

ARTICLE 7

ENFORCEMENT AND ADMINISTRATION

Section 7.1 Zoning Clearance Permit

The Zoning Clearance Permit is a permit issued by the Zoning Administrator which states that a particular development meets all of the requirements of the Zoning Ordinance. It is not a building permit and does not authorize construction, it simply clears the land and structure in terms of zoning and authorizes the Building Inspector to issue the building permit. This permit also provides a good check for the applicant in that any irregularities can be eliminated before the detailed plans are prepared.

7.1.1 Existing Buildings

Any building, structure or use lawfully existing at the time of enactment of this Ordinance may be continued even though such building, structure or use does not conform with the provisions of this Ordinance. However, no building or other structure shall be erected, constructed, enlarged, altered, or repaired, in such a manner as to prolong the life of the building; nor shall the use of any land or building or other structure be changed without a Zoning Clearance Permit issued authorizing such construction, alteration, repair or use changes as being in compliance with the provisions of this Ordinance.

7.1.2 Application

An application for a Zoning Clearance Permit shall be made to the Zoning Administrator by the owner or proposed occupant of the building or land to be occupied or used, and said application shall state the location and legal description of said property and set out in detail the character and nature of the use to be conducted thereon. Within three days the Zoning Administrator shall grant or deny said Zoning Clearance Permit in accordance with the terms of this Ordinance.

7.1.3 Accompanying Material

All applications for Zoning Clearance Permits shall be accompanied by a plat plan, drawn to scale on suitable paper, showing the actual dimensions of the lot to be built upon, and the size and location of the building to be erected and such other information as may be necessary to satisfy the requirements of these regulations.

7.1.4 Fees

Zoning Clearance Permits shall not be issued until a fee of five dollars (\$5.00) shall have been paid.

7.1.5 Penalties

Any persons, firm or corporation violating any provisions of this Ordinance is guilty of a misdemeanor and shall be fined not less than five dollars (\$5.00)

nor more than twenty dollars (\$20.00) each day the violation exists. Each day constitutes a separate offense.

Section 7.2 Building Permits

No building or other structure shall be erected, added to, or structurally altered unless a building permit therefor has been issued by the inspecting officer, but no building permit shall be required for:

Improvements having a cost or value of less than one hundred dollars.

Uses exempt from these regulations, as set forth in Section 9.4.

No building or part of a building shall be moved through or across any street, alley or highway unless a building permit for the moving thereof has been issued by the inspecting officer. Except for uses exempt from these regulations, as set forth in Section 9.4, no building or part of a building shall be moved from one part of a lot to a contiguous lot, unless a building permit for the moving thereof shall have been issued by the inspecting officer. Permits for moving buildings shall be as provided in Section 7.2.4.

7.2.1 Application for Building Permit

Each application for a building permit shall be on a form supplied by the inspecting officer, shall include such information as may be required by the inspecting officer as necessary for determining compliance of the proposed construction with these regulations and shall be accompanied by:

Plans in duplicate, drawn to scale, showing the shape and dimensions of the lot to be built upon and the shapes, dimensions, and locations on the lot of all existing and proposed buildings or alterations, and an application for a certificate of occupancy as provided in Section 7.3.

All applications relating to property in Flood Districts shall include additional statements and plans setting forth the means by which the Flood District requirements are proposed to be met as set out in applicable flood control regulations adopted by the City and County of Wagoner.

7.2.2 Application for Building Permit

No building permit shall be issued by the inspecting officer except in conformity with the provisions of these regulations, unless he receives a written order from the appropriate Board of Adjustment in the form of an administrative review, conditional use permit, variance, or finding as provided by these regulations.

One copy of the plans shall be returned to the applicant by the Inspecting Officer, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and one copy of the plans, similarly marked, shall be retained by the Inspecting Officer.

No building permit shall be issued with respect to property in a Flood District until the Engineer certifies in writing that the application complies with all applicable requirements.

7.2.3 Expiration of Building Permit

If the work described in any building permit has not begun within ninety days from the date of issuance thereof, said permit shall expire, it shall be cancelled by the Inspecting Officer and written notice thereof shall be given to the persons affected.

