All of the homes around them were occupied by only one family. Two years ago, the lady next door moved her beauty shop from a nearby shopping center to her residence. It was hard for them to understand that she was allowed to have another beauty operator in her business after she moved it to her house. He said that they have been advised, that under the existing City ordinance she is allowed one employee. She must have selected an employee from the previous location that had the largest amount of customers. The result has certainly caused them a lot of discomfort and annoyance. They don't allow any smoking in the shop, and unfortunately this employee is a heavy smoker. She uses her car for a smoking pallor, and she parks it just eight feet from his home. WALDO said that he has spoken to the owner about this and she said that everything they are doing is legal. He said it may be legal under the existing ordinance, but it is not morally right. WALDO said that he did not feel that when the City passed the ordinance they meant for the operation of these businesses to be disruptive and annoying to the neighbors, but there is no provision in the ordinance to handle it if the situation exist. He said that he was also asking that the language of the ordinance be made to read "the hours of the operation may be regulated". He was sure that would be hard to enforce, but it would be a tool that could perhaps be used to insure that a business right next door to a person's home might be operated at a reasonable hour. As the ordinance is written, there is nothing to protect the rights of the adjoining property owners. He said that he would sure like to know if there was someone in City Hall that could help him with his problem.

WALDO continued that he wished the language could include the suggestions of Mr. Linde.

GARDNER asked if Mr. Waldo had room for a fence down his property line or landscaping. WALDO said yes. GARDNER said that he finds in rental properties where people are fairly close together, such as in duplexes, tenants don't always get along. He said that as he has read through and followed this case, it has been his impression that while they may be pressing Mr. Waldo a bit from the one side, he probably has not tried physical remedies in terms of a noise barrier, such as fencing

and shabby. He said that he empathize with Mr. Waldo's situation, but by the same token, they may be making a contribution by working, and it may be economically impossible to make a change otherwise.

GOEBEL commented that he was on the Planning Commission at the time the ordinance was rewritten in 1966, and he voted against the change, and not entirely for the home occupation, but was against it primarily for it in the "AA" area. He felt that the home occupation has worked real good. He felt that in this day and age more women are required to work, and if they can work at home it saves them from getting involved with day care centers. As far as complaints going to the BZA he felt it would result in the creation of more bureaucracy jobs. He felt his vote in 1966 was a mistake.

MOTION: That the Planning Commission recommend to the City Commission that no changes be made to the home occupation provision of the zoning ordinance, but that possible consideration be given to the need for increasing the annual licensing fees to assist in the administration of licensing of home occupations. Goebel moved, Bayouth seconded and it carried unanimously. Hennosy, Jones, Lofton and Martens were absent.

THE CITY OF WICHITA

OFFICE OF CITY MANAGER

DATE January 27, 1981

TO Don E. Anderson, Director of Housing and Economic Development
Russell L. Brenner, Director of Administration
Robert A. Lakin, Director of Planning

FROM Robert G. Finch, Deputy City Manager

SUBJECT Home Occupation Provisions of
the City Code

Following its review of the home occupation provisions of the City Code on January 27, 1981, the City Commission directed that:

- 1) The matter of the fee increase for home occupation licenses be referred to staff for study and recommendation; and
- 2) The ordinance be referred to MAPC to initiate legal requirements for amendment not to permit outside employees in "A" as well as "AA" zoning.

Messrs. Brenner and Anderson are asked to work together to develop a recommendation for an appropriate license fee.

Mr. Lakin is asked to bring the proposed amendment to the ordinance to the MAPC at the earliest date.



Robert G. Finch
Deputy City Manager

RGF/pd
cc: John Dekker, Director of Law

RECEIVED

JAN 29 1981

METROPOLITAN PLANNING

ROUTE _____

EXERPT FROM PLANNING COMMISSION MINUTES OF FEBRUARY 26, 1981:

15. Case No. DR-80-22 - Possible Amendment to Zoning Ordinance
Re: Home Occupations

LAKIN reviewed the material in his memorandum with the Commission and called attention that they previously had discussed this matter and recommended that no change be made to the ordinance. When their recommendation was considered by the City Commission on January 27, 1981, by a split vote, the City Commission instructed that an amendment be advertised for public hearing which would delete the permissible employee in the "A" Two-family District. Mr. Waldo appeared at that City Commission meeting and discussed his concerns. He stated that Mr. Lytle is present, if there are questions on the amendment and that Mr. Waldo is also present.

MARTENS asked LAKIN if this was sent back on a split vote? LAKIN replied, that he believed it was a 3-2 vote to advertise for a public hearing.

HENNESSY asked if there was any discussion?

Mr. Waldo, 1316 North Dellrose, stated that there are other major metropolitan areas that don't allow any employees. It's not just the one employee but the extra clients that an additional employee generates. He thought a person could almost go along with the people that live in a home to operate a business but it creates a lot of variables when you hire outside help. He hoped the MAPC could see clear to recommend that the employee in the "A" district be eliminated.

HENNESSY asked if there were any questions of Mr. Waldo? None were asked.

Mrs. Delores Waldo, 1316 North Dellrose, stated that she lives right next door to a beauty shop operating at 1312 North Dellrose. She asked if there was anyone on the Board that actually adjoins a property with a home occupation with a similar situation that exists next to them. If not, they do not know what it is like until it actually happens to them. She continued by saying "ask yourself would I like a beauty shop next to my home?" Then ask "would I like a beauty shop next to my home with two beauty operators," that means double. She stated that she was not against home occupations, but was opposed to the extra employee. One operator can put through a lot of people, two can really put through a lot of people and the coming and going is terrible. She stated that they had lost the tranquility of their home, especially the part of the house that is located right next to the beauty shop and their driveway. They can never sleep late on Saturday morning after working hard all week. If they are ill and need to be in bed to rest, they can't rest in the bedroom, they have to go sleep on the divan in the living room because of the constant coming and going. They say mothers need to work at home because of their small children so that they can be there with them during the day. In this case, the mother either takes her child out or she has a babysitter in her home. She felt very strongly that the people who's property is zoned "A" are being discriminated against

by allowing home occupations to employ one employee while property zoned "AA" are not allowed an employee. She questioned the comments made at an earlier meeting that you had few complaints regarding home occupations. She felt that most people might not like certain situations but tolerate them because they feel that is how it is, nothing can be done no matter what. It takes a lot nerve and creates a lot of emotion to call up someone and complain about something that involves laws, rules, regulations, set up by our governing bodies. Most people say "well, nothing can be done about it anyway let someone else do it." She felt that they had been subjected to a great amount of emotional stress and strain since this beauty shop has been in operation next to their home. She asked the commission to please make the change by not allowing home occupations to have employees. She asked this not only for herself but all the people in the City of Wichita who sit back and say, "let someone else do it".

HENNESSY asked if there were any questions of Ms. Waldo? None were asked.

Mr. Waldo stated regardless of how late the meeting would last this evening, he would like the Planning Commission to come out and just count the business the shop will be doing this evening. He realized that this will become a non-conforming use if the ordinance is changed but he also realized that if they bought another home in Wichita, they wouldn't come up against this situation again. He believed it would make Wichita a better place to live if they limit the home occupations to the people that live in the home.

GARDNER stated he was not in sympathy with their predicament. He expressed that at the last meeting and was going to address the present situation. He commented to Mr. Waldo that he was continuing to pursue a cause that he felt justified in which even if the City Commission approves the change, it will do nothing to improve his particular situation. The non-conforming use will be permitted to continue. He believed that mr. Waldo's approach was single-minded and of a very narrow perspective in terms of viewpoint as regards to how this will affect the other people in Wichita who have situations where the ability to employ another person to operate a home occupation on their property, whether it be a secretary, a sales person, a beauty operator or any one of a dozen varieties of employees that are legitimate enterprises are going to be severely curtailed, or infringed upon. Such a change will limit the ability to conduct businesses in many new situations largely as a result of the Waldo's inability to work out a difficulty with a neighbor next door. He pointed out that in fifteen years of apartment operation, dealing with people in high density situations next door to each other and in much closer circumstances than is being exposed to here, that this sort of problem is surmountable in fashions other than seeking changes in the ordinances, which really in this case won't provide relief for the problem. He stated that I'm a person who philosophically believes that because of the emotionalism in this situation, that perhaps you are not able to understand the impact that this will create for other people in Wichita. He stated that he would make a special point of encouraging the City Commission to reconsider their action and stay with the present regulation. Although he had empathy with the difficulties that had been experienced, in no way could he feel that it merits this scope of change, that would create a hardship for other persons in the city.

MOTION: GARDNER moved that the amendment not be recommended, and that the City Commission maintain the existing ordinance and discontinue further consideration of amending the ordinance to delete the one employee in the "A" Two-family Dwelling District for a home occupation. GOEBEL seconded. Motion passed unanimously.

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

February 19, 1981

TO Wichita-Sedgwick County Metropolitan Area Planning Commission

FROM Robert A. Lakin, Director of Planning

SUBJECT DR-80-22 - Possible amendment to Wichita Zoning Ordinance
Re: Elimination of permitted employee in a
home occupation in the "A" Two-family
Dwelling District

Attached is a delineated copy of a proposed amendment to the City of Wichita Zoning Ordinance related to the elimination of a permitted employee as a home occupation in the "A" Two-family Dwelling District. This has been advertised for public hearing at the Planning Commission meeting of February 26, 1981 at the direction of the City Commission by their action on January 27, 1981.

BACKGROUND:

Home occupations have been permitted on a very limited basis since the adoption of zoning in 1922. Prior to 1966, home occupations were limited to those occupations deemed to be personal services performed by those residing in the residence.

In 1966, after a very lengthy public hearing, the present regulations on home occupations were adopted into the zoning ordinance. It was at this time the provision to permit one employee, in addition to the individuals residing in the residence, in any zoning district except the "AA" One-family Dwelling District was amended into the text.

At the City Commission meeting of November 24, 1980 Mr. Ray Waldo appeared on the public agenda stating his complaints on the home occupation provisions of the Code. It was at that time Mr. Waldo stated the problems with a beauty shop that is located immediately adjacent to his home on North Dellrose which is in the "A" Two-family Dwelling District. The City Commission then referred the matter to the Planning Commission for a recommendation on the regulations.

On December 29, 1980 the Planning Commission did consider all the facts presented at the meeting, including comments by Mr. Waldo and Mr. K. W. Long as well as a staff report. It was the recommendation of the Planning Commission, on that date, to not recommend an amendment to the zoning ordinance, but to recommend that consideration be given to a change in the licensing fee to assist in better administration of the provisions of the ordinances.

When the Planning Commission's recommendation was presented to the City Commission on January 27, 1981, it was the direction of the City Commission to advertise an amendment to delete the provision permitting an employee in the "A" Two-family Dwelling District. A copy of the Planning Commissions recommendation and a copy of the MAPC minutes of your previous discussion are attached for your information.

SUMMARY:

The amendment as prepared and furnished to you makes only one change in the ordinance, and that is to delete the permission for a home occupation to have one employee in the "A" Two-family Dwelling District. It should be noted that the adoption of this amendment will in no way alleviate the problems alleged by Mr. Waldo relative to the existing beauty shop adjacent to his home. It would become nonconforming and would be permitted to continue at this location, as will all other existing home occupations affected by this amendment.

RECOMMENDATION:

Make such changes or recommendations deemed to be in the best interest of the community and forward the recommendation on the amendment to the City Commission for their action.


Robert A. Lakin
Director of Planning

RAL:GEL:sad
Attachment

cc: Don Anderson, Director of Housing & Economic Development
Robert Feldner, Superintendent of Central Inspection
Fred Linde, Grievance Officer
Ray Waldo, 1316 North Dellrose, Wichita 67208
K. W. Long, 427 North Tyler Road, Wichita 67212
Wichita Board of Realtors, 717 North Emporia, Wichita 67214
Wichita Builders Association, 730 North Main, Suite 1,
Wichita 67203
Wichita Chamber of Commerce, 350 West Douglas, Wichita 67202

1-30-81

DR 80-22

Possible Amendment to the
City of Wichita Zoning Ordinance Scheduled for
Public Hearing before the MAPC - Thursday, February 26, 1981

Recommended that the portion of the definition of "Home Occupation" as included in Section 28.04.020 and set forth below, be amended to read as follows:

Home Occupations shall consist of the following:

HOME OCCUPATIONS.

A. Authorization. Home occupations shall be permitted in any dwelling unit unless otherwise prohibited or restricted by this section.

B. Definition. A business, profession, occupation or trade conducted for gain or conducted entirely within a residential building or, when permitted by Subsection C., within a structure that is accessory to a residential building.

C. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

1. In all districts permitting dwellings:

a. No alteration of the principal building or premises shall be made which changes the character or appearance.

b. The home occupation shall not occupy more floor area than floor area devoted to the primary use as a residence.

c. No equipment shall be used which shall create undue noise, vibration, electrical interference, smoke or particulate matter emission, power demands, or odors. In determining what is undue noise, such activity shall not cause or create noise at the lot lines in excess of the sound levels contained in the schedule on file with the city clerk and the enforcing officer, approved by the metropolitan area planning commission and titled, "Noise Standards for Home Occupations, October, 1966".

d. There shall be no outdoor storage of equipment, materials or vehicles used in the home occupation.

2. In the "AA" One Family Dwelling Districts:

a. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his residence.

b. No manufacturing or processing or conducting of a trade of any sort whatsoever shall be done and no stock-in-trade shall be displayed or sold on the premises.

c. The home occupation shall be conducted entirely within

the main residential building. No such home occupation shall be conducted in an accessory structure or in a garage, whether attached or detached.

d. No sign shall be permitted except when required by law. When such a sign is required, it shall not be larger than two square feet, provided that it shall not be illuminated and shall be mounted flat against the main face of the dwelling or building involved.

3. In the "A" Two Family Dwelling District:

a. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his residence.

b. No stock-in-trade (except articles produced by members of the immediate family residing on the premises) shall be displayed or sold on the premises.

c. The home occupation shall be conducted entirely within the principal residential building or in a permitted accessory structure thereto.

d. No sign shall be permitted larger than two square feet, provided that it shall not be illuminated and shall be mounted flat against the main face of the dwelling or building involved.

