

DR 79-12 - Possible Amendment to
the Zoning Ordinance Re: Exceptions
to Area Regulations.

ACTION

DATE

COMMITTEE _____

M.A.P.C.

Approved as recommended

8/16/79

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

Approved

9-11-79

Pub. Daily Record - 9-14-79

DR 79-12 - Possible Amendment to the Zoning Ordinance Re: Exceptions to Area Regulations.

June 21, 1982

E. H. Denton, City Manager

Robert A. Lakin, Director of Planning

Corrective Ordinance (Title 28)

Attached hereto is a delineated copy of a corrective ordinance that should be placed on the agenda for City Commission consideration.

This ordinance will correct a clerical error in an ordinance adopted by the City Commission in 1979 in which there was an omission of several words in one section. This error was made after the Planning Commission had held a public hearing and submitted a recommendation to the City Commission. A copy of the amendment as proposed by the Planning Commission in 1979 is attached. No change in the provision related to modified front yards were made at that time. Although this is a seldom used section of the ordinance, the error was recently discovered by Central Inspection and should be corrected.

The ordinance has been approved as to form by the Director of Law.

RECOMMENDED ACTION:

Place the ordinance on first reading.

Robert A. Lakin
Director of Planning

RAL:GEL:sad

Attachment

cc: John Dekker, Director of Law
Robert Feldner, Superintendent of Central Inspection

ORDINANCE NO.

AN ORDINANCE CORRECTING CERTAIN CLERICAL ERRORS
IN ORDINANCE NO. 36-313 BY AMENDING SECTION
28.04.188 (7) OF THE CODE OF THE CITY OF WICHITA,
KANSAS TO SUCH EXTENT: AND REPEALING SAID
ORIGINAL SECTION 28.04.188 (7) OF THE CODE OF
THE CITY OF WICHITA, KANSAS.

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

SECTION 28.04.188 (7) of the Code of the City of Wichita, Kansas,

is hereby amended to read as follows:

"7. A modified front yard line shall be established in all districts requiring a setback for residential or commercial purposes in any block having lots platted of record with a reversal of frontage. Such modified front yard line shall extend from the rear corner of the principal building next to the street on the corner lot, or if the corner lot is vacant, from a point at the intersection of the side yard and rear yard restrictions in effect on such premises, to a point on the established front yard line of such street nor more than one hundred fifty feet from the rear of such corner lot measured along the street line away from the intersecting street. No building or accessory building or any part thereof, excepting open porches, shall be built in front of such modified front yard line."

The original Section 28.04.188 (7) of the Code of the City of Wichita, Kansas is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official paper.

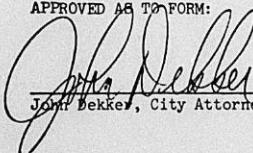
ADOPTED at Wichita, Kansas, this ____ day of ____, 1982.

Albert J. Kirk, Mayor

ATTEST:

Donald C. Gisick, City Clerk

APPROVED AS TO FORM:



John Bekker, City Attorney

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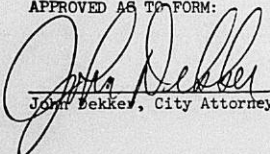
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Albert J. Kirk, Mayor

ATTEST:

Donald C. Gisick, City Clerk

APPROVED AS TO FORM:



John Dekker, City Attorney

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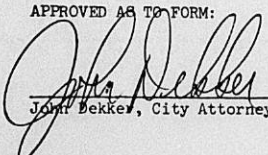
ADOPTED at Wichita, Kansas, this ____ day of _____, 1982.

Albert J. Kirk, Mayor

ATTEST:

Donald C. Gisick, City Clerk

APPROVED AS TO FORM:



John Bekker, City Attorney

ORDINANCE NO.

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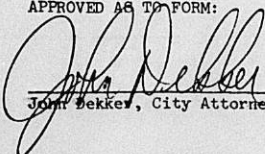
ADOPTED at Wichita, Kansas, this ____ day of ____, 1982.

Albert J. Kirk, Mayor

ATTEST:

Donald C. Gisick, City Clerk

APPROVED AS TO FORM:



John Bekker, City Attorney

WICHITA-SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT

DATE
June 21, 1982

Lytle

TO E. H. Denton, City Manager
FROM Robert A. Lakin, Director of Planning
SUBJECT Corrective Ordinance - Zoning Ordinance 28.04.188(7)

Attached hereto is a delineated copy of a corrective ordinance that should be placed on the City Clerk's agenda for City Commission action.

This ordinance will correct a clerical error in an ordinance adopted by the City Commission in 1979 in which there was an omission of several words in one section. This error was made after the Planning Commission had held a public hearing and submitted a recommendation to the City Commission. A copy of the amendment as proposed by the Planning Commission in 1979 is attached. No change in the provision related to modified front yards were made at that time. Although this is a seldom used section of the ordinance, the error was recently discovered by Central Inspection and should be corrected.

The ordinance has been approved as to form by the Director of Law.

RECOMMENDED ACTION:

Place the ordinance on first reading.

6-29-82

Robert A. Lakin

Robert A. Lakin
Director of Planning

RAL:GEL:sad

Attachment

cc: John Dekker, Director of Law
Robert Feldner, Superintendent of Central Inspection

Additions underlined
Deletions ~~marked-thru~~

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The original Section 28.04.188 (7) of the Code of the City of Wichita, Kansas is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official paper.

