



Code Enforcement Policy Manual

Adopted June 1, 2010
by the Board of County Commissioners

WAGONER COUNTY
CODE ENFORCEMENT POLICY MANUAL

I. MISSION

Code Enforcement’s mission is to enhance Wagoner County’s livability by ensuring and protecting the health, safety, and welfare of the County’s residents and visitors.

II. PURPOSE

The purpose of Wagoner County’s Code Enforcement Policy and Procedures Manual (hereafter “manual”) is to provide guidelines for:

- The prioritization of code enforcement cases;
- Investigation of code violation complaints;
- Enforcement of County codes through voluntary compliance;
- Assessment of fines and penalties to code violators; and
- Prosecution of code violators who do not comply;
- Recovery of the County’s investigation and enforcement costs.

These written guidelines are intended to assure consistency within the County’s Code Enforcement program and to educate the public about Wagoner County code enforcement.

III. CODE ENFORCEMENT PHILOSOPHY

The County’s policy is to achieve voluntary compliance with reported and discovered code violations. However, not all violations have the same degree of severity. As such, the County has established through this manual priority ranking and procedures. The intent is to allow the level of enforcement that best fits the type and circumstances of the code violation(s) within clear and objective criteria, consistent with the established priorities, and maximize available resources. It is the County’s policy that code enforcement follows the priority ranking set forth in this manual.

IV. PRIORITIES FOR CODE ENFORCEMENT

It is the County’s policy to investigate and attempt to resolve all reported and discovered code violations. There may be times when code violations cannot be given the same level of attention, when some code violations may receive no attention at all, or when the County may be unable to carry out the proactive code enforcement activities outlines in this manual. In such circumstances the most serious violations, as determined through application of the priorities and criteria in this section will be addressed before the less serious violations are addressed, regardless of the order in which the complaints are received. However, complaints alleging both priority and non-priority violations may be processed together to maximize efficiency.

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A. Priority Cases. The County has established the following priorities.

1. Violations that present an imminent threat to public health and safety or the environment;
2. Violations affecting storm drainage, wetlands and/or adjacent areas;
3. Building code violations consisting of non-permitted construction or failure to obtain permits for construction;
4. Building, Planning, Engineering and Environmental Health permit violations including failure to obtain required permits or failure to meet conditions and requirements or permits;
5. Land Use and Zoning violations; and
6. Multiple complaints received on the same property;

B. Non-Priority Cases. Complaints alleging code violations that do not fall within the priority rankings above will be processed in the order in which the complaints are received, and as resources allow.

Exception- At the discretion of Code Enforcement staff, complaints may be processed in any order that maximizes efficiency. Complaints concerning a particular type of code violation (e.g., occurring in a particular geographic area) may be processed together, regardless of the order in which the complaints are received.

C. Enforcement Levels.

1. Obtaining voluntary compliance.
2. Stop work order (when applicable).
3. Permit revocation and or withholding additional permits.
4. Physical abatement by County employees and/or agents.
5. Citation and prosecution of infractions in Municipal Court.

D. Criteria for Establishing Priority and Choosing Level of Enforcement.

Code violation cases not normally listed as priority may be moved to priority status if they have one or more of the following aggravation circumstances:

1. The actions leading to the violation(s) were deliberate;
2. The violation causes economic harm to individuals or the County as a whole;
3. The alleged code violator is receiving significant economic benefit from the continuing code violations;

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4. The physical size or extent of the violation is significant;
5. The violation has existed uncorrected for a significant period;
6. There is a previous history of complaints and code enforcement on the subject property and/or with the alleged code violator;
7. There is community interest in the violation expressed by the receipt of multiple complaints from separate individuals or by a complaint by a citizen group;
8. The relative benefit of code enforcement outweighs its cost (e.g. correction should be quick and inexpensive to accomplish);
9. After reasonable efforts have been made, there is little likelihood of obtaining voluntary compliance (contacted twice with no response or citizen refuses to acknowledge County authority), and
10. is flagrant and visible to the public.