43. In all other districts permitting residences:

a. No more than one person other than a person(s) occupying such dwelling unit as their residence shall be employed.

b. No stock-in-trade (except articles produced by members of the immediate family residing on the premises) shall be displayed or sold on the premises.

c. The home occupation shall be conducted entirely within the principal residential building or in a permitted accessory structure thereto.

d. No sign shall be permitted larger than two square feet, provided that it shall not be illuminated and shall be mounted flat against the main face of the dwelling or building involved.

EXCERPT FROM PLANNING COMMISSION MINUTES OF DECEMBER 29, 1980

6. DR 80-22 - Review of Home Occupation provisions of the Zoning Ordinance - Requested by City Commission.

GALBRAITH reviewed background materials sent to the Commission and pointed out why this item was before the Planning Commission. He said that a complaint was made to the City Commission a few weeks ago relative to a home occupation business next door to Ray Waldo. GALBRAITH said that in 1966, the Planning Commission liberalized the home occupation provisions. At that time, it was inserted in the text that all residential districts, other than single family, could have one paid assistant that did not live in the residence, to work on the premise. Also at that time it was clarified that home occupations could not be in detached accessory buildings in the single family district, but they can occur in detached buildings in the other residential districts. At that time, the Planning Commission attempted to eliminate such uses as beauty shops and barber shops as permitted home occupations. However, they were left as home occupations after considerable protest and debate from people with barber-shops and beauty shops in their homes.

GALBRAITH said that it seemed to the staff that home occupations, over the years, have worked quite well.

KENNETH W. LONG, 427 N. Tyler Road, stated that for two and one-half years they have had a situation where a chiropractor bought a house next door to him in "A2" zoning, and obtained a home occupation license. However, the chiropractor does not live there. LONG said that he would like to know if there was anyway this law could be revised so as to more clearly define just what a residence is.

GALBRAITH stated that evidence has been furnished to the City Manager and it has been reviewed over the past few months. Central Inspection has found that this chiropractor's office on Tyler Road is not in violation. Apparently everyone is satisfied but Mr. Long.

BAYOUTH asked if one has to live on the premises to get a home occupation license. GALBRAITH said yes.

GARDNER asked if there was anyway, in the ordinance, that a person could be prohibited from maintaining several residences. GALBRAITH said no, not that he was aware of.

FRED LINDE, Grievance Officer, stated that it has been their observation in the Grievance Office that the home occupation code, while it is not completely perfect and satisfactory to everybody, it does work quite well. He said that they have had a few complaints about it, but generally the complaints are about neighborhood disagreement or auto repair in "A2" which is not permitted and can not be licensed anyway. He said that their observations do not show any need for revising this particular part of the zoning code.

WRIGHT, in referring to Mr. Linde's memorandum, said that she was interested in Mr. Linde's third suggestion (enlarging the authority of BZA to hear arguments against home occupation licenses).

LINDE commented that there probably would be some complications to constructing a mechanism for bringing the complaint to the Board of Zoning Appeals. He said that one of the suggestions that he made might have some merit, and that was to increase the fee for home occupation licenses.

SHOOK asked Linde if he felt that based on the history of the home occupation, there is a need for a public hearing process. LINDE said no.

GLEN E. LYTLE, Special Assistant for Zoning, commented that he felt the Board of Zoning Appeals would be the body that one could appeal to as to whether Central Inspection was making the appropriate interpretation of the requirements on the home occupation.

RAY WALDO, 1316 N. Dellrose, stated that he was appearing before the Commission today to ask that they show the same consideration to homeowners in "A" zoning as shown to homeowners in "AA" zoning. He said that he asked the City Commission for this consideration and felt that they were leaning that way. The City Manager thought it would be proper procedure to obtain a recommendation from the MAPC. He said that he did not know what the zoning or their home was for the first 16 years that they lived in it. In the last two years, they have become painfully aware that they were in "A" zoning. All of the homes around them were occupied by only one family. Two years ago, the lady next door moved her beauty shop from a nearby shopping center to her residence. It was hard for them to understand that she was allowed to have another beauty operator in her business after she moved it to her house. He said that they have been advised, that under the existing City ordinance she is allowed one employee. She must have selected an employee from the previous location that had the largest amount of customers. The result has certainly caused them a lot of discomfort and annoyance. They don't allow any smoking in the shop, and unfortunately this employee is a heavy smoker. She uses her car for a smoking pallor, and she parks it just eight feet from his home. WALDO said that he has spoken to the owner about this and she said that everything they are doing is legal. He said it may be legal under the existing ordinance, but it is not morally right. WALDO said that he did not feel that when the City passed the ordinance they meant for the operation of these businesses to be disruptive and annoying to the neighbors, but there is no provision in the ordinance to handle it if the situation exist. He said that he was also asking that the language of the ordinance be made to read "the hours of the operation may be regulated". He was sure that would be hard to enforce, but it would be a tool that could perhaps be used to insure that a business right next door to a person's home might be operated at a reasonable hour. As the ordinance is written, there is nothing to protect the rights of the adjoining property owners. He said that he would sure like to know if there was someone in City Hall that could help him with his problem.

WALDO continued that he wished the language could include the suggestions of Mr. Linde.

GARDNER asked if Mr. Waldo had room for a fence down his property line or landscaping. WALDO said yes. GARDNER said that he finds in rental properties where people are fairly close together, such as in duplexes, tenants don't always get along. He said that as he has read through and followed this case, it has been his impression that while they may be pressing Mr. Waldo a bit from the one side, he probably has not tried physical remedies in terms of a noise barrier, such as fencing

and shabby. He said that he empathize with Mr. Waldo's situation, but by the same token, they may be making a contribution by working, and it may be economically impossible to make a change otherwise.

GOEBEL commented that he was on the Planning Commission at the time the ordinance was rewritten in 1966, and he voted against the change, and not entirely for the home occupation, but was against it primarily for it in the "AA" area. He felt that the home occupation has worked real good. He felt that in this day and age more women are required to work, and if they can work at home it saves them from getting involved with day care centers. As far as complaints going to the BZA he felt it would result in the creation of more bureaucracy jobs. He felt his vote in 1966 was a mistake.

MOTION: That the Planning Commission recommend to the City Commission that no changes be made to the home occupation provision of the zoning ordinance, but that possible consideration be given to the need for increasing the annual licensing fees to assist in the administration of licensing of home occupations. Goebel moved, Bayouth seconded, and it carried unanimously. Hennessy, Jones, Lofton and Martens were absent.

THE CITY OF WICHITA

OFFICE OF CITY MANAGER

DATE January 27, 1981

TO Don E. Anderson, Director of Housing and Economic Development
Russell L. Brenner, Director of Administration
Robert A. Lakin, Director of Planning

FROM Robert G. Finch, Deputy City Manager

SUBJECT Home Occupation Provisions of
the City Code

Following its review of the home occupation provisions of the City Code on January 27, 1981, the City Commission directed that:

- 1) The matter of the fee increase for home occupation licenses be referred to staff for study and recommendation; and
- 2) The ordinance be referred to MAPC to initiate legal requirements for amendment not to permit outside employees in "A" as well as "AA" zoning.

Messrs. Brenner and Anderson are asked to work together to develop a recommendation for an appropriate license fee.

Mr. Lakin is asked to bring the proposed amendment to the ordinance to the MAPC at the earliest date.



Robert G. Finch
Deputy City Manager

RGF/pd
cc: John Dekker, Director of Law

RECEIVED

JAN 29 1981

METROPOLITAN PLANNING

ROUTE _____

1-30-81

DR 80-22

Possible Amendment to the
City of Wichita Zoning Ordinance Scheduled for
Public Hearing before the MAPC - Thursday, February 26, 1981

Recommended that the portion of the definition of "Home Occupation" as included in Section 28.04.020 and set forth below, be amended to read as follows:

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HOME OCCUPATIONS.

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d. There shall be no outdoor storage of equipment, materials or vehicles used in the home occupation.

2. In the "AA" One Family Dwelling Districts:

a. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his residence.

b. No manufacturing or processing or conducting of a trade of any sort whatsoever shall be done and no stock-in-trade shall be displayed or sold on the premises.

c. The home occupation shall be conducted entirely within

the main residential building. No such home occupation shall be conducted in an accessory structure or in a garage, whether attached or detached.

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49. In all other districts permitting residences:

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c. The home occupation shall be conducted entirely within the principal residential building or in a permitted accessory structure thereto.

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THE CITY OF WICHITA

OFFICE OF City Treasurer

DATE February 12, 1981

TO John Dekker, Director of Law through
Russell Brenner, Director of Administration

FROM Gene Brown, Deputy City Treasurer

RECEIVED

FEB 13 1981

SUBJECT Fee Increase- METROPOLITAN PLANNING
Home Occupation ROUTE

Attached is a proposed simple ordinance amendment which has been prepared in delineated and final form. If this amendment meets with your satisfaction, would you please submit the enclosed copies to Robert Finch, Deputy City Manager, for placement on the City Managers agenda.

BACKGROUND:

On January 27, 1981 the City Commission directed the staff to study the matter of a fee increase for Home Occupations and made a recommendation to that Body. When the Director of Administration requested the City Treasurer to investigate a fee increase, I called Wade Pascal, Administrative Supervisor of Central Inspection to compute cost analysis figures for their part of regulating this ordinance. Contained below in table form is this data, along with other administrative costs associated with the License Section, City Treasurers Division.

HOME OCCUPATION TABLE

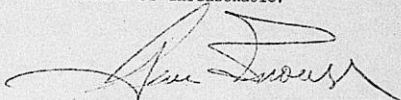
1980 License		O & M Staff Time		Treas. Staff Time		O & M Cost Per Lic. *	Treas. Cost Per Lic. **	Total Cost per Lic.
<u>New</u>	<u>Renewal</u>	<u>New</u>	<u>Renewal</u>	<u>New</u>	<u>Renewal</u>			
131	527	2 hrs.	1 Hr.	15 Min	15 Min	\$18.42	\$1.71	\$20.13

* This cost was determined by using the average inspectors 1981 budget, plus fringe benefits and vehicle expense amounting to a total of \$15.36 per hour multiplied by the total of time (789 Hours) spent on home occupations. The resulting figure of \$12,119.04 was divided by the number of licenses sold during 1980.

** This figure was determined by using the salary of the License Section Account Clerk I, C step (\$5.557) and adding 24.51% fringe benefits for a total of \$6.82, this was then divided by 15 minutes per license.

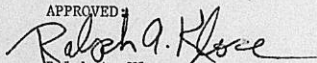
SUMMATION AND RECOMMENDATION:

The attached amendment proposal recommends a fee of \$20.00 per license in lieu of the present fee of \$3.00. It is requested the revised fee be adopted by the City Commission based on evidence that during 1981, expenses accrued to this license category will amount to \$20.13 per license issuance. Obviously, the City's expenses will increase during each succeeding year because of inflation factors. Therefore, we do not feel that \$20.00 is excessive or unreasonable.



Gene Brown
Deputy City Treasurer

APPROVED:



Ralph A. Klose
City Treasurer

CB/lc

CC; Robert Finch, Deputy City Manager
Don E. Anderson, Director of Housing and Economic Development
✓ Robert C. Lakin, Director of Planning
Robert Feldner, Superintendent of Central Inspection
Wade Pascal, Admin. Supervisor, Central Inspection

(Published in The Daily Record on February 2, 1981.)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED.

NOTICE IS HEREBY GIVEN, that on Thursday, February 26, 1981, 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 changes in Title 28, the Code of the City of Wichita, Kansas:

An Amendment to Section 28.04.020 of the zoning ordinance pertaining to the definition and limitations of permitted home occupations, by eliminating the permitted outside employee in the "A" Two-family Dwelling District.

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 change of the zoning ordinance will be considered by the Commission as by law provided.

WITNESS my hand and seal this 29th day of January, 1981.

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

(SEAL)

(Published in The Daily Record on February 2, 1981.)

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

(SEAL)

THE CITY OF WICHITA

OFFICE OF CITY MANAGER

DATE January 27, 1981

TO ✓ Don E. Anderson, Director of Housing and Economic Development
Russell L. Brenner, Director of Administration
Robert A. Lakin, Director of Planning

FROM Robert G. Finch, Deputy City Manager

SUBJECT Home Occupation Provisions of
the City Code

ROUTING:	
<input type="checkbox"/>	DEA _____
<input type="checkbox"/>	PM _____
<input type="checkbox"/>	JM _____
JAN 29 1981	
<input type="checkbox"/>	JB _____
<input type="checkbox"/>	BW _____
<input type="checkbox"/>	FILE _____

Following its review of the home occupation provisions of the City Code on January 27, 1981, the City Commission directed that:

- 1) The matter of the fee increase for home occupation licenses be referred to staff for study and recommendation; and
- 2) The ordinance be referred to MAPC to initiate legal requirements for amendment not to permit outside employees in "A" as well as "AA" zoning.

Messrs. Brenner and Anderson are asked to work together to develop a recommendation for an appropriate license fee.

Mr. Lakin is asked to bring the proposed amendment to the ordinance to the MAPC at the earliest date.


Robert G. Finch
Deputy City Manager

RGF/pd

cc: John Dekker, Director of Law

THE CITY OF WICHITA

OFFICE OF Housing and Economic
Development

DATE February 3, 1981


TO Robert Feldner, Superintendent of Central Inspection

FROM Don E. Anderson, Director of Housing and Economic Development

SUBJECT Home Occupation Provisions
of the City Code

Please assign a member of your staff to work with the designated representative of the Department of Administration to develop the necessary fee schedule for home occupation licenses as requested by the Board of City Commissioners. Attached is a copy of a memorandum from Mr. Finch wherein it is indicated that he would like for us to proceed to develop a new fee schedule for home occupation licenses. Obviously every attempt should be made to have the fee schedules properly reflect any costs in the administration of the home occupation license program.

Please contact Mr. Brenner's office in order to determine the person who will be assigned to represent the Department of Administration in this matter.