ADOPTED at Wichita, Kansas, this ____ day of ____, 1982.

Albert J. Kirk, Mayor

ATTEST:

Donald C. Gisick, City Clerk

APPROVED AS TO FORM:

John Dekker, City Attorney

Additions Underlined
Deletions Marked-

July 24, 1979
DR-79-12

POSSIBLE AMENDMENT TO THE
ZONING ORDINANCE OF THE CITY OF WICHITA
RELATED TO EXCEPTIONS TO AREA REGULATIONS
(SCHEDULED FOR PUBLIC HEARING BEFORE THE MAPC ON AUGUST 16, 1979)

Section 28.04.188 shall be amended to read as follows:

28.04.188 Exceptions to area regulations. The following exceptions under special conditions further modify area regulations in which those special conditions exist:

1. Mixed commercial ~~and industrial~~ and residential buildings: 1.1
In those districts in which commercial ~~and industrial~~ buildings are built ~~one or more than one story~~ stories high with the upper one or more stories built above the commercial ~~or industrial~~ buildings for residential purposes, no side yard will be required for the residential portion of the building adjoining another property; provided that the part of the building intended for residential use complies with the light and ventilation requirements of the building code of the City of Wichita. ~~is not more than two rooms deep from front to rear.~~ Such buildings need not provide side yards on the side of the structure adjoining a street. Rear yards shall be the same as is required for a commercial building.

~~1.2--If the upper floors of commercial and industrial buildings are used for residential purposes, such upper floors shall be provided with a rear yard or court area of not less than ten feet times the width of the lot.~~

~~2.--Any multiple-family dwelling built in the "B", "LC", "C", "D", "E" or "F" districts may substitute a court for the rear yard requirement in that district; provided, that the area of the court is not less than the area of the required rear yard, and provided further, that the court shall be open throughout the entire height of the building.~~

~~3.--No yard or other open space provided about any buildings for the purpose of complying with the provisions of these regulations shall again be used as a yard or an open space for another building.~~

~~Chimneys or bay windows may extend not more than twelve inches from the main body of the building without being considered as an encroachment in the yard area; eaves may overhang not more than two feet without encroachment in the yard area.~~

2. Bay windows, architectural design embellishments, and cantilevered floor areas of dwellings may project not more than two feet into the front yard setback without being considered as an encroachment in the yard area; and bay windows and architectural design embellishments of dwellings may project not more than one foot into the side yard setback without being considered as an encroachment in the yard area.

3. Eaves may project not more than two feet six inches into any yard without being considered as an encroachment in the yard area.

4. Open outside stairways, entrance hoods, terraces, canopies and balconies may project into a required front or rear yard not more than five feet and may project into a required side yard not more than two feet.

5. ~~and the ordinary projections of~~ Chimneys, flues and ventilating ducts may be permitted by the central inspection superintendent to project into the required yards not to exceed two feet when placed so as not to obstruct light and ventilation.

6. An open unenclosed porch may project into a required front yard for a distance not exceeding eight feet, and may project into a required rear yard for a distance not exceeding five feet.

7. A modified front yard line shall be established in all districts requiring a setback for residential or commercial purposes in any block having lots platted of record with a reversal of frontage. Such modified front yard line shall extend from the rear corner of the principal building next to the street on the corner lot, or if the corner lot is vacant, from a point at the intersection of the side yard and rear yard restrictions in effect on such premises, to a point on the established front yard line of such street nor more than one hundred fifty feet from the rear of such corner lot measured along the street line away from the intersecting street. No building or accessory building or any part thereof, excepting open porches, shall be built in front of such modified front yard line.

8. Detached unenclosed canopy structures over service station gasoline pump islands may be erected in front of platted building setback lines, provided the supports for the structures shall not be located closer than ten feet to the public right-of-way; and provided further, no portion of the canopy shall project over the public right-of-way, utility easements, or closer to any adjacent property than five feet. Whenever the property is abandoned as a service station, all canopies shall be removed within 90 days or prior to conversion of the property to another use, whichever occurs first.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 28.04.188 OF THE CODE OF THE CITY OF WICHITA, KANSAS; PERTAINING TO EXCEPTIONS TO THE AREA REGULATIONS OF THE ZONING DISTRICTS; AND REPEALING SAID ORIGINAL SECTION 28.04.188 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

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

SECTION 28.04.188 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

"28.04.188 Exceptions to area regulations. The following exceptions under special conditions further modify area regulations in which those special conditions exist:

1. Mixed commercial and residential buildings:

In those districts in which commercial buildings are built more than one story high with the upper one or more stories built above the commercial buildings for residential purposes, no side yard will be required for the residential portion of the building adjoining another property; provided that the part of the building intended for residential use complies with the light and ventilation requirements of the building code of the City of Wichita. Such buildings need not provide side yards on the side of the structure adjoining a street. Rear yards shall be the same as is required for a commercial building.

2. Bay windows, architectural design embellishments, and cantilevered floor areas of dwellings may project not more than two feet into the front yard setback without being considered as an encroachment in the yard area; and bay windows and architectural design embellishments of dwellings may project not more than one foot into the side yard setback without being considered as an encroachment in the yard area.

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5. Chimneys, flues and ventilating ducts may be permitted by the central inspection superintendent to project into the required yards not to exceed two feet when placed so as not to obstruct light and ventilation.

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occurs first."

