



Wagoner Metropolitan Area Planning Commission

Date: APRIL 28, 2020

Time: 6:30PM

Location: TELECONFERENCE, <https://us02web.zoom.us/j/81738387728>, ID: 817-3838-7728

STAFF REPORT: ZONING CODE AMENDMENT

CURRENT CODE: <https://www.ok.gov/wagonercounty/documents/Zoning%20-%20Wagoner%20-%20Art-all.pdf>

PROPOSED CODE: AMENDMENTS ARE IDENTIFIED BY RED LETTERING

SUMMARY: Following the passage of State Question 788, the addition of the Medical Marijuana Industry caused an influx of businesses into Wagoner County. These businesses were identified by the Oklahoma Medical Marijuana Authority (OMMA) as:

- Commercial Grower
- Transportation
- Processor
- Dispensary

In October, 2018, the Planning Commission voted for the following classifications which were then approved by resolution by the Board of County Commissioners:

- Commercial Grower: INDUSTRIAL ZONE 3 AND 4
- Transportation: NOT A LAND USE CLASSIFICATION
- Processor: INDUSTRIAL ZONE 3 AND 4
- Dispensary: COMMERCIAL ZONES

Due to lack of local government involvement with the issuance of licenses by OMMA, business owners and newly licensed operators either by ignorance, non-compliance, or lack of understanding, begin operating their businesses without proper land use authority. This is widespread across the county, though not all operators fall into this category.

August 30, 2019, brought about a new OMMA requirement for license issue and renewal, the creation of the Certificate of Compliance (CoC). This document was required by all operators to obtain their license and required local government to confirm their compliance with multiple codes to include zoning. With this addition, it came to light that many operators were not compliant and were seeking re-zoning which they were not afforded/approved. The primary operator, the COMMERCIAL GROWER, petitions the Board of County Commissioners to amend the zoning code in order to remove barriers to operations that existed in the strict application of industrial zoning districts.



Wagoner Metropolitan Area Planning Commission

January 6, 2020, the BOCC directed the Planning Commission to review the zoning code and make recommendations for amendment that would provide flexibility to growers while still seeking the spirit of the zoning code and its application in unincorporated Wagoner County. In the meantime, the BOCC approved the development of a “non-enforcement” letter to be sent to OMMA to allow operators to work in a “non-conforming” manner until August 30, 2020 to allow for time to become compliant and to review code amendments as they are presented.

A notice of hearing was published April 8, 2020, for amendment to the Wagoner Metropolitan Area Planning Commission Zoning Code to take place April 28th, 2020 at the April Regular Meeting. The following articles have been amended for review and recommendation by the Planning Commission:

- Article 2: DISTRICT PROVISIONS
- Article 3: USE CONDITIONS
- Article 4: GENERAL REGULATIONS
- *Article 5: NONCONFORMING STRUCTURES AND USES (NO CHANGES)*
- Article 7: ENFORCEMENT AND ADMINISTRATION

AMENDMENTS: The following amendments are proposed for your review and approval by the planning commission staff. Some amendments are recommended due to inconsistencies found in the code which are timely in the event of code revision.

- A. 2.1.3 – Modification regarding the one time per year division of property in AG, without requirements for zoning map amendment applications, from minimum lot size of 1 acre to minimum lot size of 2.07 acres.
 - a. REASON: The minimum dimension for an AG parcel is 300’ which results in a minimum parcel size of 90,000SF (2.07 acres). A 1-acre parcel in AG is not permissible based on lot width requirements. Changing to 2.07-acre minimum area provides consistency and a more conservative look at zoning map amendments
- B. 2.6.1 – Modification to the specific purposes of the I1 District
 - a. NEW:
 - o I1 District: the I1 District is designed primarily to provide an environment conducive to the development and protection of **animal health, horticulture, dairies, industrial crops, parishes, farm product warehousing and storage and other light wholesaling enterprises**, which uses are ordinarily free from objectionable influence on most other uses
 - b. OLD:
 - o Purposes of the I1 District. The I1 District is designed primarily to provide an environment conducive to the development and protection of modern administrative facilities, research institutions, specialized manufacturing plants, and similar enterprises, which uses are ordinarily free of objectionable influence on most other uses.