Don E. Anderson, Director
Housing and Economic Development

DEA/st
Attachment

cc: Robert G. Finch, Deputy City Manager
Russell L. Brenner, Director of Administration
Robert A. Lakin, Director of Planning
John Dekker, Director of Law

RECEIVED

FEB 4 1981
METROPOLITAN PLANNING
ROUTE _____

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

January 15, 1981

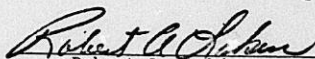
TO Robert G. Finch, Deputy City Manager
FROM Robert A. Lakin, Director of Planning
SUBJECT DR 80-22 - Review of Home Occupation Provisions
of the Code

At the request of the City Commission, a review of the Home Occupation provisions of the code were reviewed by the Planning Commission at their regular meeting of December 29, 1980. The recommendation of the Planning Commission was to not make any changes in the provisions of the zoning ordinance related to home occupations, but they did recommend that the City Commission consider a change in the license fee to assist in the administration of the home occupation provisions of the zoning ordinance and the licensing regulations.

Mr. Ray Waldo, 1316 North Dellrose, and Mr. K. W. Long, 427 North Tyler Road, both made presentations to the Commission relating to the problem of home occupations in their respective neighborhoods. Fred Linde, Grievance Officer, also indicated that the number of complaints on legitimate home occupations has been relatively few since he has been employed with the City.

Attached is my memorandum to the Planning Commission, along with several attachments which were provided to the Commission for background material on this subject. Also attached are copies of their minutes.

After hearing from all interested persons, the Planning Commission made the above recommendation to not make any changes to the zoning regulations. They did, however, feel that the three dollar annual license fee was insufficient to cover the cost of adequate administration of the regulation.


Robert A. Lakin
Director of Planning

RAL:rme
Attachments

cc: Don Anderson, Director of Housing & Economic Development
Robert Feldner, Superintendent of Central Inspection
Ralph Klose, City Treasurer
Ray Waldo, 1316 North Dellrose, 67208
K. W. Long, 427 North Tyler Road, 67212
Fred Linde, Grievance Officer
Russell Brenner, Director of Administration

EXCERPT FROM PLANNING COMMISSION MINUTES OF DECEMBER 29, 1980

6. DR 80-22 - Review of Home Occupation provisions of the Zoning Ordinance - Requested by City Commission.

GALBRAITH reviewed background materials sent to the Commission and pointed out why this item was before the Planning Commission. He said that a complaint was made to the City Commission a few weeks ago relative to a home occupation business next door to Ray Waldo. GALBRAITH said that in 1966, the Planning Commission liberalized the home occupation provisions. At that time, it was inserted in the text that all residential districts, other than single family, could have one paid assistant that did not live in the residence, to work on the premise. Also at that time it was clarified that home occupations could not be in detached accessory buildings in the single family district, but they can occur in detached buildings in the other residential districts. At that time, the Planning Commission attempted to eliminate such uses as beauty shops and barber shops as permitted home occupations. However, they were left as home occupations after considerable protest and debate from people with barber-shops and beauty shops in their homes.

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SHOOK asked Linde if he felt that based on the history of the home occupation, there is a need for a public hearing process. LINDE said no.

GLEN E. LYTLE, Special Assistant for Zoning, commented that he felt the Board of Zoning Appeals would be the body that one could appeal to as to whether Central Inspection was making the appropriate interpretation of the requirements on the home occupation.

RAY WALDO, 1316 N. Dellrose, stated that he was appearing before the Commission today to ask that they show the same consideration to homeowners in "A" zoning as shown to homeowners in "AA" zoning. He said that he asked the City Commission for this consideration and felt that they were leaning that way. The City Manager thought it would be proper procedure to obtain a recommendation from the MAPC. He said that he did not know what the zoning or their home was for the first 16 years that they lived in it. In the last two years, they have become painfully aware that they were in "A" zoning. All of the homes around them were occupied by only one family. Two years ago, the lady next door moved her beauty shop from a nearby shopping center to her residence. It was hard for them to understand that she was allowed to have another beauty operator in her business after she moved it to her house. He said that they have been advised, that under the existing City ordinance she is allowed one employee. She must have selected an employee from the previous location that had the largest amount of customers. The result has certainly caused them a lot of discomfort and annoyance. They don't allow any smoking in the shop, and unfortunately this employee is a heavy smoker. She uses her car for a smoking pallor, and she parks it just eight feet from his home. WALDO said that he has spoken to the owner about this and she said that everything they are doing is legal. He said it may be legal under the existing ordinance, but it is not morally right. WALDO said that he did not feel that when the City passed the ordinance they meant for the operation of these businesses to be disruptive and annoying to the neighbors, but there is no provision in the ordinance to handle it if the situation exist. He said that he was also asking that the language of the ordinance be made to read "the hours of the operation may be regulated". He was sure that would be hard to enforce, but it would be a tool that could perhaps be used to insure that a business right next door to a person's home might be operated at a reasonable hour. As the ordinance is written, there is nothing to protect the rights of the adjoining property owners. He said that he would sure like to know if there was someone in City Hall that could help him with his problem.

WALDO continued that he wished the language could include the suggestions of Mr. Linde.

GARDNER asked if Mr. Waldo had room for a fence down his property line or landscaping. WALDO said yes. GARDNER said that he finds in rental properties where people are fairly close together, such as in duplexes, tenants don't always get along. He said that as he has read through and followed this case, it has been his impression that while they may be pressing Mr. Waldo a bit from the one side, he probably has not tried physical remedies in terms of a noise barrier, such as fencing

and shubbery. He said that he empathize with Mr. Waldo's situation, but by the same token, they may be making a contribution by working, and it may be economically impossible to make a change otherwise.

GOEBEL commented that he was on the Planning Commission at the time the ordinance was rewritten in 1966, and he voted against the change, and not entirely for the home occupation, but was against it primarily for it in the "AA" area. He felt that the home occupation has worked real good. He felt that in this day and age more women are required to work, and if they can work at home it saves them from getting involved with day care centers. As far as complaints going to the BZA he felt it would result in the creation of more bureaucracy jobs. He felt his vote in 1966 was a mistake.

MOTION: That the Planning Commission recommend to the City Commission that no changes be made to the home occupation provision of the zoning ordinance, but that possible consideration be given to the need for increasing the annual licensing fees to assist in the administration of licensing of home occupations. Goebel moved, Bayouth seconded and it carried unanimously. Hennessy, Jones, Lofton and Martens were absent.

January 15, 1981

Robert G. Finch, Deputy City Manager
Robert A. Lakin, Director of Planning

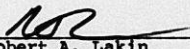
DR 80-22 - Review of Home Occupation Provisions
of the Code

At the request of the City Commission, a review of the Home Occupation provisions of the code were reviewed by the Planning Commission at their regular meeting of December 29, 1980. The recommendation of the Planning Commission was to not make any changes in the provisions of the zoning ordinance related to home occupations, but they did recommend that the City Commission consider a change in the license fee to assist in the administration of the home occupation provisions of the zoning ordinance and the licensing regulations.

Mr. Ray Waldo, 1316 North Dellrose, and Mr. K. W. Long, 427 North Tyler Road, both made presentations to the Commission relating to the problem of home occupations in their respective neighborhoods. Fred Linde, Grievance Officer, also indicated that the number of complaints on legitimate home occupations has been relatively few since he has been employed with the City.

Attached is my memorandum to the Planning Commission, along with several attachments which were provided to the Commission for background material on this subject. Also attached are copies of their minutes.

After hearing from all interested persons, the Planning Commission made the above recommendation to not make any changes to the zoning regulations. They did, however, feel that the three dollar annual license fee was insufficient to cover the cost of adequate administration of the regulation.


Robert A. Lakin
Director of Planning

RAL:rme
Attachments

cc: Don Anderson, Director of Housing & Economic Development
Robert Feldner, Superintendent of Central Inspection
Ralph Klose, City Treasurer
Ray Waldo, 1316 North Dellrose, 67208
K. W. Long, 427 North Tyler Road, 67212
Fred Linde, Grievance Officer
Russell Brenner, Director of Administration

December 30, 1980

Ray Waldo
1316 North Dellrose
Wichita, Kansas 67208

Re: DR 80-22 - Review of Home Occupation Provisions of the Zoning Ordinance.

Dear Mr. Waldo:

The Planning Commission at its regular meeting of December 29, 1980, reviewed the above captioned subject. Their action was to recommend to the City Commission that no changes be made to the Home Occupation Provisions of the Zoning Ordinance, but that possible consideration be given to the need for increasing the annual licensing fees to assist in the administration of licensing of home occupations.

The action of the Planning Commission will be scheduled for consideration by the Board of City Commission at its regular meeting of January 27, 1981. The meeting will be held in the City Commission Meeting Room, First Floor, City Hall, 455 North Main Street. We would call to your attention that Planning items are considered after all other items of business.

If you have any questions, please call our office.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:el

cc: E. H. Denton, City Manager
Fred Linde, Grievance Officer
Robert B. Feldner, Superintendent of Central Inspection
K. W. Long, 427 North Tyler Road, Wichita 67212

I WANT TO THANK THE CITY COMMISSION FOR ALLOWING ME TO
APPEAR TODAY. I APOLOGIZE FOR TAKING YOUR TIME BUT I'VE
TRIED WORKING THROUGH THE NORMAL CHANNELS OF THE CITY
ADMINISTRATION AND HAVEN'T HAD ANY RESULTS.

HOME OCCUPATION LICENSE NO. 184,586

1312 NORTH DELLROSE

EXPIRATION DATE: 12-1-80

TYPE OF BUSINESS : BEAUTY SHOP (VIRDEN)

I REALIZE THIS IS A MINUTE PROBLEM IN THE OVERALL FUNCTION
OF OUR FINE CITY BUT IT IS A BIG PROBLEM TO MY WIFE AND I
AND TO OUR LIVES.

I'D LIKE TO CALL YOUR ATTENTION TO THE DRAWING. IT IS A
TOP VIEW OF OUR HOME AND THE BUSINESS NEXT DOOR AND I HOPE
IT WILL HELP ME MAKE MY POINT.

WE'VE OWNED AND OCCUPIED OUR HOME FOR 18 YEARS. THE FIRST
16 YEARS WE ENJOYED BUT TWO YEARS AGO THE HOUSE NEXT DOOR
SOLD AND THESE PEOPLE OPENED A BEAUTY SHOP.

THE ENTRANCE TO THIS BUSINESS IS RIGHT IN THE CENTER OF OUR HOME, AND JUST 20 FEET AWAY. THE DRIVEWAY THAT RUNS THE FULL LENGTH OF OUR HOME AND USED FOR THE PARKING LOT FOR THIS COMMERCIAL VENTURE IS JUST 8 FEET FROM OUR HOUSE. THIS SHOP ENTRANCE SO NEAR OUR HOME AND THE PARKING LOT JUST 8 FEET AWAY WE ARE SUBJECT TO MANY LOUD NOISE STIMULI.

THE OPERATION OF THIS BUSINESS HAS DENIED US THE NORMAL USE AND ENJOYMENT OF OUR HOME AND CAUSED US PHYSICAL AND MENTAL STRESS.

AS YOU CAN SEE FROM THE COPY OF A RECENT ADVERTISEMENT THE SHOP IS OPENED 6 DAYS A WEEK - IT SHOULD SAY ALSO SIX EVENINGS - OR AT LEAST 6 LONG DAYS.

WE'VE EXPRESSED TO THE VIRDENS THAT WE WISH THEY DIDN'T START SO EARLY ON SATURDAY MORNING. I SHOULDN'T HAVE SAID ANYTHING. THEY USED TO NOT OPEN UNTIL 8 O'CLOCK. NOW THEY START AT 7 O'CLOCK. THEY MOVE THEIR CAR FROM THE PARKING LOT AT 7 O'CLOCK AND SHORTLY AFTER THE HIRED HELP AND CUSTOMERS START ARRIVING.

JUST TO MENTION SOME OF THE INDIGNITIES WE'VE HAD TO
PUT UP WITH THESE PAST TWO YEARS IS PEOPLE WE DON'T
EVEN KNOW WALKING RIGHT INTO OUR HOME. I'LL TELL YOU
IT IS VERY TRAMATIC. WE'VE HAD ALL AGES OF UNINVITED
GUESTS BOTH MEN AND WOMEN AS THE SHOP WORKS ON BOTH
MEN AND WOMEN.

ALSO MANY TIMES WE 'VE COME HOME AND OUR ALUMINUM STORM
DOOR IS BLOWING IN THE WIND. NO DOUBT SOME OF THE
CUSTOMERS FROM THE BEAUTY SHOP TRIED TO GET IN OUR HOUSE
AND LET THE STORM DOOR SWING FREE AS WE NEVER HAD THIS
PROBLEM BEFORE THIS BUSINESS OPENED UP RIGHT NEXT DOOR.

I'LL TELL YOU - YOU REALLY WONDER WHAT IS GOING ON WHEN
A STRANGE CAR PULLS UP INTO YOUR DRIVE AND SOMEONE
TRIES TO ENTER YOUR HOME.

I RECOGNIZE THE FACT THESE LADIES HAVE A RIGHT TO MAKE
A LIVING, BUT I DON'T THINK IT SHOULD BE AT OUR EXPENSE.

THEY NEED TO LOCATE IN COMMERCIALY ZONED PROPERTY
SUCH AS THE NEARBY SHOPPING CENTER THAT THEY WERE
PREVIOUSLY OPERATING FROM.

A CONSTANT IRRITATION IS AN EMPLOYEE WHO IS A HEAVY
SMOKER. "NO SMOKING" IS ALLOWED IN THE SHOP AND THIS
EMPLOYEE USES HER CAR AS A SMOKING PARLOR. EVERYTIME
SHE HAS A CIGARETTE WE GET AT LEAST FOUR BANGS -
TWO FROM THE SHOP DOOR AND TWO FROM HER CAR DOOR SLAMMING.
THAT ALL JUST BEING 8 FEET FROM OUR HOME. SOMETIMES HER
AND HER CLIENTS WILL STAND IN THE DRIVE AND SMOKE AND
VISIT.