The original Section 28.04.188 of the Code of the City of Wichita, Kansas is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official paper.

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

ATTEST:

Mayor

Donald C. Gisick, City Clerk

Approved as to form:

John Dekker, Director of Law

Additions underlined

Deletions ~~marked-thru~~

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 28.04.188 OF THE CODE OF THE CITY OF WICHITA, KANSAS; PERTAINING TO EXCEPTIONS TO THE AREA REGULATIONS OF THE ZONING DISTRICTS; AND REPEALING SAID ORIGINAL SECTION 28.04.188 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

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~~1.2--if the upper floors of commercial and industrial buildings are used for residential purposes, such upper floors shall be provided with a rear yard or court area of not less than ten feet times the width of the lot.~~

~~2.--Any multiple-family dwelling built in the "B", "BC", "C", "D", "E" or "F" districts may substitute a court for the rear yard requirement in that district, provided, that the area of the court is not less than the area of the required rear yard, and provided further,~~

~~that the court shall be open throughout the entire height of the building.~~

~~3. -- No yard or other open space provided about any buildings for the purpose of complying with the provisions of these regulations shall again be used as a yard or an open space for another building.~~

~~Chimneys or bay windows may extend not more than twelve inches from the main body of the building without being considered as an encroachment in the yard area, eaves may overhang not more than two feet without encroachment in the yard area.~~

2. Bay windows, architectural design embellishments, and cantilevered floor areas of dwellings may project not more than two feet into the front yard setback without being considered as an encroachment in the yard area; and bay windows and architectural design embellishments of dwellings may project not more than one foot into the side yard setback without being considered as an encroachment in the yard area.

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The original Section 28.04.188 of the Code of the City of Wichita, Kansas is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official paper.

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

Mayor

ATTEST:

Donald C. Gisick, City Clerk

Approved as to form:

John Dekker, Director of Law

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

August 31, 1979

TO E. H. Denton, City Manager

FROM Robert A. Lakin, Director of Planning

SUBJECT DR 79-12 - Possible Amendment to the Zoning Ordinance
Re: Exceptions to Area Regulations
(Service Station Canopies)

Attached hereto is a delineated copy of a proposed amendment to the zoning ordinance related to exceptions to area regulations. This amendment was considered by the Planning Commission at a public hearing and is being forwarded to the City Commission with a recommendation for adoption. Please place this item on the Planning Agenda for the City Commission meeting of September 11, 1979.

BACKGROUND

This section of the zoning ordinance - "Section 28.04.188 - Exceptions to area regulations", has not been amended since sometime before 1950. During these past 29 years, many changes in the codes and development methods have occurred making much of this section obsolete. The changes in other regulations have also brought about needed changes in this section to accommodate the changing method in dispensing fuels at self-service gasoline locations.

There have been several recent vacation cases submitted for the sole purpose of providing detached canopies over self-service fuel islands where there has been established a platted setback line for structures. The subdivision committee has suggested that some proviso be developed to accommodate the installation of such canopies so that it would not be necessary to vacate the platted setback.

In developing this proposed amendment it was determined that other portions of this section of the zoning ordinance needed revising. We have, therefore, submitted additional changes that we feel are in the best interest of the public. The changes related to setbacks for mixed commercial and residential structures are already regulated by building code requirements and are more restrictive than the zoning ordinance. We have, therefore, suggested that the building code be the determining factor. The adoption of the exclusive industrial zoning in 1962 eliminates the possibility of mixed industrial and residential structures and has, therefore, eliminated the language from the text.

SUMMARY

The following is a summary of the changes that are included in the proposed ordinance:

1. The side and rear yard requirements for a mixed commercial and residential structure will be determined primarily by the building code based on the light and ventilation requirements for residential uses. In general, when openings are provided in exterior walls, then setbacks are required by the building code.
2. Paragraph 3 of the original ordinance is a duplication of Section 28.04.160-D so it has been deleted in this revision.
3. Paragraph 2 of the proposed ordinance will permit an increase of projection for bay windows into the front yard setback from one foot to two feet. This will also permit other architectural design embellishments and cantilevered floor areas for residential structures the same projection.
4. Paragraph 3 permits an increase of one-half foot from 2 feet to 2 feet 6 inches for eaves into a required yard area.
5. Paragraph 5 places a two foot maximum limitation for chimneys, flues and ventilating ducts into the required yard areas.
6. Paragraph 8 will permit the construction of un-enclosed canopy structures over service station pump islands in front of platted building setback lines. Said canopies shall not be enclosed and would be subject to removal at such time the facility is abandoned as a service station.

On a vote of 8 in favor, 1 absent and 1 vacancy, the Planning Commission has forwarded the amendment to the City Commission with a recommendation for adoption. Copies of the Planning Commission minutes of August 16, 1979 are attached.