Wagoner Metropolitan Area Planning Commission

- c. REASON: To meet the direction provided by the BOCC, the purpose of the I1 District is changed to narrow the types of activities that may take place in I1 to more easily allow for zoning map amendment applications to be considered without opposition or hardship on the general public
- C. 2.8 – Modification to provide clarity on the regulatory documents adopted by the BOCC regarding the floodplain
 - a. NEW: specifically named the Flood Damage Prevention Ordinance and that it was adopted by resolution by the BOCC
- D. Modification to PERMITTED USE TABLES, LEGENDS, AND BULK AND AREA USE TABLES IN ARTICLE 2
 - a. CONSOLIDATION OF TABLES: Accomplished for clarity, simpler application of code requirement by Planning Commission Staff
 - b. DEVELOPMENT OF A LEGEND: Created one legend for all tables to create more clarity, define uncommon terms, and make the code more usable for the general public
 - c. MODIFICATION OF LAND USE CONDITIONS
 - i. Simple clarifications were provided for uses where other sections of the code referenced requirements for those uses
 - ii. The change for P to E in the use table outlines the removal of “Conditional Use Permit” from the code and the consolidation to “Special Exception” – the definitions for both cases are very similar and consolidation of the use simplified application for the Planning Commission Staff with no impact on the intent of the code
 - iii. 066 – TEMP CONSTRUCTION FACILITY
 1. Added use for construction in commercial districts
 - iv. 152 – TRAVEL TRAILER PARKING
 1. Added use for travel trailers in AG districts, subject to all restrictions in section 3.7.8
 - a. 3.7.8 NEW:
 - It is located in an AG district with minimum parcel size of 10 acres and
 - o used as a single-family dwelling, and
 - o meets all the requirements of these regulations, the construction code, health and safety code, and other pertinent codes of the local unit of government; and
 - o is placed on land owned by the owner of the travel trailer thereof and
 - o is listed and assessed for ad valorem taxation and
 - o shall not be placed nearer than 165 feet to another residence
 - o is not placed in a platted subdivision and
 - o shall meet all requirements outlined in the Bulk and Area Use Table for AG residential uses
 - v. 283 – DRUG MANUFACTURING
 1. Added: (to include MM Processing as defined by OMMA) for clarity
 - vi. 512 – DRUGS, CHEMICALS, AND ALLIED PRODUCTS – WHOLESALE



Wagoner Metropolitan Area Planning Commission

1. Added: (Not Manufacturing, to include commercial medical marijuana wholesale as defined by the OMMA)
- vii. 5156 – LIVESTOCK WHOLESALÉ
 1. Added: (Stockyards) for clarity – To include stockyards not limited to
 2. Added “special exception” option for AG Districts rather than acceptable use without approval
- viii. 591 – DRUG AND PROPRIETARY – RETAIL
 1. Added: To include pharmacies and MM Dispensaries as defined by OMMA for clarity
- ix. 6371 – FARM PRODUCT WAREHOUSING AND STORAGE (EXCLUDING STOCKYARDS)
 1. Added: (and industrial greenhouses, including commercial MM warehousing and storage as defined by OMMA)
 2. Added: permitted in I1 and I2
- x. 7311 – FAIRGROUNDS
- xi. 7392 – MINI GOLF
- xii. 7394 – DRIVING RANGE
 1. Changed permitted use to “special exception” in AG Districts
- xiii. 811 – PLANTING OF AGRICULTURAL CROPS
 1. Added: Not to include industrial greenhouses horticulture practices or commercial MM growing as defined by OMMA) for clarity
- xiv. 8192 – HORTICULTURE SPECIALISTS (OTHER THAN PERSONAL USE)
 1. Added: (Industrial Greenhouses to include Commercial MM growing as defined by OMMA)
 - a. Permitted zones: C1 – 5 and I1 -4
- xv. 8193A – APIARY (NON-COMMERCIAL)
 1. NEW USE
 - a. Permitted all zones subject to section 3.4
 - i. 100’ distance requirement
- xvi. 8193 – APIARY FARMS
 1. Added: (Commercial Operation) to distinguish between hobbyist and commercial operations
 - a. Permitted in I1 – I4; Special Exception: AG
- xvii. 85A – THE EXTRACTION OF SAND, GRAVEL, ROCK, STONE, EARTH OR FILL FROM BORROW PITS FOR HIGHWAY OR STREET CONSTRUCTION PURPOSES
 1. NEW USE
 - a. Permitted in I1 -4; special exception AG
 - b. This was added to address transportation of overloaded trucks on county roadways – development of zoning