If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the Inspecting Officer, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

7.2.4 Building Permit for Moving a Building

Any person desiring to move a building shall first file with the Inspecting Officer a written application setting forth the following information:

Type and kind of building to be moved.

The original cost of such building.

The extreme dimensions of the length, height and width of the building.

Its present location and proposed new location by lot and block numbers and subdivision names, or other legal description and street address, if established.

The approximate time such building shall be upon the streets, alleys, or highways, and the contemplated route that will be taken from the present location to the new location.

If in the opinion of the Inspecting Officer, the moving of any buildings will cause serious injury to persons or property or serious injury to the streets, alleys, highways or other public improvements, or the building to be moved has deteriorated more than fifty percent of its original value by fire or other elements, or the moving of the building will violate any of the requirements of these regulations or other regulations or ordinances of the unit of government, the permit shall not be issued and the building shall not be moved.

Section 7.3 Certificate of Occupancy

7.3.1 General Requirement

It shall be unlawful to use or occupy or permit the use or occupancy of any building

or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefor by the Inspecting Officer stating that the proposed use of the building or land conforms to the requirements of these regulations, except as provided below. No certificate of occupancy shall be required for:

The continuation, unchanged of an existing use, except as provided for nonconforming uses in Subsection 7.3.2.

The planting or harvesting of crops or gardens or the grazing of cattle or horses where permitted by the district regulations.

Uses exempt from these regulations, as set forth in Section 9.4.

7.3.2 Nonconforming Structures and Uses

No nonconforming structure or use shall be maintained, renewed, changed or extended until a certificate of occupancy shall have been issued by the Inspecting Officer. The certificate of occupancy shall state specifically wherein the nonconforming use differs from the provision of these regulations, provided that upon enactment or amendment of these regulations, owners, or occupants of nonconforming uses or structures shall have three months to apply for certificates of occupancy. Failure to make such application within three months shall be presumptive evidence that the property was a conforming use at the time of enactment or amendment of these regulations.

7.3.3 Application for and Issuance of Certificate of Occupancy

Each application for a certificate of occupancy shall be on form supplied by the Inspecting Officer, which form may be combined with the application for a building permit and shall include such information as may be required by the Inspecting Officer for determining compliance of the proposed use with these regulations.

No certificate of occupancy shall be issued by the Inspecting Officer except in conformity with these regulations. Where an application for a certificate of occupancy accompanies an application for a building permit, the certificate of occupancy shall not be issued until the building described in the building permit has been completed in conformity with these regulations.

7.3.4 Temporary Certificate of Occupancy

A temporary certificate of occupancy may be issued by the Inspecting Officer for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

7.3.5 Records and Copies

The Inspecting Officer shall maintain a record of all certificates of occupancy and a copy shall be furnished upon request to any person.

7.3.6 Failure to Obtain Certificate of Occupancy

Failure to apply for a certificate of occupancy, where required by this section, shall be a violation of these regulations and punishable under Section 7.5 thereof.

Section 7.4 Compliance with Applications and Permits

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Inspecting Officer authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of these regulations and punishable as provided in Section 7.5.

Section 7.5 Violations

Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof shall be filed with the Inspecting Officer. He shall record properly such complaint; immediately investigate, and take action thereon as provided by these regulations.

Violation of the provisions of these regulations or failure to comply with any of their requirements including violations of conditions and safeguards established in connection with grants of variances or conditional use permits, shall constitute a misdemeanor. Any person, firm or corporation who violates or refuses to comply with any of the provisions of these regulations shall be fined not less than five dollars nor more than thirty-five dollars including costs for each offense. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the unit of government from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 7.6 Amendment of Zoning Regulations

7.6.1 Application for Amendment

Any person, association, firm or agency of government may apply for amendment of these regulations. An application for a zoning map amendment shall be in such

form and have such content as the Planning Commission may, by resolution, establish.

Each application shall be filed with the Planning Commission at least (30) days prior to the date of the public hearing at which it is to be considered, unless the Planning Commission by a two-thirds vote permits a shorter period for reasons shown.

When the governing body shall have, after public hearing, denied any application to change the zoning classification of any land, no application to change the zoning classification of such land or any part thereof shall be eligible for public hearing within twelve months after such prior public hearing, provided, however, that if the latter application is for a zoning district which is clearly more restrictive than that described in the prior application, the new application shall be eligible for public hearing six months after the prior public hearing.