RECOMMENDED ACTION:

1. Concur in the recommendation of the Planning Commission and place the ordinance on first reading.

Page 3
August 31, 1979
DR 79-12

2. Refer the ordinance back to the Planning Commission for reconsideration for the following reason.


Robert A. Lakin
Director of Planning

RAL:GEL:bbc
Attachments

cc: John Dekker, Director of Law
Don Anderson, Director of Housing & Economic Development
Robert B. Feldner, Superintendent of Central Inspection
Wichita Area Builders Assn., 730 N. Main, Suite 1, 67203
Wichita Board of Realtors, 717 N. Emporia, 67214

EXCERPT FROM PLANNING COMMISSION MINUTES OF AUGUST 16, 1979:

28. Case No. DR 79-12 - Possible Amendment to the Zoning Ordinance. Re: Exceptions to area regulations.

28.04.188 Exceptions to area regulations. The following exceptions under special conditions further modify area regulations in which those special conditions exist:

1. Mixed commercial industrial and residential buildings: 1-1 In those districts in which commercial buildings are built one or more than one story stories high with the upper one or more stories built above the commercial or industrial buildings for residential purposes, no side yard will be required for the residential portion of the building adjoining another property; provided that the part of the building intended for residential use complies with the light and ventilation requirements of the building code of the City of Wichita. is not more than two rooms deep from front to rear. Such buildings need not provide side yards on the side of the structure adjoining a street. Rear yards shall be the same as is required for a commercial building.

1-2--If the upper floors of commercial and industrial buildings are used for residential purposes, such upper floors shall be provided with a rear yard or court area of not less than ten feet times the width of the lot.

2--Any multiple family dwelling built in the "B", "C", "D", "E" or "F" districts may substitute a court for the rear yard requirement in that district, provided, that the area of the court is not less than the area of the required rear yard, and provided further, that the court shall be open throughout the entire height of the building.

3--No yard or other open space provided about any buildings for the purpose of complying with the provisions of these regulations shall again be used as a yard or an open space for another building.

Chimneys or bay windows may extend not more than twelve inches from the main body of the building without being considered as an encroachment in the yard area; eaves may overhang not more than two feet without encroachment in the yard area.

2. Bay windows, architectural design embellishments, and cantilevered floor areas of dwellings may project not more than two feet into the front yard setback without being considered as an encroachment in the yard area; and bay windows and architectural design embellishments of dwellings may project not more than one foot into the side yard setback without being considered as an encroachment in the yard area.

3. Eaves may project not more than two feet six inches into any yard without being considered as an encroachment in the yard area.

4. Open outside stairways, entrance hoods, terraces, canopies and balconies may project into a required front or rear yard not more than five feet and may project into a required side yard not more than two feet.

5. and the ordinary projections of Chimneys, flues and ventilating ducts may be permitted by the central inspection superintendent to project into the required yards not to exceed two feet when placed so as not to obstruct light and ventilation.

6. An open unenclosed porch may project into a required front yard for a distance not exceeding eight feet, and may project into a required rear yard for a distance not exceeding five feet.

7. A modified front yard line shall be established in all districts requiring a setback for residential or commercial purposes in any block having lots platted of record with a reversal of frontage. Such modified front yard line shall extend from the rear corner of the principal building next to the street on the corner lot, or if the corner lot is vacant, from a point on the established front yard line of such street nor more than one hundred fifty feet from the rear of such corner lot measured along the street line away from the intersecting street. No building or accessory building or any part thereof, excepting open porches, shall be built in front of such modified front yard line.

8. Detached unenclosed canopy structures over service station gasoline pump islands may be erected in front of platted building setback lines, provided the supports for the structures shall not be located closer than ten feet to the public right-of-way; and provided further, no portion of the canopy shall project over the public right-of-way, utility easements, or closer to any adjacent property than five feet. Whenever the property is abandoned as a service station, all canopies shall be removed within 90 days or prior to conversion of the property to another use, whichever occurs first.

LAKIN stated that this text amendment involves a section where some cleanup language is needed, but more specifically it was designed to provide an alternate to vacating setbacks where there had been some problems with the service station canopies. He said that it may be appropriate to begin to look into some of the devices related to solar development requirements. It involves looking at establishing lots on a different axis, setback lines in their entirety to maximize use of solar equipment, easements to protect for solar access, and quite a number of new things are being written in this area, and new law is being developed. He recommended that the Commission proceed with this issue and let the staff continue to monitor and observe what is happening both nationwide and locally on issues of solar nature.

Referring to item 8 of the proposed amendment, BAYOUTH asked how does this handle the churches who wish to have canvas covered canopies that reach out to the sidewalks.

LAKIN stated that very few churches are built in light commercial, office districts and those areas. They are usually built in residential districts. If the churches run into that problem, there is the Board of Zoning Appeals with the ability to vary setback lines of the zoning ordinance.

BAYOUTH said that the point he was bringing out was that he did not feel the need to vacate.

LAKIN pointed out that there were usually not platted setback lines that have to be vacated for churches. There is a BZA procedure that allows variances based on specific unique situations in each case.

COLE commented that this proposed language would take care of most of the problems that the Commission has had from the service stations. He continued that uses do change with technology. We are going more and more to self-service filling stations and these are becoming high crime areas. People are getting ripped off when they pull up to these places at night to fill their gas tanks. One of the suggested controls on this is a lighted canopy, providing light equal to daylight. He said that in addition to the canopy being a protection from the elements it becomes a security device. He felt that this amendment benefited the public far more than it was a detriment to the public.

MOTION: That the Planning Commission recommend the approval of the amendment to the zoning ordinance. Cole moved, Shook seconded and it carried unanimously. Barrier was absent. One vacancy.