Wagoner Metropolitan Area Planning Commission

classification specific to borrow pits allows for oversight on hauling routes

- d. MODIFICATIONS TO BULK AND AREA USE TABLE
 - i. REASON: clarity
 - ii. Address conditions expressed by BOCC to be made regarding Commercial MM Growing
 - iii. Consistency



Wagoner Metropolitan Area Planning Commission

SPECIFICS FOR COMMERCIAL MM GROWING AND INDUSTRIAL 1 DISTRICT

PERMITTED USES:

- 1) BORROW PITS
- 2) APIARY FARMS
- 3) INDUSTRIAL GREENHOUSES
- 4) COMMERCIAL MM GROWING
- 5) KENNELS
- 6) FORESTRY ACTIVITIES
- 7) FISHING ACTIVITIES AND SERVICES
- 8) ANIMAL HOSPITALS
- 9) VET SERVICES, NO BOARDING
- 10) DAIRY
- 11) PARKS
- 12) CULTURAL ACTIVITIES
- 13) PARISH HOUSES AND CHURCHES
- 14) FARM PRODUCT WAREHOUSING AND STORAGE
- 15) LUMBER AND CONSTRUCTION MATERIAL – WHOLESALE
- 16) TOBACCO AND TOBACCO PRODUCT – WHOLESALE
- 17) DRUGS, CHEMICALS, AND ALLIED PRODUCTS – WHOLESALE
- 18) ACCESSORY USES (LIVING, COMMERCIAL, SIGNAGE)

BULK AND AREA REQUIREMENTS FOR I1

- 1) MINIMUM LOT SIZE: 10 ACRES
- 2) MINIMUM LOT WIDE: 300'
- 3) MINIMUM BUILDING HEIGHT: 35'
- 4) MINIMUM FRONT YARD BUILD LINE: 75'
- 5) MINIMUM SIDE YARD/BACK YARD: 60' (WHEN ABUTTING ALL DISTRICTS EXCEPT OTHER I DISTRICTS AND C DISTRICTS; THEN = 0')
- 6) FAR = 0.1 = (PERMITTED FACILITY SQUARE FOOTAGE/LOT AREA)
 - a. EXAMPLE: 10 ACRE LOT: GREATEST FACILITY SIZE = 43,560 SF
 - i. CAN BE DIVIDED INTO MULTIPLE FACILITIES

SCREEN REQUIREMENTS FOR I1

The screen wall required by Subsection 4.1.1 shall be of solid fence of the stockade type or a masonry wall not less than six (6) feet in height unless a different height is provided elsewhere in these regulations. The fence or wall shall be so constructed that all bracing, supports, or posts, except those provided expressly for aesthetic purposes, shall be on the same side of the fence or wall as the use is to be screened. The fence, wall, or hedge shall be designed and constructed in such a way as to:

- Facilitate maintenance and
- Not modify natural drainage in such a way as to endanger property other than on which such use is located