WHEN YOU ARE SITTING IN OUR HOME AND THE CUSTOMERS CAR
DOORS ARE SLAMMED IN THE PARKING LOT YOU FLINCH, BUT
WHAT REALLY GALVANIZES YOU IS WHEN THE CUSTOMERS PARK
BETWEEN THE HOUSES AND HONK THE HORN. THESE HOMES BEING
SO CLOSE TOGETHER YOU GET A "VALLEY" EFFECT.

THOSE CAR DOORS SLAMMING SO NEAR OUR HOME CAUSES

A PERCUSSION IN OUR HOUSE.

THIS OPERATOR WHO DOESN'T LIVE THERE NOT ONLY SMOKES
A LOT BUT COMES AND GOES MANY TIMES, I GUESS GOING AFTER
MEALS, REFRESHMENTS AND SO FORTH.

ONE THING THAT REALLY RANKLES US IS WHEN THE VIRDENS
LEAVE AND WE ARE LEFT WITH THE HIRED HELP AND THE
CUSTOMERS. I THINK SOMETIMES THEY LEAVE JUST TO GET
AWAY FROM IT ALL.

I AM ASKING THAT THIS LICENSE NOT BE RENEWED AS IT
CONSTITUTES A NUISANCE AND CERTAINLY DENIES US THE USE
OF OUR HOME AS WE HAVE BEEN ACCUSTOMED TO OVER THE
PAST 16 YEARS.

I'LL TELL YOU NONE OF YOU WOULD LIKE IT IF YOU WERE IN
OUR CIRCUMSTANCES - NO ONE WOULD.

I THINK YOU SHOULD PUT YOURSELVES IN OUR POSITION AND
ASK YOURSELVES, "WOULD I LIKE TO HAVE A BEAUTY SHOP
OPERATING NEXT DOOR TO MY RESIDENCE?"

WE HAVE ASKED THIS QUESTION OF MANY, MANY PROPERTY OWNERS
AND ALL STATED THEY WOULD NOT LIKE IT AT ALL.

I COULD GO INTO FAR GREATER DETAIL OF THE OPERATION OF
THIS BUSINESS AND HOW IT DISTURBS OUR PEACE AND THE
TRANQUILITY OF OUR HOME.

Back to School Specials

Student Haircuts

\$5.00

Good thru August 30.

Curly or Body Permanents

\$20.00

Long or Tinted hair-extra- Good thru 9-30

VirDen's Hairstyling

1312 N. Dellrose

683-5974

OPEN SIX DAYS A WEEK

Susie Jenkins - Martha Uirden

December 19, 1980

Ray Waldo
1316 North Dellrose
Wichita, Ks. 67208

Re: DR-80-22

Dear Mr. Waldo:

The above-captioned subject was scheduled for consideration by the Planning Commission at its regular meeting of December 18, 1980. Inasmuch as the Planning Commission lost a quorum, this case was deferred to their next regular meeting which is on Monday, December 29, 1980 and begins at 1:30 p.m. This meeting to be held in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas.

There were three other zoning cases deferred which will be considered prior to this matter. However, this item will be discussed prior to the consideration of other new zoning cases.

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

Sincerely yours,

Jack H. Galbraith
Chief Planner

JHG:sad

cc: K. W. Long, 427 North Tyler Road, Wichita 67212
E. H. Denton, City Manager
Fred Linde, Grievance Officer
Robert Feldner, Superintendent of Central Inspection

December 11, 1980

Mr. Ray Waldo
1316 North Dellrose
Wichita, Kansas 67208

Re: DR-80-22

Dear Mr. Waldo:

Enclosed herewith is a copy of the background information that has been assembled for the Planning Commission relative to home occupations. As you will note, the matter has been referred to the Planning Commission for review and recommendation.

This has been placed on their agenda for discussion at their meeting of December 18, 1980. The meeting begins at 1:30 p.m. and is held in the City Commission meeting room on the first floor here at City Hall. The item is near the end of the agenda so it is difficult to determine the exact time it will be discussed, however, it will probably be sometime after 3:30 p.m.

Should you wish to share your concerns on home occupations with the Planning Commission, you should appear at this meeting.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL:sad

Encl.

December 11, 1980

Mr. K. W. Long
427 North Tyler Road
Wichita, Kansas 67212

Re: DR-80-22

Dear Mr. Long:

Enclosed herewith is a copy of the background information that has been assembled for the Planning Commission relative to home occupations. As you will note, the matter has been referred to the Planning Commission for review and recommendation.

This has been placed on their agenda for discussion at their meeting of December 18, 1980. The meeting begins at 1:30 p.m. and is held in the City Commission meeting room on the first floor here at City Hall. The item is near the end of the agenda so it is difficult to determine the exact time it will be discussed, however, it will probably be sometime after 3:30 p.m.

Should you wish to share your concerns on home occupations with the Planning Commission, you should appear at this meeting.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL:sad

Encl.

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

December 10, 1980

TO Wichita-Sedgwick County Metropolitan Area Planning Commission
FROM Robert A. Lakin, Director of Planning
SUBJECT DR-80-22 - Review of Home Occupation provisions of the
Zoning Ordinance

On November 24, 1980, the City Commission directed that a review of the Home Occupation provisions of the Code of the City of Wichita be made by the Planning Commission, and that some recommendation be made on possible amendments. This item will be placed on the Planning Commission agenda for the meeting of December 18, 1980.

This matter was brought to the attention of the City Commission by Mr. Ray Waldo of 1316 North Dellrose, with specific concern of an existing beauty shop that is a home occupation next door to him. Attachment No. 1 is a copy of this correspondence. Attachment No. 2, is a memo from Fred Linde, Grievance Officer, stating his opinions on the subject of how some improvements might be made in the regulations. Attachment No. 3 is the minutes of the City Commission meeting.

BACKGROUND:

Home occupations have been permitted in the residential zoning districts since the adoption of zoning in 1922. However, early ordinances permitted only home occupations by Physicians, Dentists, Musicians and Artists in their residence. Over the years additional amendments have added other occupations to the list to include those considered as personal services performed by those living in the residence, including Barbers, Beauty Operators and seamstresses. The home occupation provision remained with this general limitation from early 1930 until a major amendment was made in 1966.

Attachment No. 4, for background information, is a copy of the minutes of the Planning Commission hearing of October 20, 1966, on the amendment related to home occupations. Attachment No. 5 is the existing Ordinance pertaining to Home Occupations. The amendments made at that time relaxed the restrictions and allowed many uses as a home occupation previously not permitted. In the process of including new home occupations, the adoption of noise standards were included to provide some protection to the neighbors from those uses that tend to use equipment not ordinarily found in a residence.

At that same time a licensing provision was established to permit the office of Central Inspection with a tool to provide annual review of the premises for compliance with the regulations. This remains in effect, and is the same annual fee of three dollars per year as was originally established.

Summary:

As you will note, Mr. Waldo emphasized two basic problems with the adjoining home occupation. One being the permitted employee from outside the home, the other being the possible limitation on the hours of operation of a home occupation.

It should be noted that in the 1966 amendment to the code, this was a major issue of discussion, and this was the first time an employee not residing in the residence was permitted. This was permitted in all but the "AA" Single-family District.

Limiting the hours of operation would become quite a problem, particularly when many home occupations are a part time business and are conducted at night and on weekends as a method to supplement family income. Limiting hours would also be extremely difficult to administer. Other business hours are not restricted by zoning in the community.

RECOMMENDATION:

Make such recommendation as the Commission deems appropriate to either leave the Home Occupation provisions as they are, or authorize advertising for public hearing to make amendments to the home occupation regulation together with direction as to the nature and extent of changes which the Commission feels appropriate to discuss at a public hearing.



Robert A. Lakin
Director

cc: E. H. Denton, City Manager
Fred Linde, Grievance Officer
Robert Feldner, Superintendent of Central Inspection
Mr. Ray Waldo, 1316 North Dellrose, Wichita
Mr. K. W. Long, 427 North Tyler Road, Wichita 67212

Galbraith

Grievance Office

September 4, 1980

E. H. Denton, City Manager

Fredrick A. Linde, Grievance Officer

The Long March

Referee Inspection of Property
of Dr. Moskal for Home
Occupation License
File #8977

Several months ago Mr. Kenneth Long and his parents, Mr. and Mrs. S. Long, all of 427 N. Tyler Road, discussed with you their dissatisfaction over the administration of the Home Occupation license. The dissatisfaction of the Longs centers over granting of a Home Occupation license to Dr. J. P. Moskal who resides and maintains a chiropractic office at 415 N. Tyler. Dr. Moskal first applied for a Home Occupation license in 1978 and the Longs immediately protested the procedures, the quality of Central Inspection's inspections and made general allegations against Dr. Moskal, principally that he was not an actual resident at 415. The City code requires the holder of the home occupation license to reside in the residence and to occupy 50% or more of the square footage of the residence for true living purposes.

The burden of the Long complaint in May, 1980 was to request the right to participate in a public hearing prior to the renewal of Dr. Moskal's Home Occupation license. It was subsequently determined by the Law Department that the public has no right to protest the license and that the only remedies available to the Longs would be civil actions or a violation of 3.04.070 of the City code which would then clear the City for actions against Dr. Moskal. A summary of the Law Department's opinion was read to Kenneth Long over the telephone on July 21.

On Thursday, August 28, I accompanied Joe Donnelly of Central Inspection on an unscheduled inspection of the Moskal property. We found the layout of the house unchanged from 1979. No additional floor area is devoted to the chiropractic business. Dr. Moskal maintains he is a resident of the property.

RECEIVED

DEC 23 1980

METROPOLITAN PLANNING

ROUTE

E. H. Denton
September 4, 1980
Page 2

The decision on renewing the license will be made, I presume, by Central Inspection. I can assure you that in my judgement the basic tests of the zoning code are being met by Dr. Moskal.

At approximately 4:30 p.m., August 28, I was accosted by Ken Long and his father immediately outside the door of the Grievance Office. Kenneth Long expressed anguish over my opinions about Dr. Moskal's property and seemed to be somewhat perturbed when I gave as my opinion that we know of no reason to recommend against a reissuance of the Home Occupation license.

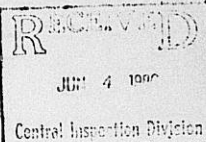
In my judgement, Central Inspection has been circumspect and factual in its evaluation.

Fredrick A. Linde,
Grievance Officer

FAL:kg

THE CITY OF WICHITA
OFFICE OF DEPARTMENT OF LAW

DATE June 2, 1980



TO Robert G. Finch, Deputy City Manager
FROM Douglas J. Moshier, Assistant City Attorney
SUBJECT Kenneth Long Complaint

In your memo of May 28, 1980, you requested that we provide a legal opinion addressing the following questions:

1. Whether a member of the public has a right to require and participate in a "public hearing or review" to consider the matter of whether or not the City will issue a home occupation license.
2. Under what circumstances the "right" to a home occupation license may be challenged.

With regard to the first question posed, it is our opinion that a citizen has no legal right to compel a public hearing in order to consider granting or denying an application for a home occupation license. The provisions of Section 3.96.010 of the City Code define the procedure for applying for and receiving a home occupation license. Nowhere in the ordinance is there provision for a public hearing or public review of such application. Instead, the decision as to whether to grant or deny such an application for the license is a matter to be determined by the Superintendent of Central Inspection. The only discretion provided the Superintendent in such decision is in determining what information is to be required from an applicant who wishes to receive such a license. If the information submitted is as requested and shows that the proposed home occupation is in conformance with the ordinance regulating such occupation (Section 28.04.020) a license must be issued.

While there is no provision for a public hearing, there is certainly nothing to prevent Mr. Long from supplying to the Superintendent of Central Inspection whatever information or evidence he feels relevant to the determination as to whether Dr. Moscal's home occupation is in conformance with Section 28.04.020.

With regard to the second question posed, a home occupation license may be denied if the information available to the Superintendent of Central Inspection shows that such home occupation is not or will not be in conformance with Section 28.04.020. A home occupation license properly issued may subsequently be revoked for a number of reasons, all of which are set out under Section 3.04.070 of the City Code.

Robert G. Finch
June 2, 1980
Page 2

Denial of a home occupation license application gives rise to a right of appeal in the applicant, under the provisions of Section 3.04.065 of the City Code.

An action to revoke an existing license must be commenced by the City before the governing body, after having given five days' written notice to the license holder.

Applying these principles to the specific complaint of Mr. Long against Dr. Moscal, it is clear that if Dr. Moscal meets the requirements of Section 28.04.020 and makes due application for a license pursuant to Section 3.96.010, he is entitled to a home occupation license as a matter of right. Likewise, if during the term of that license he continues to conduct the home occupation in accordance with Section 28.04.020 and he does not violate any of the provisions of Section 3.04.070, he has a right, vis-a-vis the City, to continue his home occupation.

It is possible that Mr. Long may have a private right of action against Dr. Moscal, on the grounds that Dr. Moscal's use of his property constitutes a nuisance to Mr. Long's use, occupation and enjoyment of his property. This, however, is a private matter and one which Mr. Long should pursue in the District Court.


If Mr. Long is able to present information and evidence to the Superintendent of Central Inspection which would indicate non-compliance on the part of Dr. Moscal with Section 28.04.020 or a violation of one of the provisions of Section 3.04.070, the City could choose one of the following courses of action:

1. At the time of Dr. Moscal's license application, the City could choose to deny his license.
2. The City could immediately proceed under Section 3.04.070 to revoke Dr. Moscal's existing license.
3. The City could proceed to file a complaint in the Municipal Court against Dr. Moscal alleging a violation of the provisions of Section 28.04.020.

In connection with the latter two of these courses of action there would, of course, be an "open hearing" to consider the alleged violations by Dr. Moscal of the City Code. Under the first such course of action, Dr. Moscal would have a right of appeal which would result in an "open hearing" to consider his right to a home occupation license.