Additions underlined

Deletions ~~marked thru~~

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 28.04.188 OF THE CODE OF THE CITY OF WICHITA, KANSAS; PERTAINING TO EXCEPTIONS TO THE AREA REGULATIONS OF THE ZONING DISTRICTS; AND REPEALING SAID ORIGINAL SECTION 28.04.188 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

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

SECTION 28.04.188 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

"28.04.188 Exceptions to area regulations. The following exceptions under special conditions further modify area regulations in which those special conditions exist:

1. Mixed commercial ~~industrial~~ and residential buildings: ~~1-1~~ In those districts in which commercial buildings are built ~~one or~~ more than one story stories-high with the upper one or more stories built above the commercial ~~or industrial~~ buildings for residential purposes, no side yard will be required for the residential portion of the building adjoining another property; provided that the part of the building intended for residential use complies with the light and ventilation requirements of the building code of the City of Wichita. ~~is not more than two rooms deep from front to rear.~~ Such buildings need not provide side yards on the side of the structure adjoining a street. Rear yards shall be the same as is required for a commercial building.

~~1-2--If the upper floors of commercial and industrial buildings are used for residential purposes, such upper floors shall be provided with a rear yard or court area of not less than ten feet times the width of the lot.~~

~~2--Any multiple family dwelling built in the "B", "BC", "C", "D", "E" or "F" districts may substitute a court for the rear yard requirement in that district, provided, that the area of the court is not less than the area of the required rear yard, and provided further,~~

~~that the court shall be open throughout the entire height of the building.~~

~~3. No yard or other open space provided about any build for the purpose of complying with the provisions of these regulations shall again be used as a yard or an open space for another building.~~

~~Chimneys or bay windows may extend not more than twelve inches from the main body of the building without being considered as an encroachment in the yard area; eaves may overhang not more than two feet without encroachment in the yard area.~~

2. Bay windows, architectural design embellishments, and cantilevered floor areas of dwellings may project not more than two feet into the front yard setback without being considered as an encroachment in the yard area; and bay windows and architectural design embellishments of dwellings may project not more than one foot into the side yard setback without being considered as an encroachment in the yard area.

3. Eaves may project not more than two feet six inches into any yard without being considered as an encroachment in the yard area.

4. Open outside stairways, entrance hoods, terraces, canopies and balconies may project into a required front or rear yard not more than five feet and may project into a required side yard not more than two feet.

5. and the ordinary projections of Chimneys, flues and ventilating ducts may be permitted by the central inspection superintendent to project into the required yards not to exceed two feet when placed so as not to obstruct light and ventilation.

6. An open unenclosed porch may project into a required front yard for a distance not exceeding eight feet, and may project into a required rear yard for a distance not exceeding five feet.

7. A modified front yard line shall be established in all districts requiring a setback for residential or commercial purposes in any block having lots platted of record with a reversal of frontage. Such modified front yard line shall extend from the rear corner of the principal building next to the street on the corner lot, or if the corner lot is vacant, from a point on the established front yard line of such street nor more than one hundred fifty feet from the rear of such corner lot measured along the street line away from the intersecting street. No building or accessory building or any part thereof, excepting open porches, shall be built in front of such modified front yard line.

8. Detached unenclosed canopy structures over service station gasoline pump islands may be erected in front of platted building setback lines, provided the supports for the structures shall not be located closer than ten feet to the public right-of-way; and provided further, no portion of the canopy shall project over the public right-of-way, utility easements, or closer to any adjacent property than five feet. Whenever the property is abandoned as a service station, all canopies shall be removed within 90 days or prior to conversion of the property to another use, whichever occurs first."

The original Section 28.04.188 of the Code of the City of Wichita, Kansas is hereby repealed.

This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official paper.

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

Mayor

ATTEST:

Donald C. Gisick, City Clerk

Approved as to form:

John Dekker, Director of Law

August 31, 1979

E. H. Denton, City Manager
Robert A. Lakin, Director of Planning

DR 79-12 - Possible Amendment to the Zoning Ordinance
Re: Exceptions to Area Regulations
(Service Station Canopies)

Attached hereto is a delineated copy of a proposed amendment to the zoning ordinance related to exceptions to area regulations. This amendment was considered by the Planning Commission at a public hearing and is being forwarded to the City Commission with a recommendation for adoption. Please place this item on the Planning Agenda for the City Commission meeting of September 11, 1979.

BACKGROUND

This section of the zoning ordinance - "Section 28.04.188 - Exceptions to area regulations", has not been amended since sometime before 1950. During these past 29 years, many changes in the codes and development methods have occurred making much of this section obsolete. The changes in other regulations have also brought about needed changes in this section to accommodate the changing method in dispensing fuels at self-service gasoline locations.

There have been several recent vacation cases submitted for the sole purpose of providing detached canopies over self-service fuel islands where there has been established a platted setback line for structures. The subdivision committee has suggested that some proviso be developed to accommodate the installation of such canopies so that it would not be necessary to vacate the platted setback.

In developing this proposed amendment it was determined that other portions of this section of the zoning ordinance needed revising. We have, therefore, submitted additional changes that we feel are in the best interest of the public. The changes related to setbacks for mixed commercial and residential structures are already regulated by building code requirements and are more restrictive than the zoning ordinance. We have, therefore, suggested that the building code be the determining factor. The adoption of the exclusive industrial zoning in 1962 eliminates the possibility of mixed industrial and residential structures and has, therefore, eliminated the language from the text.