COMMERCIAL MM GROWERS ALSO PERMITTED IN C1 – 5 DISTRICTS AND 12 – 4 DISTRICTS
BULK AND AREA USE REQUIREMENT ARE LESS STRINGENT BUT REZONING AG DISTRICTS
TO THOSE DISTRICTS ARE VERY DIFFICULT AND OFTEN NOT APPLICABLE

PARKING SPACES REQUIREMENTS ALSO EXIST FOR ALL DISTRICTS



Wagoner Metropolitan Area Planning Commission

ADDITIONAL ZONING CODE AMENDMENTS

- E. 3.5 DWELLING GROUPS
 - a. Removal of access with a driveway of 20'
 - b. Clarity on roadway width (not a change, just a clarification)
- F. 3.6.1 HOME OCCUPATION GENERAL PROVISIONS
 - a. Removal of reference to the City of Wagoner
- G. 3.6.2
 - a. Added clarification on home beauty shops not allowed to have employees outside of the home residence
- H. 3.7 MOBILE HOME PARKS
 - a. Clarity on new tables
 - b. Clarity on distance to abutting property boundaries
 - c. Added travel trailer rules for locating in AG districts
 - i. It is located in an AG district with minimum parcel size of 10 acres and
 - 1. used as a single-family dwelling, and
 - 2. meets all the requirements of these regulations, the construction code, health and safety code, and other pertinent codes of the local unit of government; and
 - 3. is placed on land owned by the owner of the travel trailer thereof and
 - 4. is listed and assessed for ad valorem taxation and
 - 5. shall not be placed nearer than 165 feet to another residence
 - 6. is not placed in a platted subdivision and
 - 7. shall meet all requirements outlined in the Bulk and Area Use Table for AG residential uses
- I. 3.10.3 – LOCATION OF OFF-STREET PARKING
 - a. Updated reference to subdivision regulation
 - b. Updated driveway entrance width to 30' rather than 24'
 - c. Updated parking hard surface requirement to allow for other surfaces outside of 50' from the street – specifically for those residences that are not platted, hard surfacing parking areas are not realistic in rural areas
- J. 3.17 TOWN HOME DEVELOPMENT REC AREA REQUIREMENTS
 - a. Added RM-T District – was missing from table
- K. 4.5.1 – APPROVAL OF PLANNED UNIT DEVELOPMENTS
 - a. Added C District as an approved district to consider planned unit developments
 - b. Added reference governing notice requirements
- L. 4.5.1 – REQUIREMENTS BY PLAT
 - a. Added construction plan review IAW Subdivision Regulation to requirement prior to construction of PUD
- M. 4.8.3 – COVERAGE OF REAR YARD
 - a. Changed 30% to 35% to be consistent with assessor living bulk area requirements – inconsistency



Wagoner Metropolitan Area Planning Commission

N. 7.1 – ZONING VERIFICATION

- a. Removed requirement for a zoning permit – zoning verification is an action taken with all permitting in Wagoner County. The zoning permit has not be utilized for at least 25 years. Zoning Verification reflects more of the general office practice without compromising the intent of the zoning permit

O. 7.2 – BUILDING PERMITS

- a. Change reference from Building Inspector to Planning Commission Staff
- b. Site OS Statutes that govern exemptions, and notices
- c. Clarification that the building permit form outlines requirements
- d. Updated documentation from the BOA may be in the form of approved minutes
- e. Updated requirement for a floodplain permit when developing in flood districts
- f. Decreased expiration of building permits from 2 years to 1 year

P. 7.5 – 7.7

- a. Referenced the adopted code enforcement manual
- b. Referenced the adopted fee schedule
- c. Clarity on the appeals process to the governing body
- d. Removal of the option to appeal directly to the BOCC before appealing to the BOA
- e. Clarity on how to submit and application for amendment to regulations
- f. Reference governing statute
- g. Outline filing requirement for amendment approved by BOCC
- h. Removal of sections related to city of wagoner