Robert G. Finch
June 2, 1980
Page 3

It should be noted, that even though Mr. Long may feel that he has information or evidence showing a violation by Dr. Moscal of the applicable ordinances, any decision as to whether or in what manner the City will proceed against Dr. Moscal is for the Superintendent of Central Inspection.


Douglas J. Moshier
Assistant City Attorney

DJM:cdh

cc: John Dekker, Director of Law
Fred Linde, Community Grievance Officer
Joe Donnelly, Housing Code Administrator

Grievance Office

May 17, 1979

Bob Finch, Deputy City Manager

Fredrick A. Linde, Grievance Officer

Home Occupation Activities
415 N. Tyler Road
File #8977

Last August Mr. Kenneth Long of 427 N. Tyler Road talked with you and with Mr. Denton about the alleged violations of our city home occupation code by a Dr. John Moscal, a chiropractor. At the time of the first calls, Dr. Moscal was in the process of relocating his office into a home at 415 N. Tyler, neighborhood zone "AA". Mr. Long made a number of subsidiary complaints but the burden of the issue was that Moscal was not a legal resident of the house as the holder of a home occupation license must be.

On August 29, 1978, I accompanied two of the Central Inspection zoning inspectors to the Moscal property and participated in a rather critical survey of the property. We concluded that Dr. Moscal used something less than 50% of the floor area for his business and was in the process of establishing his residence in the remaining portion of the house. At the time of the inspection his progress towards occupancy was indeed minimal but appeared to offer sufficient accommodations for a spartan type of living.

There were minor omissions and infractions of some of the zoning codes but in general all of these elements were voluntarily and timely corrected by Dr. Moscal.

Continuously since August of last year Mr. Long has alleged that his neighbor is not a bonafide resident. Mr. Long has kept extensive logs of Dr. Moscal's comings and goings and Mr. Long expresses the conviction that Moscal

Bob Finch
May 17, 1979
Page 2

rarely, if ever, spends a night in the house. Last August, as I mentioned, the living preparations were marginal and consisted of inadequate kitchen appliances, a cot bed, and no surplus clothing. Dr. Moscal was counseled to provide more conventional accommodations. It is probably germane to point out that Dr. Moscal has always planned to occupy the house as a bachelor and for this reason he said his needs for cooking facilities and other house-keeping devices were limited.

A few weeks ago Mr. Long renewed his complaints and at that time alleged that Dr. Moscal moved in surplus office equipment and appeared to have taken over more than the permitted 50% floor area. We arranged with Central Inspection for another inspection and that inspection showed no significant changes from those of August and September. Mr. Long was advised of that inspection and then challenged the conditions under which it was made and particularly questioned whether or not the inspector had alerted Dr. Moscal to the pending inspection (he had not).

Last Monday Mr. Long continued his allegations and this time alleged that surveillance convinced him that Dr. Moscal was, in fact, not living in the house. He asked for another inspection and asked how assurance would be given about alerting Dr. Moscal to the inspection.

Mr. Azim of Central Inspection made the most recent survey on Wednesday. His observations were completely in line with all earlier ones and the conclusion is that Dr. Moscal is within the guidelines of the home occupation code.

I have come to the opinion where I believe Dr. Moscal has been converted from the wolf to the lamb. Mr. Long appears obsessed with the matter and in addition to the surveillance of Moscal, logging in Dr. Moscal's comings and goings and following him in his automobile

Bob Finch
May 17, 1979
Page 3

questions the integrity and ability of the inspectors. Mr. Long has cost the city a significant sum of money and his continued demands against Dr. Moscal are unfair. Dr. Moscal is being subjected to annoyance, interruptions to his business and embarrassment by the frequent inspections and deserves consideration equivalent to that given Mr. Long. For this reason I believe quite strongly that future requests by Mr. Long against Dr. Moscal should be rejected. There is no profit in continuing the visits and the inspections on the basis of an individual dislike of a person.

FAL
Fredrick A. Linde,
Grievance Officer

FAL:kg

cc: Joe Donnelly, Central Inspection Division ✓

THE CITY OF WICHITA
OFFICE OF CITY MANAGER

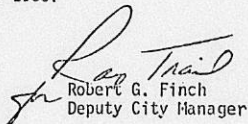
DATE May 28, 1980

TO John Dekker, Director of Law
FROM Robert G. Finch, Deputy City Manager
SUBJECT Kenneth Long Complaint

Attached are copies of correspondence from Fred Linde, Community Grievance Officer, pertaining to Kenneth Long, 427 North Tyler Road.

Please provide a legal opinion pertaining to the question of a public review on the issuance of a home occupation license and under what circumstances the "right" for a home occupation license may be challenged.

Your report, please, by June 23, 1980.


Robert G. Finch
Deputy City Manager

RGF/hpd

Attachments

cc: Fred Linde, Community Grievance Officer
Joe Donnelly, Housing Code Administrator

ATTACHMENT #1

THE CITY OF WICHITA
OFFICE OF CITY MANAGER

DATE November 26, 1980

TO Robert A. Lakin, Director of Planning
FROM Robert G. Finch, Deputy City Manager

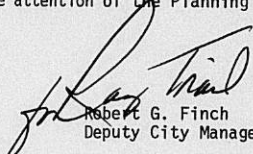
SUBJECT Review of Home Occupation
License Code Provisions

Attached are copies of correspondence between the City Manager's Office and Mr. Ray Waldo, 1316 North Dellrose, regarding a home occupation beauty shop operation at 1312 North Dellrose.

Mr. Waldo presented his complaint on the beauty shop operation to the City Commission on November 24, 1980. Mr. Waldo specifically questioned the number of outside employees at the beauty shop and its hours of business.

The City Commission directed that the matter of home occupations be referred to the MAPD for review of the code provisions pertaining to home occupations with specific attention to the number of outside employees allowed and permissible hours of operation.

Please bring this matter to the attention of the Planning Commission for its review and recommendation.


Robert G. Finch
Deputy City Manager

RGF/pd
Attachment

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DEC 1 1980
METROPOLITAN PLANNING
ROUTE

11/25

November 18, 1980

Mr. Ray Waldo
1316 North Dellrose
Wichita, Kansas 67208

Dear Mr. Waldo:

Your November 1, and November 8, 1980, letters to the City Manager are acknowledged.

With regard to your request for an administrative hearing pertaining to the home occupation license for a beauty shop at 1312 North Dellrose, the City's legal department has previously issued an opinion stating that a citizen has no legal right to compel a public hearing in order to consider granting or denying an application for a home occupation license. While there is no provision for a public hearing, there is certainly nothing to prevent you from supplying information or evidence which you feel is relevant to the determination as to whether the home occupation license should be renewed. By copy of this letter your correspondence is being provided to Don Anderson, Director of Housing and Economic Development, with the request that the Central Inspection Division be advised of your concerns and directed to continue to monitor the business at 1312 North Dellrose in order to assure code compliance.

A home occupation license may be denied if information is provided which shows that such home occupation is not or will not be in conformance with the zoning regulations. A home occupation license may be revoked for a number of reasons, all of which are set out under Section 3.04.070 of the City Code (copy provided).

The Central Inspection Division must inspect the business at 1312 North Dellrose prior to renewing the home occupation license. Should there be any code violations, they will be documented and acted upon accordingly.

It is my understanding that you plan to request an appearance before the City Commission to discuss this matter. In order that the Commissioners may be aware of your concerns, copies of your correspondence and our response are being provided.

Mr. Ray Waldo
November 18, 1980

Thank you for bringing this matter to our attention.

Sincerely,



Robert G. Finch
Deputy City Manager

RGF/hpd
Enclosure

cc: The Honorable Board of City Commissioners (w/a)
Don E. Anderson, Director of Housing and Economic Development (w/a)

November 8, 1980

Mr. E. H. Denton
City Manager
City Hall - Thirteenth Floor
455 North Main Street
Wichita, Kansas 67202

Office Of The City Manager	
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RE: Home Occupation License No. 184,586
Address: 1312 North Dellrose, Wichita, Ks.
Expiration Date: 12-1-80
Type of Business: Beauty Shop (Virden)

Dear Mr. Denton:

I don't know if you received my previous letter dated November 1, 1980, as I did not receive acknowledgement of this letter (although someone signed E. H. Denton on the return I received from the post office on Certified Letter No. 832958, copy of which is attached).

I am writing to say that I feel the City of Wichita arbitrarily issued this license for this beauty shop to operate without any regard to the adjoining homeowner.

I might say this morning (Saturday) the Virdens moved their car from the parking lot (driveway) at 7 A.M. and shortly thereafter the hired help and customers started arriving, and they have been going strong ever since. Saturdays are like a convention over there, EVERY Saturday.

With this letter, I am requesting an Administrative Hearing in regard to the issuing of this license by the City of Wichita and the resulting

Mr. E. H. Denton

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commercial operation of this beauty shop with its parking lot just eight (8) feet from our house. I am requesting this Hearing at the earliest possible time your schedule will allow.

I certainly hope that this license has not been summarily renewed.

I remain,

Sincerely,

Ray Waldo

Ray Waldo
1316 North Dellrose
Wichita, Kansas 67208

Enclosure: Return Receipt

cc: Bob Knight

November 1, 1980

Mr. E. H. Denton
City Manager
City Hall - Thirteenth Floor
455 North Main Street
Wichita, Kansas 67202

Office Of The City Manager	
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RE: Home Occupation License No. 184,586
Address: 1312 North Dellrose, Wichita, Kansas
Expiration Date: 12-1-80
Type of Business: Beauty Shop (Virden)

Dear Mr. Denton:

I would like to preface this letter by saying that we have owned and occupied our home at 1316 North Dellrose for the past 18 (eighteen) years, and we have enjoyed our home for the first 16 (sixteen) but the past two (2) years have been tumultuous ones for us. This is due to the commercial operation that has been functioning from the residence next door at 1312 North Dellrose. Please note from the enclosed drawing that the entrance to the beauty shop is near the center of our home and directly across from it and only 20 (twenty) feet away. In the operation of this commercial venture the driveway that is only 8 (eight) feet from our home is utilized as the parking lot for this business.

I am writing to request that this license not be renewed because it constitutes a nuisance.

I would like to request that all action necessary be taken to insure that this nuisance does not exist past November 30, 1980. Not knowing what the

Mr. E. H. Denton

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November 1, 1980

necessary steps would be, I would like your guidance in this regard.

The operation of this business has denied us the normal enjoyment of our home this past two years.

These ladies have a high volume operation that previously was operating in a commercial environment (nearby shopping center) before they moved to this residence. They need to move their operation back to property that is zoned commercial for no other reason than the fact they probably have longer hours of operation than a typical commercially situated beauty shop. What we have at this location is a business that is potentially opened 24 hours a day; it is certainly in operation much more than your standard 8 to 5 Monday thru Friday. It is also handy for salesmen to call after business hours for they know this location is always open, and of course, for customers to come at any hour of the day or night.

The operation of this business so close to our home has caused us physical and mental stress. A person is subject to enough stress in every day life in trying to earn a living without being subject to stress in their home. We feel we should be able to enjoy our home and not have a busy commercial operation just 20 (twenty) feet away.

The customers that frequent this business utilize the parking lot (driveway) just 8 (eight) feet from our home, and when they slam their car doors it reverberates in our house. The door to this business also has the loudness

Mr. E. H. Denton

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November 1, 1980

of a car door slamming so when a customer arrives or departs we are subject to several loud noise stimuli. I think a psychologist could tell you that a person that is subjected to frequent random loud noise stimulus will suffer from the effects and I am about to get an ulcer from it.

These dwellings are set only on two 25 (twenty five) foot lots so you don't have much separation to begin with. Not only is our home physically close to this commercial operation but this location is particularly unsuited due to the fact that the residence at 1312 North Dellrose runs the full length of our home and with the garage at the rear it creates a semi-enclosure. Also, the parking lot for the business runs all along our house and extending both ways from it. What you get here with the sound generated by the customers, employees, and support people and vehicles is a "valley" effect and our home gets the full blunt of the noise. I might qualify support vehicles by saying delivery of shop supplies, laundry trucks, salesmen calling, etc.

To share with you what we have to put up with trying to exist next door to a beauty shop, I'll say we hope that the ladies will only have four or five customers each hour and the resulting half a dozen loud noise stimuli from each of these. A certain percent of the customers are mothers who bring their offsprings to get their hair fixed. The mother goes in the shop and tells how she wants her daughter's hair fixed - - then the mother leaves, I suppose to go to the nearby shopping center to shop and then the mother comes back. You get 15 (fifteen) bangs on one appointment and two car starts and stops, it gets darn aggravating. Another multiple bangs per customer occurs as some of the

Mr. E. H. Denton

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November 1, 1980

husbands will drop their wives off and leave. Later they come back and check a time or two to see if they are finished, therefore, you get a lot of noise stimuli per customer this way.

As the saying goes, it is never so bad that it can't get worse, and this is true when a customer arrives and goes into the shop and has her children with her and they are left outside to entertain themselves. The licensee accomodates the customer by providing the customer's children with someone to play with - - between the customer's children and the operator's children they are in and out of the beauty shop many, many times while the customer is there getting her hair fixed. It is like having a Day Care Center without an attendant. Another annoying situation is when the customer has a small baby with her and she will go out and start her car between the houses and let it run on fast idle until she thinks it has warmed up enough to take her child out.

Every once in awhile you will get a flurry of noise in the driveway and what is happening there will be a car in the driveway that needs to get out then the customer will come out with towels on their heads and they will play ring-around-the-rosie with the cars in the parking lot (driveway), the loud noise you get per customer really goes up.

Our home is not air conditioned and we regularly have the windows open for ventilation during the warm weather and many times when customers or their husbands waiting for their wives will set between the house and leave their car run; I guess to keep the car air conditioner running. We not only have to endure the engine running but the fumes from the car entering our home.

Mr. E. H. Denton

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November 1, 1980

Not only do they leave the car running during the summer but during cold weather they will set out in the car with the engine running so they can smoke. To make the point that this is not a seasonal annoyance, I will say we know when it has snowed overnight during the winter as Mr. Virden will be out there before 6 A.M. shovelling the snow from the parking lot (driveway) knowing full well this is certain to wake us up as it is an hour or more before we normally awake. We note that this activity is directly related to the operation of this business because he didn't used to shovel the snow from his driveway at all, and darn sure not in the dark of the morning - - but he knows they have a good commercial trade and he wants to take care of it. Also, the Virdens get up early and move their car far from their shop and park it on the street so the customers can use the driveway as a parking lot.