SUMMARY

The following is a summary of the changes that are included in the proposed ordinance:

1. The side and rear yard requirements for a mixed commercial and residential structure will be determined primarily by the building code based on the light and ventilation requirements for residential uses. In general, when openings are provided in exterior walls, then setbacks are required by the building code.
2. Paragraph 3 of the original ordinance is a duplication of Section 28.04.160-D so it has been deleted in this revision.
3. Paragraph 2 of the proposed ordinance will permit an increase of projection for bay windows into the front yard setback from one foot to two feet. This will also permit other architectural design embellishments and cantilevered floor areas for residential structures the same projection.
4. Paragraph 3 permits an increase of one-half foot from 2 feet to 2 feet 6 inches for eaves into a required yard area.
5. Paragraph 5 places a two foot maximum limitation for chimneys, flues and ventilating ducts into the required yard areas.
6. Paragraph 8 will permit the construction of un-enclosed canopy structures over service station pump islands in front of platted building setback lines. Said canopies shall not be enclosed and would be subject to removal at such time the facility is abandoned as a service station.

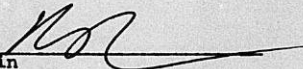
On a vote of 8 in favor, 1 absent and 1 vacancy, the Planning Commission has forwarded the amendment to the City Commission with a recommendation for adoption. Copies of the Planning Commission minutes of August 16, 1979 are attached.

RECOMMENDED ACTION:

1. Concur in the recommendation of the Planning Commission and place the ordinance on first reading.

Page 3
August 31, 1979
DR 79-12

2. Refer the ordinance back to the Planning Commission for reconsideration for the following reason.


Robert A. Lakin
Director of Planning

RAL:GEL:bbc
Attachments

cc: John Dekker, Director of Law
Don Anderson, Director of Housing & Economic Development
Robert B. Feldner, Superintendent of Central Inspection
Wichita Area Builders Assn., 730 N. Main, Suite 1, 67203
Wichita Board of Realtors, 717 N. Emporia, 67214

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

August 8, 1979

TO Wichita-Sedgwick County Metropolitan Area Planning Commission
FROM Glen E. Lytle, Special Assistant for Zoning
SUBJECT DR 79-12 - Possible Amendment to the Zoning Ordinance
Re: Exceptions to Area Regulations

Attached hereto is a copy of a proposed amendment to the City of Wichita Zoning Ordinance related to exceptions to the area regulations. This has been advertised for public hearing before the Planning Commission at the meeting of August 16, 1979.

BACKGROUND

This section of the zoning ordinance - "Section 28.04.188 - Exceptions to area regulations", has not been amended since sometime before 1950. During these past 29 years, many changes in the codes and development methods have occurred making much of this section obsolete. The changes in other regulations have also brought about needed changes in this section to accommodate the changing method in dispensing fuels at self-service gasoline locations.

There have been several recent vacation cases submitted for the sole purpose of providing detached canopies over self-service fuel islands where there has been established a platted setback line for structures. The subdivision committee has suggested that some proviso be developed to accommodate the installation of such canopies so that it would not be necessary to vacate the platted setback.

In developing this proposed amendment it was determined that other portions of this section of the zoning ordinance needed revising. We have, therefore, submitted additional changes that we feel are in the best interest of the public. The changes related to setbacks for mixed commercial and residential structures are already regulated by building code requirements that are more restrictive than the zoning ordinance. We have, therefore, suggested that the building code be the determining factor. The adoption of the exclusive industrial zoning in 1962 eliminates the possibility of mixed industrial and residential structures.


SUMMARY

The changes proposed herein will include the following:

1. The side and rear yard requirements for a mixed commercial and residential structure will be determined primarily by the building code based on the light and ventilation requirements for residential uses. In general, when openings are provided in exterior walls, then setbacks are required by the building code.
2. Paragraph 3 of the ordinance is a duplication of Section 28.04.160-D so it has been deleted in the revision.
3. Paragraph 2 of the proposed ordinance will permit an increase of projection for bay windows into the front yard setback from one foot to two feet. This will also permit other architectural design embellishments and cantilevered floor areas for residential structures the same projection.
4. Paragraph 3 permits an increase of one-half foot from 2 feet to 2 feet 6 inches for eaves into a required yard area.
5. Paragraph 5 places a two foot maximum limitation for chimneys, flues and ventilating ducts into the required yard areas.
6. Paragraph 8 will permit the construction of unenclosed canopy structures over service station pump islands in front of platted building setback lines, subject to the limitations set forth in the ordinance.

RECOMMENDATION

Make whatever changes that are deemed to be in the best interest of the public and forward the amendment to the City Commission with a recommendation for adoption.


Glen E. Lytle
Special Assistant for Zoning

GEL:bbc
Attachment

cc: Robert A. Lakin, Director of Planning
Ray Bruggeman, Director of Public Works
Don Anderson, Director of Housing & Economic Development
Robert Feldner, Superintendent of Central Inspection
Wichita Area Builders Assn., 730 N. Main 67203
Wichita Board of Realtors, 717 N. Emporia 67214

Additions Underlined
Deletions Marked-~~+~~

July 24, 1979
DR-79-12

POSSIBLE AMENDMENT TO THE
ZONING ORDINANCE OF THE CITY OF WICHITA
RELATED TO EXCEPTIONS TO AREA REGULATIONS
(SCHEDULED FOR PUBLIC HEARING BEFORE THE MAPC ON AUGUST 16, 1979)

Section 28.04.188 shall be amended to read as follows:

28.04.188 Exceptions to area regulations. The following exceptions under special conditions further modify area regulations in which those special conditions exist:

1. Mixed commercial ~~x industrial~~ and residential buildings: 1.1
In those districts in which commercial ~~and industrial~~ buildings are built ~~one or more~~ than one story ~~stories~~ high with the upper one or more stories built above the commercial ~~or industrial~~ buildings for residential purposes, no side yard will be required for the residential portion of the building adjoining another property; provided that the part of the building intended for residential use complies with the light and ventilation requirements of the building code of the City of Wichita. ~~is not more than two rooms deep from front to rear.~~ Such buildings need not provide side yards on the side of the structure adjoining a street. Rear yards shall be the same as is required for a commercial building.