V. **APPLICABILITY**

- A. **General Applicability.** This manual applies to all code enforcement carried out by County employees and/or agents. Except as otherwise provided, the policies and procedures in this manual apply to all alleged code violations.
- B. **New Policies and Procedures Applicable on Effective Date of Manual.** On and after the effective date of this manual and within available Code Enforcement resources, the County will undertake a number of procedures for proactive code enforcement. These procedures include:
1. Timely and regular follow-up by County staff for compliance with conditions and requirements for permits and approvals;
 2. Reporting by County staff of code violations observed while conducting County business;
 3. Stop Work Orders for work on property without permits or approvals;
 4. Revocation of permits and approvals for failure to comply with requirements or conditions;
 5. Restriction on issuance of permits on property with uncorrected code violations; and
 6. Cooperation with other agencies to terminate service, to the extent authorized by law, to non-permitted uses on property.

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C. Non-Applicability to Covenants, Conditions and Restrictions. Many subdivisions and planned communities are subject to private, recorded covenants, conditions and restrictions (hereafter "CC & R's"). For example, CC & R's may regulate height, size or appearance of structures, or the method of storing recreational vehicles. The conditions and restrictions included in CC & R's are generally enforceable through private legal action. The County does not enforce private CC & R's; however, County regulations supercede CC & R's.

VI. INITIATION OF CODE ENFORCEMENT

Code Enforcement will be initiated by the following methods:

A. Citizen Complaints. Any person can make a complaint to the County alleging one or more code violations.

1. **Complaint Form.** A citizen must file a complaint on a County complaint form. The form is available at the County Courthouse. Citizens may attach a supplemental information sheet to the form provided by the County.

2. **Anonymous Complaints.** Anonymous complaints will be accepted, but may or may not be investigated at the discretion of the County Administrator or designee depending on the following factors:

- a. The reliability of the complaint;
- b. Whether the complaint alleges an imminent threat to public health and safety or to the environment;
- c. The ease or difficulty with which the complaint may be verified by County staff.

3. **Confidentiality.** The County policy is to maintain the confidentiality of Code Enforcement complaint files and computer records, including the identity of the complainant, to the extent legally possible. In addition, the County recognizes that some complainants do not wish to have their names disclosed to the alleged code violator for fear or retaliation. However, in some cases it may be necessary for successful prosecution and enforcement for the complainant to be identified and to testify in court. Additionally, the County's Code Enforcement files are subject to state statutes governing public records and disclosure.

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B. Observations by Code Enforcement Staff. Code Enforcement staff shall document, in the Code Enforcement records, any potential code violations observed on property that is the subject of their current investigation. They may also document code violations observed on any property in the same vicinity as the subject property, which violations are observable from the subject property. Such violations then shall be prioritized for investigation according to this manual.

C. Permit/Approval/Conditions Monitoring by Enforcement Staff. The County issues land use, environmental, engineering, and building permits with a variety of requirements, conditions, and timelines. For example, a land use approval may require landscaping the site by certain date, or building permits expire if construction progress and inspections are not made within certain periods. Code violations occur when these permits, approvals, or conditions are not met in a timely manner.

Planning and Code Enforcement staff shall monitor conditions of approval and similar permits requirements for permits and approvals for which the decision is issued, as time and resources allow.

D. Report by County Staff. In many cases, County staff may be in a unique position to observe potential code violations. For example, the Building Inspector may be the only person able to observe new construction for which there is not permit. The County's policy is that all County Staff may report to the Code Enforcement staff possible code violations they observe while conducting County business. Reports by County staff under this subsection shall be made on a complaint form and shall be processed by priority ranking.

VII. RECORDING COMPLAINTS, OPENING FILES AND TIMELINES

A. Recording Complaints.

To the extent possible, all complaints received shall be recorded in the County Code Enforcement records. Recording the complaint shall consist of assigning the complaint a case number and entering into the record the following information:

1. Case Number;
2. Complainant's name and telephone number;
3. The subject property address; and
4. Type of complaint.

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B. Opening a File.

After a complaint is assigned a number and recorded, a file shall be opened. The file is the official record of complaint and its investigation and resolution. The file shall contain the following:

1. The complaint form;
2. A map;
3. An investigation worksheet;
4. Assessor's information on the subject property;
5. The name of the staff member or County representative assigned to the case; and
6. Photographs or other exhibits that support the complaints.