In this same vein, we have expressed to the Virdens that we wished that the business didn't start so early especially on Saturday morning as we like to sleep late and they told us 7:30 A.M. was a reasonable time for a business to open on Saturday morning so we resigned ourselves to this provocation. I used to like to take a nap and rest during the day if it were cloudy and rainy, but you sure can't now -- when that business is going it is just one bang after another. However, we think it was a bit much when they accepted an appointment before 7 A.M. on Saturday morning. This one early appointment had her husband with her and as he got cold he would start his car up and run it until he got warm. (That was well before 7 A.M.) It makes a person want to say something but we have learned the Virdens are not interested in our

Mr. E. H. Denton

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November 1, 1980

grievances and if we say anything conditions just get worse and our threshold of annoyance has all ready been breached. I might add the beauty shop is always open before 8 A.M. on Saturday, and they will have four customers by 9 A.M., plus the hired help arriving and her unloading the supplies she brings with her.

To recount some of the indignities we have suffered through this past two years, one that was very tramatic, and I honestly feel could cause a person to have heart seizure is a person walking all the way into our home, someone I did not know at all. You don't know what you will do when you are confronted inside your own home by a total stranger. What I did was just stood and looked at them and didn't say anything until they tried to open the door to the basement. I asked what they wanted and they said they wanted the beauty shop. We've taken as a defensive move trying to always keep our doors locked but the problem still persists of people trying to get in our home. This shop works on both men and women, and I'll tell you it is real tramatic when a man you don't know enters your home. We have also noticed that frequently our aluminum storm door will be swinging in the wind when we return home and because we have glass in it to try and conserve energy it takes a desire to get it closed, not just release it, so the air cushion effect is overcome. We have been semi-lucky inasmuch as the wind hasn't caught it and broke the glass out, but I think whipping back and forth in the wind has sprung it some. We never had this problem before this business was started next door to us. Of course, sometimes they drive right up in our driveway, park their cars, then try to get into our home. We sure don't like it and we don't feel we should have to tolerate

Mr. E. H. Denton

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any of these annoyances so that these ladies can operate at a location that I guess offers lower overhead costs but that location does not lend itself to a commercial operation without causing unwarranted nuisance to the abutting property.

A constant irritation is an employee that is a heavy smoker. No smoking is allowed in the beauty shop so this employee uses her car as a smoking parlor. She parks her car in the driveway, which is just 8 (eight) feet from our house, and each time she has a cigarette we get at least four loud noise stimuli, that being, slamming her car door twice and the shop door twice. Also, when she is cold, she will have her car running while she smokes. The way we have it figured she takes a customer in and after she gets them under the dryer she comes out for a smoke. Then she will come out with the customer and they will stand in the driveway near our house and visit until the next customer arrives, and just to state it plainly, we don't appreciate strangers standing outside our windows smoking and having a pow wow. Also, this employee has a certain number of friends that show up and they aren't even customers, and they stand between the houses and visit, of course, we are subjected to the starting and stopping of the vehicles and the banging of the car door even when it is just a social call. Of course, some times during the social calls, they will sit out in the visitor's car and talk and let the engine run. I don't know exactly what the matrimonial status is, but she (the employee) must be either single or divorced.

If you are sitting in our home you flinch as a car door is slammed between the houses. The door to the shop is as loud as a car door slamming. Of

November 1, 1980

course, that door was not made for the commercial service it has been called upon to give. These homes here are all similar and were built during World War II and perhaps they aren't the best built structures which probably in part accounts for the percussive effect in our home when the customers slam their car doors between the houses. What really galvanizes you is when the husbands come to pick up the customer and they honk the horn between the houses.

This heavy smoking employee was discarding her cigarette butts in our yard and we asked the Virdens if perhaps this could be changed. We also asked them if the employee could park some place else other than so near our home as her frequent smokes, and of course, her going and coming from getting refreshments and meals, and the accompanying slamming of her car door was unpleasant for us. The depositing of the cigarettes by the employee has abated although she hasn't mentioned this to her friends that call socially as they continue to discard their cigarette butts in our yard. However, the employee has made up for not discarding her cigarette butts in our yard by the voracious way she slams her car doors. She really gives us a crescendo when she is loading up her paraphernalia to leave. I think she slams all doors and the trunk at least twice. At a later date when visiting with the Virdens, we expressed our disappointment that we couldn't have been shown this one consideration and not have the employee park so close to our home especially because of her frequency of smoking and slamming her car doors. They told us everything they were doing was legal and that we would just have to get used to it, therefore, I can see that they will say nothing to make this employee mad as

Mr. E. H. Denton

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November 1, 1980

she is a high volume operator.

We haven't gotten used to it and we don't think an operation such as they are conducting is what the City Ordinance is meant to be. We think that at the very least they are in violation of the spirit of the Ordinance.

The Virdens treat this property like it were vacant so we have been forced to conform. Sometimes we think the business is closed for the night and we try to relax and then a lot of customers arrive within a short period of time, say half an hour or so, and they not only fill the driveway up, blocking the sidewalk, and all but occupy all available parking on the block. It really makes you wonder what the maximum occupancy that is recommended by the Fire Department. Even though their high volume employee is in attendance there is no way all the customers could have their hair done in the couple hours or so they are in the beauty shop. We figure there must be a demonstration of hair styling or something taking place. This idea is further strengthened by the fact all the customers leave some what in mass and are gone by 10 P.M. or so.

Another effect of no smoking allowed in the beauty shop is when customers arrive they discard their cigarettes in our yard as they enter the shop. We feel this subjects us not only to the litter but an unusual exposure to possible fire especially at this time of year with the dry grass and leaves. Of course, I know they aren't going to say anything to their clients as this business is like all commercial operations - the customer is always right.

Mr. E. H. Denton

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November 1, 1980

Another thing that really rankles us is when the Virdens aren't even at home and we get stuck with the hired help and the customers. This is especially true in the evenings, we think the Virdens leave sometimes just to get away from it and we are left with the hired help and customers.

A person is in a bad way when they are ill and can't leave home and you have to stay and take the noise stimuli all day.

I want to state, I will be available any or all ^{the time} from now until December 1, 1980, that I might be of assistance to you so as to insure we do not have to endure this nuisance any longer.

We have had an excruciating two years, and we have really been broadsided with the noise. The operation of this business has diminished our quality of life. All we desire is the normal use of our home back as we had come to know it prior to the opening of this business next door to us.

In summation and closing, I would hope this letter has conveyed the thought that the operation of this business is an unbearable nuisance to us, and we don't think this viable commercial venture should be regarded as a "Home Occupation". Also, I would hope from the explanation and the enclosed drawing that the physical set up of these homes and their close proximity shows the incapability of a residence and a business.

Mr. E. H. Denton

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November 1, 1980

My wife and I have corresponded and met with Mr. Don E. Anderson, Director, Department of Housing and Economic Development, City of Wichita, feeling this problem is germane to his function in city government. This endeavor has been to no avail.

I would like to reiterate and affirm that the issuance of this license (Home Occupation License No. 184,586) by the City of Wichita and the resulting commercial application of this residence has caused us great annoyance and has destroyed the tranquillity of our home and has materially reduces the value of this property as our domicile although we have eighteen (18) years of time and money invested. It has caused us considerable stress and annoyance and denied us the normal enjoyment of our home this past two years.

Enclosed a recent advertisement that the Virdens circulated in Pennypower, which is certainly a high volume vehicle. It should state, "Open six days and six evening" or at least six long days.

Your attention to this matter will be greatly appreciated.

I remain,

Sincerely,

Ray Waldo

Ray Waldo
1316 North Dellrose
Wichita, Kansas 67208

Telephone No. 684-9372

Enclosures: 1. Drawing
2. Advertisement

THE CITY OF WICHITA
OFFICE OF Grievance Office

DATE November 25, 1980

ATTACHMENT #2

TO Bob Lakin, Planning Department
FROM Fredrick A. Linde, Grievance Officer

SUBJECT Home Occupations

I am writing this memo following the appearance of Mr. Ray Waldo of 1316 N. Dellrose before the City Commission on November 25.

I believe you've been introduced to Mr. Waldo's criticisms, but basically they involve the application of the Home Occupation Section of Chapter 28 to his unique situation. Mr. Waldo's home is in an "A" zone and his neighbor runs a beauty shop at 1312 N. Dellrose. The conclusion of Mr. Waldo's complaint was that the City Commission asked the City Manager to consider revisions to the Home Occupation Section of the zoning code.

In general, we have not received the types of cases in this office which would indicate any major defect in the present code. It seems to work well. In most cases complaints center on minute portions of the code and involve criticisms directed at the neighbor rather than at the code and its administration. Somewhere I read where "zoning works well except where it's needed." This comment may apply to home occupations, but only to those categories which lie outside of the law itself. Most of these involve home automobile repairs, cabinet shops and similar activities which can't be licensed but which operate in defiance of the law and until the operation is prevented either through administrative actions or legal actions these examples are simply violations of the law and are hardly typical anyway. In a similar manner, Mr. Waldo's complaints are about an employee who smokes on the driveway and customers banging automobile doors. It hardly seems proper to revise an entire code section to attempt to prevent a few people from slamming doors.

If changes are to be considered, it is my opinion as Grievance Officer that the law might be improved with the following provisions:

1. Require a formal application each year for renewal.
This should compel Central Inspection to reinspect

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METROPOLITAN PLANNING

ROUTE

Bob Lakin
November 25, 1980
Page 2

the operation, an action which is not necessarily done with the present method of automatic renewal.

2. Allow neighbors to challenge the license. This could be done by notification of the people adjoining the home because it is only the immediate neighbor who reacts.
3. Mr. Denton suggested enlarging the authority of BZA to hear arguments against home occupation licenses. I think this is an excellent idea and one which would fit into the present scope of the BZA activities. It could be done with a very simple amendment to the BZA code.
4. In the category of major changes it might be prudent to not permit outside employees in the "A" as well as in the "AA" zone.
5. The fee for the license might be sharply increased to, say, \$25.00 per year. This would insure a reasonably competent inspection and might deter marginal cases.

All occupations now presume the use of at least 50% of the home's floor area for living. This might be raised to 60 or 70% which would automatically decrease the extent of the occupation.

To sum up, in 8½ years the Grievance Office has not had a sustained grievance against the application of the Home Occupation code, but it has had many from persons aggrieved with their neighbors who almost always wrongly imputed the difficulties to the improper application of the code or to shortcomings in the code itself. This latter category is only one more of the examples of neighbors sparring with each other. These things can't be stopped with new laws, old laws or any other kind of law or commandment.

FAL

Fredrick A. Linde,
Grievance Officer

FAL:kg

cc: E. H. Denton, City Manager

COMMISSIONERS PROCEEDINGS

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ROUTE _____

DISCUSSION OF HOME OCCUPATION LICENSE presented. DISCUSSION OF HOME OCCUPATION LICENSE FOR 1312 NORTH DELLROSE,

Ray Waldo

Requested by Mr. Ray Waldo, 1316 North Dellrose.
Mr. Waldo spoke concerning the noise and other problems resulting from the operation of a beauty shop next door at 1312 North Dellrose under a home occupation license. He stated that the activities there are very disturbing and traumatic to his family. He felt that such a business should be located in a commercial area. He also stated that the driveway which is used for parking is just eight feet from his home. He requested that the license not be renewed when it expires in December.

E. H. Denton

The City Manager explained that the home occupation is within the present regulations and the City has no authority to deny the license. He stated that the problem appears to be in the zoning ordinance and how it applies to the closeness of a business to residences.

Bob Feldner

Bob Feldner, Superintendent of Central Inspection, stated that the zoning at that location is "A", which permits outside employees, but there is no specific requirement for parking in "A" or "AA" zoning. He indicated that the business meets the current requirements.

Discussion

Discussion was had regarding possible changes which could be made to the ordinance regulating home occupations, and it was noted by the City Manager that changes for the hours of operation and the conditions for outside employees could be reviewed by the MAPC if that would be desirable.

Motion --

-- carried

Casado moved that the matter be referred to the MAPC for review with specific concern to be given to the ordinance regarding hours of operation and outside employees in home occupations. Motion carried 5 to 0.

The Wichita-Sedgwick County Metropolitan Area Planning Commission re-convened on Thursday, October 20, 1966, at 3:30 p.m. in the Auditorium of the Kansas Gas and Electric Company. Members present were: H. W. Kratzer, Theodore Hill, J. Jerald Branson, E. B. Law, W. Harold Mooney, and Wm. J. Goebel. Members absent were Lee Blaser and John Trout. Also present were C. Bickley Foster, Director of Planning, Robert A. Lakin, Jack Galbraith, Ron Williamson, John Gist, and Berniece Rathke of the planning staff.

Chairman Kratzer called the meeting to order for consideration of the following two cases:

- 13a. Case No. DR 66-30 - Public Hearing for consideration of an amendment to the County Zoning Resolution Re: Home Occupations.
- 13b. Case No. DR 66-29 - Public Hearing for consideration of an amendment to the City Zoning Ordinance Re: Home Occupations.

The Chairman declared the public hearing open for consideration of proposed amendments to the County Zoning Resolution and City Zoning Ordinance as related to home occupations, which were advertised as follows:

✓ The Chairman stated that it would be desirable to hear from spokesmen of various groups represented but that anyone who wanted to speak would be given that opportunity. KRATZER pointed out that anyone who is presently legally engaged in a home occupation in accordance with the rules and regulations now in effect will not be affected in any way by the proposed amendments and that their use may continue for as long as 60 years in the City and indefinitely in the County area. He asked Mr. Lakin, the Assistant Planning Director, to review the proposed amendments.