~~1.2--If the upper floors of commercial and industrial buildings are used for residential purposes, such upper floors shall be provided with a rear yard or court area of not less than ten feet times the width of the lot.~~

2.--Any multiple-family dwelling built in the "B", "LC", "C", "D", "E" or "F" districts may substitute a court for the rear yard requirement in that district, provided, that the area of the court is not less than the area of the required rear yard, and provided further, that the court shall be open throughout the entire height of the building.

3.--No yard or other open space provided about any buildings for the purpose of complying with the provisions of these regulations shall again be used as a yard or an open space for another building.

Chimneys or bay windows may extend not more than twelve inches from the main body of the building without being considered as an encroachment in the yard area; eaves may overhang not more than two feet without encroachment in the yard area.

2. Bay windows, architectural design embellishments, and cantilevered floor areas of dwellings may project not more than two feet into the front yard setback without being considered as an encroachment in the yard area; and bay windows and architectural design embellishments of dwellings may project not more than one foot into the side yard setback without being considered as an encroachment in the yard area.

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6. An open unenclosed porch may project into a required front yard for a distance not exceeding eight feet, and may project into a required rear yard for a distance not exceeding five feet.

7. A modified front yard line shall be established in all districts requiring a setback for residential or commercial purposes in any block having lots platted of record with a reversal of frontage. Such modified front yard line shall extend from the rear corner of the principal building next to the street on the corner lot, or if the corner lot is vacant, from a point at the intersection of the side yard and rear yard restrictions in effect on such premises, to a point on the established front yard line of such street nor more than one hundred fifty feet from the rear of such corner lot measured along the street line away from the intersecting street. No building or accessory building or any part thereof, excepting open porches, shall be built in front of such modified front yard line.

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August 8, 1979

Wichita-Sedgwick County Metropolitan Area Planning Commission
Glen E. Lytle, Special Assistant for Zoning

DR 79-12 - Possible Amendment to the Zoning Ordinance
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There have been several recent vacation cases submitted for the sole purpose of providing detached canopies over self-service fuel islands where there has been established a platted setback line for structures. The subdivision committee has suggested that some proviso be developed to accommodate the installation of such canopies so that it would not be necessary to vacate the platted setback.

In developing this proposed amendment it was determined that other portions of this section of the zoning ordinance needed revising. We have, therefore, submitted additional changes that we feel are in the best interest of the public. The changes related to setbacks for mixed commercial and residential structures are already regulated by building code requirements that are more restrictive than the zoning ordinance. We have, therefore, suggested that the building code be the determining factor. The adoption of the exclusive industrial zoning in 1962 eliminates the possibility of mixed industrial and residential structures.

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Page 2
August 8, 1979
DR 79-12

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6. Paragraph 8 will permit the construction of unenclosed canopy structures over service station pump islands in front of platted building setback lines, subject to the limitations set forth in the ordinance.

RECOMMENDATION

Make whatever changes that are deemed to be in the best interest of the public and forward the amendment to the City Commission with a recommendation for adoption.

Glen E. Lytle
Special Assistant for Zoning

GEL:bbc
Attachment

cc: Robert A. Lakin, Director of Planning
Ray Bruggeman, Director of Public Works
Don Anderson, Director of Housing & Economic Development
Robert Feldner, Superintendent of Central Inspection
Wichita Area Builders Assn., 730 N. Main 67203
Wichita Board of Realtors, 717 N. Emporia 67214

Additions Underlined
Deletions Marked-~~thru~~

July 24, 1979

DR-79-12

POSSIBLE AMENDMENT TO THE
ZONING ORDINANCE OF THE CITY OF WICHITA
RELATED TO EXCEPTIONS TO AREA REGULATIONS
(SCHEDULED FOR PUBLIC HEARING BEFORE THE MAPC ON AUGUST 16, 1979)

Section 28.04.188 shall be amended to read as follows:

28.04.188 Exceptions to area regulations. The following exceptions under special conditions further modify area regulations in which those special conditions exist:

1. ~~Mixed commercial~~ ~~and industrial~~ and residential buildings: 1-1

In those districts in which commercial ~~and industrial~~ buildings are built ~~one or more than one story~~ ~~stories~~ high with the upper one or more stories built above the commercial ~~or industrial~~ buildings for residential purposes, no side yard will be required for the residential portion of the building adjoining another property; provided that the part of the building intended for residential use complies with the light and ventilation requirements of the building code of the City of Wichita. ~~is not more than two rooms deep from front to rear.~~ Such buildings need not provide side yards on the side of the structure adjoining a street. Rear yards shall be the same as is required for a commercial building.