VIII. INVESTIGATION

A. Establishing the Elements of a Violation. Before a notice of violation is sent, it must be determined whether the complaint, if valid, established a code violation. If it does not, the case will be closed.

Code Enforcement staff, with the assistance of the other County staff and/or legal counsel, and after any necessary field investigation, shall determine if the following elements have been established:

1. Jurisdiction. The property upon which the alleged code violation has occurred must be land over which the County has jurisdiction.
2. Zoning. Zoning of the subject property shall be determined.
3. Permit Status. The status of any land use, environmental health, engineering and/or construction permits on the subject property shall be determined.
4. Property Ownership. All persons with a recorded legal interest in the subject property should be identified from the Assessor's records and they may include the owners, contract purchasers, lessees, and lien holders or other security interest holders.
5. Other Responsible Persons. In addition to the persons listed in #4 of this section, any other persons potentially responsible for the alleged code violation(s) shall be identified. These persons could include tenants, land developers, and contractors.
6. Identification of Applicable Code Provisions. Code Enforcement staff, with the assistance of other County staff and legal counsel as necessary, shall identify the pertinent provisions of the County codes that may have been violated according to the complaint.

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7. Alleged Violation Occurred or is Occurring. A complainant may allege a code violation that occurred in the past (e.g. construction without permit); that occurs intermittently (e.g. basketball hoops placed in public right-of-way); or is ongoing (e.g. non-permitted commercial activity in a residential zone). Code Enforcement staff shall determine whether there are reasonable grounds to believe that the alleged violation did occur or is occurring. If a violation cannot be verified in a reasonable period, the case may be closed.

C. Assignment of Investigation and Enforcement Responsibility. Responsibility for field investigation and code enforcement will be assigned to the County staff member with the best expertise in that particular field.

B. Field Investigation.

The purpose of field investigation is to:

1. Verify the existence and severity of a code violation.
2. Document code violations by means of written notes, photographs, witness interviews, etc. If a violation is visible, any investigation that establishes such violation, or confirms there is no violation, shall include pictures. The report shall include any measurements made and where they were made.
3. Obtain supporting evidence, such as name and statements of potential witnesses.
4. If possible, contact and discuss with the property owner, occupant or other responsible person:
 - a. the nature of the violation(s);
 - b. Methods for complying;
 - c. Timelines for compliance;
 - d. Enforcement procedures; and
 - e. Potential consequences for failure to comply.

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C. Preparations and Precautions. Staff shall take whatever actions are reasonable and necessary to minimize any potential risk of violent confrontation or injury to themselves or others when conducting their field investigation:

1. Law Enforcement Assistance.

When appropriate, Code Enforcement staff or other assigned staff will contact the Sheriff's Office to determine if there have been criminal complaints or investigations concerning the subject property of alleged code violator, and whether, in the opinion of the Sheriff's Office, a field investigation might present any threat to the safety of staff, the alleged code violator, or other persons present during a field investigation. Staff may request law enforcement assistance in conducting the field investigation and may postpone such investigation until law enforcement assistance is available.

2. Announced/Unannounced Field Visits.

At the discretion of Code Enforcement staff or other assigned staff, a field visit to the vicinity of the subject property may be conducted with or without prior notice to the property owner, occupant, or alleged code violator. The determination of whether or not to give prior notice shall be made on the basis of the following criteria:

- a. The nature of the alleged violation;
- b. Whether or not prior notice will make detection and documentation of the alleged violation more difficult; and
- c. Whether or not prior notice will unnecessarily increase the risk or violent confrontation or injury to staff.

3. Entering Upon Property or Premises.

Code Enforcement staff and other assigned staff shall not enter upon private property or premises to conduct a field investigation without authority to enter. Code Enforcement staff may enter un-posted property to seek permission to investigate on the premises. Unless permission is granted, the investigation shall be conducted from public roads or property where permission to enter has been granted. If Code Enforcement staff or other assigned staff does not have permission or other authority to enter upon the property or premises, and entry is necessary to conduct the investigation, staff shall consult with County Municipal Court Judge about obtaining an administrative search warrant.