MR. LAKIN said that the proposed amendments arose out of a request from Mr. Robert Lamb, who asked that regulations of home occupations be made more liberal, in his specific case that he be allowed to have an upholstery repair shop in his home. The Planning Commission authorized the Planning Department to prepare an amendment and advertise for a public hearing.

It was pointed out that subsequent to the advertising and after conference with the legal council, it was determined that several adjustments were desirable, both as to language and as to specific proposals when they were measured against what the change was actually intended to accomplish. The proposed amendments were taken to a great extent from the prototype zoning ordinance prepared by a consultant for the Planning Commission. The purpose is to liberalize home occupations as long as they do not adversely affect adjacent properties and the neighborhood or the public in general. The suggested revisions in the proposed amendment at this time are as follows for the County Zoning Resolution and City Zoning Ordinance:

✓

LAKIN continued that the range of uses has been liberalized but at the same time providing for performance standards to limit the level of activity, such as limiting the level of noise, number of students permitted at any given time, etc. Additional standards have been proposed so far as general appearance in that signs will be allowed, detached garages or other accessory buildings can be used and one employee other than a resident is permitted whereas these things are now prohibited. It was noted that the proposal would permit most types of home occupation provided that type of equipment used was limited, outside appearance of the property was not changed, all materials and products associated with the activity were kept inside, and no retail sales permitted that are not products produced on the premises.

LAKIN pointed out that the revised proposal places dance studios and barber and beauty shops back into the permitted list of home occupations but does limit the number of students (of the arts) at any one time. In relation to nursery schools or day care centers, it was pointed out that it is proposed to permit as many as four students as a home occupation, which is now the allowed maximum.

LAKIN reiterated that these regulations do not apply to home occupations now legally operating but only to those established after the adoption of the amendment.

CLIFF RATNER, Attorney representing about 75 beauty operators working in their homes, said that in some cases the pursuit of a home occupation is necessary where the operator is the sole support of a family. Such service is convenient from the standpoint of residents in an area who utilize the services of a beauty shop. RATNER said that the proposed ordinance, as amended since the legal publication, is something most of his clients could "live with", but that there are two points which they would like to see changed, e.g., (1) allow use of detached accessory structures in the "AA" District as

long as the outside appearance of the garage was not changed in any way; and (2) in the "AA" District they would like to be permitted to hire one additional employee beyond residents of the home. RATNER said that there are attorneys operating from their homes who hire a secretary.

LAKIN pointed out that beauty shops are presently permitted only in an attached garage. It is proposed that in the "AA" District, this policy be continued. The same applies to additional employees other than residents of the home in the "AA" District.

LAKIN also brought out that it is proposed that signs of any type in the "AA" District not be allowed. This is the same as the present regulations except it applies in all residential districts. Any signs now in the "AA" District are in violation of the ordinance. He said that the State Administrative Regulations relating to cosmetologists provide that a sign must be visible from the street whenever there is a home beauty shop. Those now with signs in "AA" are in violation. Technically, no beauty shop in a home is probably operating in compliance with the law. Under the new proposal, they would properly locate in every district except the "AA" as signs would be made legal in other residential districts.

LOUISE HUFFMAN asked if all signs advertising any business in the home would have to be taken down.

LAKIN said that the bulk of signs in residential areas at this time are not authorized by ordinance. It is his understanding that if someone filed a complaint then the enforcing personnel of the City or County would issue a cease and desist order for removal of such sign unless the ordinance is amended and the sign conformed to its new provisions. The proposed regulations provide that there may be a non-illuminated two square foot sign mounted flat against the main face of the dwelling or building involved, in any residential district except the "AA".

MRS. GENE THOMPSON(?), operator of a nursery school, asked if the proposal would affect the operation of nursery and day care centers and whether such facilities could be operated in residential areas and whether such facilities presently in operation could move to another location.

LAKIN said that after consultation with the City-County Health Department and administrators at the Community Planning Council, it is suggested that four students be permitted in nursery schools or day care centers, but that more than four students, e.g., "a group care center" would require "B" zoning as presently required for such homes.

CHARLES SPARKS, Attorney on behalf of the Wichita Beauty Salon Owners' Association and Independent Barbers, said they were in favor of stricter control over home occupations than now proposed by the revised amendment. He felt that the criteria to be used in determining whether a business qualifies as a home occupation should be based on its size and that a business which is small in scale may not be offensive in a residential neighborhood in that little traffic would be generated. However, it was his contention that a barber or beauty shop can be very offensive in a residential area if the volume is such that it generates a great deal of traffic. He asked that beauty salons and barber shops be prohibited as home occupations, especially in the "AA" district. He referred to the number of patrons one beauty operator can serve in a day's time and the fact that there would be numerous vehicles coming and going through the day. MR. SPARKS pointed out also that a recent ad in the paper indicated that one operator took appointments early and late and on weekends which would mean the existance of a nuisance constantly.

SPARKS objected to signs being permitted because they would tend to draw attention to the residence as a business rather than a home and would, thus, lower residential real estate values of an area. He also opposed allowing outside employees in that it would just double traffic congestion. MR. SPARKS pointed out that there is a distinction between allowing a dentist, architect, or attorney to hire a secretary because there would be no change in the volume of business, but a second beauty operator or barber would mean just double the volume of business and traffic. He strongly urged that an outside employee not be permitted in residential districts but suggested that an exception might be reasonable as applied to dentists, architects, and similar type professions or services. MR. SPARKS felt that to permit outside help and signs would change the character of the neighborhood and detract from the residential areas.

In summary, MR. SPARKS asked that barber and beauty shops be prohibited in all residential districts, especially the "AA" and that outside employees not be permitted in any residential zoning, and that no signs be allowed advertising a home occupation in any district.

A. PRICE WOODARD, Attorney representing the Modern School of Cosmetology and 100 individual student operators, said that early and late or weekend appointments would be reasonable in an emergency. The Attorney pointed out the requirement of the State that a sign must be placed in the yard and yet the proposed amendment prohibits signs in that location and it was his opinion that under such circumstances the State law would prevail.

LAKIN explained that the State regulation provides that the sign must be visible from the street and does not designate the yard as the location and that it might be interpreted to mean it should be on the face of the house. He also pointed out the requirement is an administrative rule and not a State statute.

WOODARD asked if a mother and daughter, both beauty operators, could conduct their business from their residence. LAKIN said that such would be possible as long as they both resided in the house where the shop was maintained and as long as other requirements of a home occupation were met.

ROBERT COWDREY said that he is a real estate broker and questioned the legality of the meeting inasmuch as it appears to be concerned with a revised suggested amendment to the Resolution and Ordinance rather than what was published in the paper.

LAKIN said that the staff has been advised by counsel that the Planning Commission may amend a proposed amendment after publication in the paper, may adopt an amended proposal and recommend it to the governing bodies and the governing bodies may adopt such amended proposal. He stated that it is his feeling that the hearing is proper as being conducted and it was his recommendation to the Planning Commission that it proceed to take action at this meeting.

COWDREY questioned the enforcement of the regulations if adopted. LAKIN said that if a citizen is operating a home occupation in accordance with the existing regulations, then there would be no basis for a complaint or suit, but that any operator of a home occupation might be subject to a complaint of a nuisance should the action be filed through the appropriate courts, but not because of any violation of the zoning regulations. During the discussion with Mr. Cowdrey, it was pointed out that all regulations are subject to change from time to time.

When the Chairman asked Mr. Cowdrey if he was in favor of the proposed amendment or opposed to it, Mr. Cowdrey said he was in favor of less government regulations and that he was protesting any change as he considered it unnecessary. MR. COWDREY commented that by telling people what they can and cannot do in the way of home occupations restricts his choice and he was not in favor of that inasmuch as his family often utilizes the services of people conducting home occupations, e.g., beauty shop operators, bicycle repair, electrical repair, etc.

LAKIN pointed out that at present repair type services are illegal and that such home occupations now in existence could be closed down; however, the amendment proposed is more liberal and would make it legal for repair type services to be conducted as home occupations.

MR. COWDREY raised the question of kennel operators and how the proposed amendment would affect such operations. LAKIN noted that the word "kennels" does appear as one of the uses prohibited as a home occupation but that the keeping of dogs does not constitute the operation of a kennel until 4 or more dogs are involved. LAKIN also pointed out that the County Zoning Resolution applies only to the three mile area adjacent to the City of Wichita and not to the county as a whole as Mr. Cowdrey has indicated previously.

ROBERT LAMB said that he was the instigator of the amendments under discussion in that he had conducted an upholstery repair service in his detached garage for a number of years as his livelihood and desired to be able to continue. LAKIN informed Mr. Lamb that if he is located in an "AA" zone then he would not conform to the amendment as proposed. A check of the location indicated that Mr. Lamb resides in an area zoned "B" and under the proposal he would be permitted to conduct his upholstery repair in a detached garage or other accessory building.

MRS. JEAN RUSH said she handles a line of imported jewelry from her home located on a 40-acre tract in the 3-mile area and has people working for her. She opposed any regulation which would attempt to prevent her continued use of her premises for retail sales. She said that her activities could not possibly be obnoxious to neighbors, and she questioned the right of any group to restrict her from using her premises as she desired.

LAW explained that the amendment is intended to resolve some problems as related to home occupations and to make more lenient regulations therefor and that there is no attempt whatsoever to eliminate such uses, although Mrs. Rush said it was her feeling that that is what is being attempted. Reference was made to the section related to home occupations prohibited and LAKIN reviewed them, noting that it is basically intended to restrict uses to professional services, personal services, home crafts, those providing instructions (artists, authors, composers, teachers, etc.), office facilities which do not involve the sale of commodities, etc. It was pointed out that at present no type of repair activity is permitted while the proposed amendment would provide for minor type repair of appliances, etc. Sales of items not produced as a part of the home occupation would be prohibited.

CHARLES ANDERSON, representing the Kansas Electronic Association, said that the members of this organization have indicated they could "live with this" amendment, but that they are opposed to liberalization in certain areas, particularly as they relate to repair of appliances. The Attorney said that his clients repair television sets, tape recorders, stereos, radios, etc., and they are aware that changes are necessary from time to time, but they are attempting to control their activities through organization and are occupying light commercial zones for conducting their business. He pointed out, however, that many employees of plants in this area do TV or radio repair at night in their home garage and thus create considerable competition for the commercial type operators. MR. ANDERSON pointed out that if regulations are liberalized too much it would actually condone what might be considered an illegitimate business whereby qualified repairmen would lose control of their business and would find it necessary to operate as a home occupation rather than as a business in order to compete.

ANDERSON suggested that if the Commission approves the amendment then it should also assist in efforts to require such repairmen of TV's, radios, tape recorders, etc., to be licensed by the City. He pointed out that this type of activity is hazardous when engaged in by untrained or unlicensed individuals which is more likely to happen as a home occupation. The Attorney noted also the possibility of repair of large appliances and disturbances which could be created in a residential area by reason of loading and unloading activities.

LAW pointed out that the proposal is to liberalize home occupations although most people present do not appear to realize that there is presently restrictions so far as home occupations are concerned and that many uses now existing are illegal under the terms of the present regulations. He stated that the Planning Commission has decided it would be fair and equitable to liberalize the home occupations, but to do so with certain performance standards, in an effort to allow certain people to operate from their home where it is necessary for their livelihood.

ANDERSON said he believed in free enterprise as long as it did not interfere with or create a hazard in a neighborhood, and he considered it hazardous when people are untrained but still engaging in this type of work. He suggested the matter be deferred until perhaps a law could be passed requiring electronics repairmen to hold a license.

MRS. GENEVIEVE STARKEY, operator of a dance studio in her home, expressed concern for the continued development of culture in the community and particularly a provision whereby dance studios could be continued on the basis of a home occupation. She inquired whether the new regulations would prohibit such studios as a home occupation and whether or not one in existence could relocate and continue its program as presently being conducted. LAKIN said that any new dance studios as a home occupation would have to comply with whatever new regulations are adopted and that the relocation of an existing school would also have to observe the new regulations if it is proposed to continue as a home occupation inasmuch as it would be the same as a new business.

MRS. STARKEY stressed the need for development of cultural facilities in the city and said that she represented 100% of the dancing teachers and that 14 of the 17 studios in the city are in homes. She indicated that it is desirable that more than one teacher be allowed in a studio inasmuch as many times they are called upon to participate in a community project and the second teacher could carry on at the school. MRS. STARKEY said that the dance studios are located in various zoning districts - "A" principally, but also in "AA", "B" and "BB".

LAW pointed out that what is proper would permit the employment of one teacher but that the number of students trained at a given time is also important and that it is proposed to limit the number to 5 as a home occupation and those desiring to operate on a larger scale would have to locate in the district in which they are permitted on a commercial type basis.

EDWIN SCHMITT, also on behalf of the dancing teachers, indicated that he had been associated with a studio for 13 years and it was his feeling that such activity did not disturb a residential neighborhood. He expressed approval of the proposed amendment as revised (dated October 13, 1966) except as to the number of students allowed at a given class period, which he considered unrealistic from an economic standpoint. He pointed out that most of the students are children and that they are subject to childhood diseases, school activities, etc., and that about 1 out of 5 is absent from class, and that they are subject to dropouts for one reason or the other. He pointed out also that this is not a business conducted throughout the day, but is only operated effectively from about 4 to 7 in the afternoon. MR. SCHMITT, when questioned by one of the Commissioners, indicated that most studios have classes of from 8 to 14 students, but that they would like to request a maximum allowance of 20 students, which he considered would be reasonable (considering absenteeisms and dropouts) from an economic standpoint and also would not create a nuisance in the neighborhood by reason of traffic generated. MR. SCHMITT pointed out that at present there

is no limitation on number of students and that the limitation is only that an outside teacher cannot be employed.

MRS. STARKEY asked the Commissioners to consider the continued development of dance studios and not limit the beginning of new studios too much.

MARGARET TRASK said that she operates a beauty shop from her home as a home occupation and inquired whether or not she could have another operator operate from her home when she (Mrs. Trask) was on vacation or might be ill. She was advised that such is not legally permitted now but under the new proposals would be permitted in all districts except the "AA".