~~1.2--If the upper floors of commercial and industrial buildings are used for residential purposes, such upper floors shall be provided with a rear yard or court area of not less than ten feet times the width of the lot.~~

2.--Any-multiple-family-dwelling-built-in-the-"B";-"LC";-"C";-"D";
"E";-or-"F"-districts-may-substitute-a-court-for-the-rear-yard-requirement
in-that-district; provided; that-the-area-of-the-court-is-not-less-than
the-area-of-the-required-rear-yard; and-provided-further; that-the-court
shall-be-open-throughout-the-entire-height-of-the-building.

3.--No-yard-or-other-open-space-provided-about-any-buildings-for-
the-purpose-of-complying-with-the-provisions-of-these-regulations-shall
again-be-used-as-a-yard-or-an-open-space-for-another-building.

Chimneys-or-bay-windows-may-extend-not-more-than-twelve-inches-from
the-main-body-of-the-building-without-being-considered-as-an-encroachment
in-the-yard-area; eaves-may-overhang-not-more-than-two-feet-without-en-
croachment-in-the-yard-area.

2. Bay windows, architectural design embellishments, and cantilevered
floor areas of dwellings may project not more than two feet into the front
yard setback without being considered as an encroachment in the yard area;
and bay windows and architectural design embellishments of dwellings may
project not more than one foot into the side yard setback without being
considered as an encroachment in the yard area.

3. Eaves may project not more than two feet six inches into any yard
without being considered as an encroachment in the yard area.

4. Open outside stairways, entrance hoods, terraces, canopies and balconies may project into a required front or rear yard not more than five feet and may project into a required side yard not more than two feet.

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7. A modified front yard line shall be established in all districts requiring a setback for residential or commercial purposes in any block having lots platted of record with a reversal of frontage. Such modified front yard line shall extend from the rear corner of the principal building next to the street on the corner lot, or if the corner lot is vacant, from a point at the intersection of the side yard and rear yard restrictions in effect on such premises, to a point on the established front yard line of such street nor more than one hundred fifty feet from the rear of such corner lot measured along the street line away from the intersecting street. No building or accessory building or any part thereof, excepting open porches, shall be built in front of such modified front yard line.

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Additions Underlined
Deletions ~~marked thru~~

POSSIBLE AMENDMENT TO THE
ZONING ORDINANCE OF THE CITY OF WICHITA

RELATED TO EXCEPTIONS TO AREA REGULATIONS

Section 28.04.188 shall be amended to read as follows:

28.04.188 Exceptions to area regulations. The following exceptions under special conditions further modify area regulations in which those special conditions exist:

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~~In those districts in which commercial and industrial buildings are built one or more stories high with the upper one or more stories built above the commercial or industrial buildings for residential purposes, no side yard will be required for the residential portion of the building adjoining another property; provided that the part of the building intended for residential use~~

complies with the light and ventilation requirements of building code of the City of Wichita.

commercial building

~~is not more than two rooms deep from front to rear. Such buildings need not provide side yards on the side of the structure adjoining a street. Rear yards shall be the same as is required for~~

~~2. If the upper floors of commercial and industrial buildings are used for residential purposes, such upper floors shall be provided with a rear yard or court area of not less than ten feet times the width of the lot.~~

~~3. Any multiple family dwelling built in the "B," "C," "D," "E" or "F" districts may substitute a court for the rear yard requirement in that district; provided that the area of the court is not less than the area of the required rear yard, and provided further that the court shall be open throughout the entire height of the building.~~

~~4. No yard or other open space provided about any buildings for the purpose of complying with the provisions of these regulations shall again be used as a yard or an open space for another building.~~

~~Chimneys or bay windows may extend not more than twelve inches from the main body of the building without being considered as an encroachment in the yard area; eaves may overhang not more than two feet without encroachment in the yard area.~~

2. Bay windows, architectural design embellishments, and cantilevered floor areas of dwellings may project not more than two feet into the front yard setback without being considered as an encroachment in the yard area; and bay

2.

windows and architectural design embellishments of dwellings may project not more than one foot into the side yard setback without being considered as an encroachment in the yard area.

3. Eaves may project not more than two feet six inches into any yard without being considered as an encroachment in the yard area.

4. Open outside stairways, entrance hoods, terraces, canopies and balconies may project into a required front or rear yard not more than five feet and may project into a required side yard not more than two feet,

5. and the ordinary projections of chimneys, flues and ventilating ducts may be permitted by the central inspection superintendent to project into the required yards not to exceed two feet when placed so as not to obstruct light and ventilation.

6. An open unenclosed porch may project into a required front yard for a distance not exceeding eight feet, and may project into a required rear yard for a distance not exceeding five feet.

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3.

^{unenclosed}

8. Detached canopy structures over service station gasoline pump islands may be erected in front of platted building setback lines, provided the supports for the structures shall not be located closer than ten feet to the public right-of-way; and provided further, no portion of the canopy shall project over public right-of-way ^{utility easements} or closer to any adjacent property than five feet. Whenever the property is abandoned as a service station, all canopies shall be removed within 90 days or prior to conversion of the property to another use, whichever occurs first.

(Published in The Daily Record on July 24, 1979)

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TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED.

NOTICE IS HEREBY GIVEN, that on Thursday, August 16, 1979, the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at 1:30 p.m., will consider the following change in Title 28, the Code of the City of Wichita, Kansas:

An amendment to Section 28.04.188 of the Zoning Ordinance providing for exceptions to the area regulations.

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

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

WITNESS my hand and seal this 23rd day of July, 1979.

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

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