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4. Report of Field Investigation.

Upon completion of the field investigation, Code Enforcement staff or other assigned staff will enter the information into the Code Enforcement records. The report shall include the following information;

- a. Name of Investigator;
- b. Date, time and place of field visit;
- c. Code violation(s) observed;
- d. If no code violation(s) is observed, an explanation of conditions observed;
- e. Witnesses, if any, interviewed;
- f. Evidence obtained, if any, (photographs, measurements, etc.);
- g. Documented discussions;
- h. Action necessary to correct violation;
- i. Recommended enforcement action and timeline; and
- j. Referrals, if any, to other agencies such as social services, state agencies, etc.

IX. ENFORCEMENT PROCEDURES

A. Notice of Violation

1. Notice of Violation (NOV) must be presented in-person by the Code Enforcement Official at the location of the violation or legal residence of the owner responsible for the alleged violation.
2. When issuing a NOV, the Code Enforcement Official shall:
 - a. State the violation in common language and cite the County code reference
 - b. Inform the owner how long they have to correct the issue before they will be charged a fine (known as the grace period)
 - c. Inform the owner that the fine is \$100 per day for everyday the violation exists after the grace period until the violation is ultimately corrected
 - d. Inform the owner the date they are summons to District Court if the Violation is left uncorrected after the grace period

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B. Limited Time Frames. Listed below are some of the timelines set by ordinances for resolution of complaints monitored by Code Enforcement staff.

<u>Type of Violation</u>	<u>Deadline</u>
Nuisances not involving a structure:	10 days
Nuisances involving a structure (other than Dangerous building)	30 days
Abandoned or Unauthorized Vehicles (on private or County owned property)	24 hours
Large Vehicle or RV Parking without a permit	72 hours
Vehicles for sale or used as store front in public right of way	Immediate
Creation of hazard in public road or right of way	Immediate
Noise disturbances (including off road vehicles)	Immediate
Working in right of way without permit (driveway or utility installation)	Stop Work Order

Other as established by individual Wagoner County Code

Building Code Violations: (including by not limited to)

1. Working without permit	Stop Work Order
2. House Accessory structure	30 days
3. Existing structure built without permit	30 days

Land Use/Zoning Violations: (including but not limited to)

1. Violations affecting Public Health	Immediate
2. Violations not involving a structure	10 days
3. Violations involving a structure	30 days
4. No permit	Stop Work Order

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C. Voluntary Compliance Without Penalty. It is the County's policy to encourage voluntary code compliance by providing responsible persons the opportunity to correct the violation with little or no penalty. Voluntary compliance generally is less expensive for all parties and of a more satisfactory and lasting nature than involuntary compliance. Violators shall enter into a written agreement that establishes a timeline for correcting the violation. Notwithstanding this policy, allowing code violators the opportunity to voluntarily comply outside reasonable time limits may actually result in delaying compliance. Therefore, it is the County's policy to limit the time frame during which code violators may come into voluntary compliance with little or no penalty.

1. Limited Opportunities. Voluntary compliance without penalty or cost recovery will not be allowed where the alleged violation is a repeat offense either on the subject property or by the code violator, or where the original violation was not corrected following prior code enforcement action.
2. Time Extended by Voluntary Compliance Agreement. Following issuance of a notice of violation, the deadline set by ordinance may be extended for a limited duration if the alleged violator admits the violation(s) and enters into a "Voluntary Compliance Agreement". The extended deadline shall be determined on a case-by-case basis. The Applicant must appear before the Board of County Commissioners and make their request for an extension.

D. Citation and Complaint.

1. Voluntary Compliance. Where voluntary compliance cannot be obtained within the timelines established by ordinance, a NOV may be issued.
2. Field Investigation Required. A NOV shall be prepared or issued until a field investigation has verified the existence of a code violation.
3. Forms. All citations shall be on a County forms.
4. Setting Arraignment. The date for arraignment in the citation shall be the first available Court date established by the District County.
5. Arraignment. The purpose of arraignment is to:
 - a. Allow the defendant to enter a plea to the citation;
 - b. Resolve any jurisdictional issues;

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- c. Set a trial date if the plea is not guilty; and
- d. If the plea is guilty, allow the defendant and Code Enforcement staff the opportunity to provide information to the court regarding sentencing.