LAW pointed out that one of the factors that brought up the possibility of revising the regulations as related to home occupations is the fact that when individuals attempted to obtain loans to operate their businesses they found they were operating illegally and denied financing. The Planning Commission has determined that under certain circumstances and on a less restrictive basis certain activities can be carried on in the home without detriment to the community as a whole.

MRS. LOUISE HUFFMAN asked what assurance there is that those who are nonconforming now can continue for 60 years as brought out earlier in the discussion inasmuch as the terms of the regulations are apparently subject to the change by the City or County. LAKIN agreed that there could be no guarantee. Regulations even as to "nonconforming uses" are always subject to amendment and changes but must be "reasonable" in application.

MR. WOODARD referred to the provision that no signs would be permitted in the "AA" districts and offered objections thereto on behalf of those operators presently in such zones who have signs. LAKIN said that operators of a home occupation with signs on their premises are presently illegal and that what is proposed would not legalize such signs.

LAW pointed out that the "AA" residential district is intended to be very restrictive for those who choose to live in an area wherein they have certain protection and rights, and that if they did not choose or desire the utmost protection offered by a zoning regulation they could locate in any of the various other zones. He maintained that residents in an "AA" zoning district do have their rights also. LAW pointed out that while there are a number of people present who desire less protection for the "AA" district.

there are many more people who are not present and who are entitled to the protection offered by the "AA" district.

WOODARD considered it ridiculous to prevent signs in an "AA" district or to limit signs in the other districts, and yet the operator of a home occupation can advertise in the newspaper or telephone book, etc. He pointed out that in some cases this restriction would tend to put people out of business. MOONEY pointed out again (as has been done several times at this meeting) that signs presently in the "AA" district are in violation of the present ordinance. Several beauty shop operators expressed strong opposition to the matter of control of signs in any district.

LAKIN reviewed the various points which have been brought out by the public, as follows:

1. Should signs be allowed in "AA" and if so should they be limited to 2 square feet as proposed in other residential districts.
2. Should a detached garage or accessory building be allowed to be used in the "AA" district.
3. Should the number of students in dance classes or other art instruction classes be increased from 5 to 15 at one time.
4. Provision for not more than 4 students at a time in a nursery or day care center.
5. Should an outside employee be permitted in the "AA" district.

Commission members discussed the above points briefly.

MOTION: BRANSON moved that the revised proposed amendment (dated October 13, 1966) be recommended for approval as presented, except that dance studios be allowed 12 students rather than 5 and that nursery or day care centers be allowed to have 4 students. This motion was not seconded.

MR. RATNER pointed out that apparently the community as a whole is not opposed to signs as now being placed inasmuch as no apparent objection has been registered. One of the ladies present said that before she purchased her property she inquired of the City offices

about operating from her home and sign regulations and was assured a sign was permitted, and she was much opposed and distressed to find that now she is in violation.

MR. FOSTER pointed out that the Planning Department has received many calls and letters from people who are concerned that home occupations may be made too liberal, and that while there may not be too much objection at this meeting, it is sure to be made known later. One of the beauty shop operators pointed out that apparently their patrons prefer a neighborhood or residential type shop inasmuch as they seem to patronize such facilities.

BRANSON pointed out that as was mentioned before the Commission attempts to protect the people that are present as well as those who are located in the "AA" district, and it was his feeling that to permit signs would defeat one of the purposes of the zoning ordinance. He informed the public that the Planning Commission is only a recommending body and that the City Commission and County Commission are the governing bodies that will determine the actual terms of the amendment.

MR. SCHMITT said that a dance studio could not operate economically if limited to 12 students at one session. This was discussed further with the Commissioners and Mr. Schmitt pointed out that if a class starts out with 20 students, it has dwindled often times to as low as 10 by the end of the term. BRANSON pointed out that it is the generation of traffic in a residential area which concerns him.

MOTION: BRANSON moved that the revised proposed amendment (dated October 13, 1966) be accepted as presented except that dance studios be allowed an average of 15 students instead of 5. This motion was not seconded.

MOTION: BRANSON moved, KRATZER seconded and it carried by a vote of 4 (Branson, Kratzer, Mooney, and Law) and 2 (Goebel and Hill) opposed, that the Planning Commission recommend to the Board of County Commissioners and Board of City Commissioners that the County Zoning Resolution and City Zoning Ordinance be amended as follows: (By this motion nursery schools and day care centers are allowed to have as many as 4 students; an additional employee is not allowed in the "AA" districts; signs are not permitted in the "AA" district; a detached garage or accessory building is not permitted in the conduct

of a home occupation in an "AA" district; and the number of students permitted in dance studio classes is increased to 15.) ✓

CITY ZONING ORDINANCE

SECTION 28.04.020 - Definitions.

Amend to read as follows:

HOME OCCUPATION: See Section 28.04.025.

Add as follows:

SECTION 28.04.025 - HOME OCCUPATIONS

- A. Authorization. Home occupations shall be permitted in any dwelling unit unless otherwise prohibited or restricted by this section.
- B. Definition. A business, profession, occupation or trade conducted for gain or conducted entirely within a residential building or, when permitted by subsection C., within a structure that is accessory to a residential building.
- C. Use Limitation. In addition to all of the Use Limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:
 1. In all districts permitting dwellings:
 - a. No alternation of the principal residential building or premises shall be made which changes the character or appearance thereof for residential purposes.
 - b. The home occupation shall not occupy more floor area than floor area devoted to the primary use as a residence.
 - c. No equipment shall be used which shall create undue noise, vibration, electrical interference, smoke or particulate matter emission, power demands, or odors

In determining what is undue noise, such activity shall not cause or create noise at the lot lines in excess of the sound levels contained in the schedule on file with the City Clerk and the enforcing officer, approved by the Metropolitan Area Planning Commission and titled, "Noise Standards for Home Occupations, October, 1966".

- d. There shall be no outdoor storage of equipment, materials or vehicles used in the home occupation.

2. In the "AA" One Family Dwelling District:

- a. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as their residence.
- b. The home occupation shall be conducted entirely within the principal residential building.
- c. No manufacturing or processing or conducting of a trade of any sort whatsoever shall be done and no stock-in-trade shall be displayed or sold on the premises.
- d. No sign shall advertise the presence or conduct of the home occupation.

3. In all other districts permitting residences:

- a. No more than one person other than a person(s) occupying such dwelling unit as their residence shall be employed.
- b. The home occupation shall be conducted entirely within the principal residential building or in a permitted accessory structure thereto.
- c. No sign shall be permitted larger than two square feet, provided that it shall not be illuminated and shall be mounted flat against the main face of the dwelling or building involved.
- d. No stock-in-trade (except articles produced by members of the immediate family residing on the premises) shall be displayed or sold on the premises.

D. Home Occupations Permitted. Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each listed occupation shall be subject to the requirements of subsection B. and C. of this Section:

1. Personal services, such as dressmakers, seamstresses, tailors, barber shop, beauty shops.
2. Artists, authors or composers, dancers, music teachers, and other similar artists, including instruction thereof; provided that instruction shall be limited to not more than five pupils at a time, excepting dancing instruction, which shall be limited to not more than fifteen pupils at a time.
3. Ministers, rabbis, priests.
4. Office facilities for architects, engineers, lawyers, doctors, dentists, and members of similar professions.
5. Office facilities for service type businesses such as insurance agents, brokers, decorators, painters, business consultants, tax advisors and photographers.
6. Office facilities for salesmen, sales representatives, manufacturers representatives, when no retailing or wholesaling is made or transacted on the premises.
7. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, appliance repairs, etc.

E. Particular Home Occupations Prohibited. Permitted home occupations shall not, in any event, be deemed to include:

1. Funeral homes.
2. Nursery schools and day care centers, having more than four students at a time, unless specifically permitted by the district regulations.
3. Restaurants.
4. Stables, kennels, or animal hospitals.
5. Tourist homes, unless specifically permitted by the district regulations.

6. Renting of trailers, cars or other equipment.
7. Medical or dental clinics or hospitals.
8. Auto and other vehicle repair.

HILL said he voted in opposition to the above motion because he did not think signs as proposed to be allowed in other residential districts would be offensive in the "AA" district. GOEBEL said he was opposed to the motion because he was not in favor of permitting the hiring of an outside employee inasmuch as it would tend to increase the level of activity in a residential area and appear more as a commercial business rather than strictly a home occupation.

The Chairman announced that the County Commission would hear this matter on November 2, 1966, and the City Commission would hear it on November 8, 1966.

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ATTACHMENT # 5

GENERALLY

28.04.020

Home Occupations shall consist of the following:

HOME OCCUPATIONS.

A. Authorization. Home occupations shall be permitted in any dwelling unit unless otherwise prohibited or restricted by this section.

B. Definition. A business, profession, occupation or trade conducted for gain or conducted entirely within a residential building or, when permitted by Subsection C., within a structure that is accessory to a residential building.

C. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

1. In all districts permitting dwellings:
 - a. No alteration of the principal building or premises shall be made which changes the character or appearance.
 - b. The home occupation shall not occupy more floor area than floor area devoted to the primary use as a resident.
 - c. No equipment shall be used which shall create undue noise, vibration, electrical interference, smoke or particulate matter emission, power demands, or odors. In determining what is undue noise, such activity shall not cause or create noise at the lot lines in excess of the sound levels contained in the schedule on file with the city clerk and the enforcing officer, approved by the metropolitan area planning commission and titled, "Noise Standards for Home Occupations, October, 1966".
 - d. There shall be no outdoor storage of equipment, materials, or vehicles used in the home occupation.
2. In the "AA" One Family Dwelling Districts:
 - a. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his residence.
 - b. No manufacturing or processing or conducting of a trade of any sort whatsoever shall be done and no stock-in-trade shall be displayed or sold on the premises.
 - c. The home occupation shall be conducted entirely within the main residential building. No such home occupation shall be conducted in an accessory structure or in a garage, whether attached or detached.
 - d. No sign shall be permitted except when required by law. When such a sign is required, it shall not be larger than two square feet, provided that it shall not be illuminated and shall be mounted flat against the main face of the dwelling or building involved.
3. In all other districts permitting residences:
 - a. No more than one person other than a person(s) occupying such dwelling unit as their residence shall be employed.
 - b. No stock-in-trade (except articles produced by members of the

immediate family residing on the premises) shall be displayed or sold on the premises.

c. The home occupation shall be conducted entirely within the principal residential building or in a permitted accessory structure thereto.

d. No sign shall be permitted larger than two square feet, provided that it shall not be illuminated and shall be mounted flat against the main face of the dwelling or building involved.

D. Home Occupations Permitted. Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each listed occupation shall be subject to the requirements of Subsections B. and C. of this section:

1. Artists, authors or composers, dancers, music teachers, and other similar artists, including instruction thereof; provided that instruction shall be limited to not more than five pupils at a time, excepting dancing instruction, which shall be limited to not more than fifteen pupils at a time.

2. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, appliance repairs, etc.

3. Ministers, rabbis, priests.

4. Office facilities for architects, engineers, lawyers, doctors, dentists, and members of similar professions.

5. Office facilities for salesmen, sales representatives, manufacturers representatives, when no retailing or wholesaling is made or transacted on the premises.

6. Office facilities for service type businesses such as insurance agents, brokers, decorators, painters, business consultants, tax advisors, and photographers.

7. Personal services, such as dressmakers, seamstresses, tailors, barber shops, beauty shops.

E. Particular Home Occupations Prohibited. Permitted home occupations shall not, in any event, be deemed to include:

1. Animal hospitals.

2. Auto and other vehicle repair.

3. Funeral homes.

4. Kennels and stables when carried on as a business activity and not as a hobby with coincidental occasional sales and use.

5. Medical or dental clinics or hospitals.

6. Nursery schools and day care centers, having more than four students at a time, unless specifically permitted by the district regulations.

7. Renting of trailers, cars or other equipment.

8. Restaurants.

9. Tourist homes, unless specifically permitted by the district regulations.

GENERALLY 28.04.020

NOISE STANDARDS FOR HOME OCCUPATIONS
OCTOBER 1966

The following noise standards shall be measured with octave band analyzers calibrated in the Preferred Frequencies (American Standards Association S1.6-1960 Preferred Frequencies for Acoustical Measurements) for measuring intensity and frequency of sound using the flat network and fast response of the sound level meter.

Center Frequency Cycles Per Second	Maximum Permitted Sound Pressure Level Decibels
31.5	65
63	67
125	66
250	59
500	52
1000	46
2000	37
4000	26
8000	17

Approved by the Wichita-Sedgwick County metropolitan area planning commission on October 20, 1966.

COMMISSIONERS PROCEEDINGS

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DR 80-22

RECEIVED
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METROPOLITAN PLANNING
ROUTE _____

DISCUSSION OF HOME
OCCUPATION LICENSE

DISCUSSION OF HOME OCCUPATION LICENSE FOR 1312 NORTH DELLROSE,
presented.

Ray Waldo

Requested by Mr. Ray Waldo, 1316 North Dellrose.
Mr. Waldo spoke concerning the noise and other problems resulting from the operation of a beauty shop next door at 1312 North Dellrose under a home occupation license. He stated that the activities there are very disturbing and traumatic to his family. He felt that such a business should be located in a commercial area. He also stated that the driveway which is used for parking is just eight feet from his home. He requested that the license not be renewed when it expires in December.

E. H. Denton

The City Manager explained that the home occupation is within the present regulations and the City has no authority to deny the license. He stated that the problem appears to be in the zoning ordinance and how it applies to the closeness of a business to residences.

Bob Feldner

Bob Feldner, Superintendent of Central Inspection, stated that the zoning at that location is "A", which permits outside employees, but there is no specific requirement for parking in "A" or "AA" zoning. He indicated that the business meets the current requirements.

Discussion

Discussion was had regarding possible changes which could be made to the ordinance regulating home occupations, and it was noted by the City Manager that changes for the hours of operation and the conditions for outside employees could be reviewed by the MAPC if that would be desirable.

Motion --

-- carried

Casado moved that the matter be referred to the MAPC for review with specific concern to be given to the ordinance regarding hours of operation and outside employees in home occupations. Motion carried 5 to 0.