E. Physical Abatement by County

1. Abatement Procedure. Where voluntary compliance cannot be obtained within the timelines established by ordinance, the County may physically abate the violation following the procedures established by Oklahoma State Statute.
2. Assessment of Costs. When the County finds it necessary to physically abate a violation, costs shall be assessed following the procedure established by Oklahoma State Statute.
3. Physical Abatement not Exclusive. In addition to physical abatement by the County, other levels of enforcement may be initiated to achieve full compliance.

X. FINES

- A. Fine \$100 per day after the stated grace period has ended.
- B. Amounts. If the defendant is convicted, Code Enforcement staff shall request that the judge impose a fine in an amount consistent with the policy and procedures set forth in this manual from the end of the grace period until the ultimate date that the violation was corrected.
- C. Collection and Distribution of Fines. All fines imposed by the court for County code enforcement shall be deposited in the County Fund for Planning and Zoning.

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XI. RESTRICTING ISSUANCE OF PERMITS FOR PROPERTY WITH UNRESOLVED CODE VIOLATIONS

In addition to citations and physical abatement by the County the following actions may be taken for unresolved code violations:

A. Stop Work Orders.

It is the County's policy to increase code compliance by using stop work orders to the maximum extent allowed by law.

1. Issuance of Stop Work Order.

The staff shall promptly issue a stop work order in the following cases:

- a. Whenever follow-up of County issued permits and approvals reveals construction, installation and/or land use activity not permitted under the permit or approval; and
- b. Whenever Code Enforcement staff or other designated staff discover or receive a verified complaint of non-permitted construction, installation, or land use. Staff issuing the stop work order shall promptly notify the Code Enforcement staff. If the stop work order involves a building or structure the Building Inspector shall also be notified. The information will then be entered into the Code Enforcement records system.

2. Violation of Stop Work Order. If construction, installation, or land use activity continues after the issuance of a stop work order, such activity shall be reported to Code Enforcement staff for further action.

B. Permit Revocation.

Certain County ordinances authorize the revocation of permits or approvals for failure to comply with their requirements or conditions. It is the County's policy to maximize code compliance by revoking permits or approvals to the extent authorized by law in appropriate cases. In particular, it is the County's policy to use permit revocation in cases in which corrective action may not be effective in bringing the subject property into code compliance due to the nature of the violation and deliberateness of the code violation's actions to avoid compliance.

1. Report to Code Enforcement. If permit or approval follow-up reveals that the conditions or requirements of a permit or approval have not been met, public works, Building, Planning, or other staff shall inform Code Enforcement staff of such violation and the information shall be entered in the Code Enforcement records.

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2. Revocation Procedure.

Prior to revocation of a permit, staff in the appropriate division shall determine the following:

- a. Whether the criteria for permit revocation set forth in the applicable code provisions exist;
- b. The severity and deliberateness of the deviation from the permit or approval requirements or conditions; and
- c. Whether compliance can be achieved more effectively through other code enforcement methods.

C. Double-Fee Permits “Times Two Provision”.

The codes allow the County to charge double the normal fee for permits issued after-the-fact for construction performed without required permits. It is the County’s policy to maximize the incentives to comply with County codes by double-fees, to the extent authorized by law. Whenever Code Enforcement staff or other staff discovers or receives a verified complaint of non-permitted construction or installation, the information shall be submitted on a complaint form and entered in the Code Enforcement and building permit computer programs. If this is a repeat of the same offense the fee will be doubled.

D. Restricting Acceptance or Issuance of Development Permits.

In some cases, land use applications, right-of-way permits, building permits, business registrations, or other County applications or permits may not be accepted or may be denied for property upon which there already exist uncorrected County code violations. In some cases, the only effective way to correct or prevent code violations may be to restrict the application for and/or issuance of development permits. This may be used when it is allowed by the governing ordinance. The County will review its current permitting ordinances and make changes to allow for this.

Exceptions: Land use, construction, and/or driveway permits, or renewals or extensions of such permits, sought in order to correct existing County code violations on the subject property, shall be issued if all criteria for issuance are met.

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- 1. Determination of Existing Violations.
When land use, construction, and/or driveway permits are applied for, or renewals or extensions of such permits are sought, County staff shall determine if there are existing code violations and status of those violations.

- 2. Applications for Permits/Approvals with Existing Code Violations. If review of public works, building, and planning records and/or consultation with Code Enforcement staff reveals the existence of unresolved code violations on the subject property, staff shall not issue permits or approvals, renewals or extensions. Instead, staff shall promptly consult with Code Enforcement Staff to determine whether the permit or approval, or the renewal or extension, is being sought in order to correct the existing code violation(s). Staff shall also refer persons not allowed approvals or renewals or extensions under this subsection to Code Enforcement staff to discuss required corrective action.

If the requested permit or approval, or renewal or extension is determined to be required for code compliance, the application shall be accepted, or the permit or approval issued. The permit will clearly state what must be done to bring property into compliance and include a timeline for compliance.

XII. ASSISTING ENFORCEMENT BY OTHER REGULATORY OR LICENSING AGENCIES

In some cases, County code violations also may constitute violations of federal and/or state statutes or administrative rule. For example, surface mining or working within a flood plain or wetlands without County land use approval may also violate federal laws or state statutes and administrative rules. Performing building construction without necessary permits may constitute violations of state statutes and administrative rules governing the conduct of licensed contractors. Code Enforcement staff shall notify other agencies of known violations.

XIII. RESOLUTION OF CODE COMPLAINTS

It is the County's policy to attempt to reach final, satisfactory resolutions of all code violation complaints. However, the County recognizes that not all complaints may be resolved successfully, due to factors outside the County's control. These factors can include the indigence of the code violator, the lack of County or other resources to assist the violators, statutory limitations on potential fines or other penalties for code violations, and the large number of complaints to be resolved. Where the County

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determines that a code violation may not be successfully resolved within the established reasonable timelines, the file will either be closed, alternative methods of enforcement may be explored.

A. Outstanding Cases.

Code Enforcement shall refer cases to legal counsel to seek additional legal remedies when:

1. Code violation(s) presents an imminent threat to public health and safety or to the environment; or
2. Code violations have not been corrected within the required time period after a defendant's third citation for the same infraction(s) into Municipal Court.

B. File Closure.

A code violation complaint will be resolved by file closure in the following cases:

1. When no code violation is found after investigation;
2. When there is voluntary compliance;
3. When the property owner and/or other responsible person has been convicted of an infraction and has corrected the violation(s).
4. When investigation and prosecution of the violation(s) have been completed by a federal or state agency to which the County deferred code enforcement; or
5. When it is determined, by the Board of County Commissioners, the County Administrator or other designee, that the code violation(s) are not likely to be successfully resolved within a reasonable timeline, due to factors outside County control.

C. Notice of Resolution.

The County will note the reason for file closure and also send written notice to the complainant when the complaint is resolved, describing the resolution.

D. Follow-up.

For cases with extenuation circumstances, Code Enforcement staff will conduct a follow-up site inspection six months after file closure to ensure the offense has not re-occurred.

E. Alternate Methods of Resolution.

The County may explore alternate methods to resolve code violations, fines, and liens.

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XIV. FILE MAINTENANCE

Code Enforcement files are the official records of the County. As such, the files and records shall be maintained pursuant to the rules of official records.

XV. SAVING CLAUSE

Should any portion of this Manual be rendered ineffective by a Court of competent jurisdiction, the remaining parts shall remain in full force and effect.

XVI. ADOPTION OF POLICIES

The County may alter these policies at any time, including rectifying any portion as necessary to accommodate changes in applicable statute and/or regulations.

The policies contained herein have been adopted by the Board of County Commissioners June 1, 2010, consistent with the authority of the Wagoner County Board of Commissioners under O.S. Title 19.