7.6.2 General Action on Application for Amendments

Any application for amendment of these regulations shall be reviewed and acted upon as follows:

1. Where an application is made directly to the governing body it shall be referred by the governing body to the Planning Commission for processing in the same manner as if the application has been made to the Planning Commission, except that the Planning Commission shall make a report to the governing body on each application, regardless of whether it holds a public hearing thereon.
2. With respect to each application received, either directly or by referral from the governing body, the Director of the Planning Commission shall review the application, and he may set the application for public hearing before the Planning Commission.
3. If the Director does not set the application for public hearing, he shall report it to the Planning Commission, who shall vote to set the application or modification thereof for public hearing or deny it.
4. Prior to recommending approval of an application or approval subject to modification, the Planning Commission shall hold a public hearing thereon, as provided below; following the public hearing, the Planning Commission shall within a reasonable time vote to (1) recommend to the governing body that the application be approved or approved as modified or (2) deny it.
5. If the Planning Commission votes to deny an application or to modify it in a manner not acceptable to the applicant, as provided under Paragraph 3, the applicant may within fifteen days appeal the Planning Commission's action to the governing body.

6. In the event of such appeal, the governing body may approve the application, return it to the Planning Commission for further study and report, or deny it. If the Application is returned to the Planning Commission, the governing body may hereafter recall it and approve it or deny it.
7. Before approving an application for a zoning map amendment which does not conform with the Planning Commission's recommendation thereon, the governing body shall hold a public hearing hereon as provided below; such public hearing shall be held subsequent to receipt of the Planning Commission's recommendations on the application.
8. After approval of any amendment to these regulations, the Director shall file the amendment in his office, and the Director of the Planning Commission shall change the official zoning map, in the case of a map amendment. No map amendment shall be effective unless and until it is entered on the official zoning map.

7.6.3 Action on Application for Amendment if Property Located Within the City of Wagoner

1. Parties in interest and citizens shall have an opportunity to be heard at a public hearing before any regulation, restriction, or district boundary shall become effective. At least fifteen (15) days' notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the municipality.
2. Regulations, restrictions and district boundaries of municipalities may be amended, supplemented, changed, modified or repealed. The requirements of this section on public hearings and notice shall apply to all proposed amendments or changes to regulations, restrictions or district boundaries.
3. Protests against proposed changes shall be filed at least three (3) days before the date of the public hearings. If protests are filed by:

(a) the owners of twenty percent (20%) or more of the area of the lots included in a proposed change, or

(b) the owners of fifty percent (50%) or more of the area of the lots within a three hundred (300) foot radius of the exterior boundary of the territory included in a proposed change;

then the proposed change or amendment shall not become effective except by the favorable vote of three-fourths of all the members of the municipal governing body where there are more than seven members in the governing body, and by three-fifths favorable vote where there are seven or less numbers in the governing body.

4. In addition to the notice requirements above, notice of a public hearing on any proposed zoning change shall be given twenty (20) days prior to the hearing by mailing written notice by the secretary of the Planning Commission to all owners of property within a three hundred (300) foot radius of the exterior boundary of the subject property. The notice shall contain:

- (a) Legal description of the property and the street address or approximate location in the municipality;
- (b) Present zoning and classification of the property and the classification sought by the applicant; and
- (c) Date, time and place of the public hearing.

In addition to written notice requirements, notice may also be given by posting notice of such hearing on the affected property at least twenty (20) days before the date of the hearing.

5. In cases of proposed zoning reclassifications, the governing body may require additional notice of the public hearing by posting a sign on the property affected by the proposed zoning reclassification. The sign and the lettering thereon shall be of sufficient size so as to be clearly visible and legible from the public street or streets toward which it faces. The notice shall contain:

- (a) The date, time and place of the public hearing;
- (b) By whom the public hearing will be conducted;
- (c) The desired zoning classification;
- (d) The proposed use of the property; and
- (e) Other information as deemed necessary to provide adequate and timely public notice.

7.6.4 Action On Application for Amendments if Property Located Within the Unincorporated Areas of Wagoner County

1. Notice of all public hearings herein provided for shall be given by one (1) publication in a newspaper of general circulation in the municipality and the county at least fifteen (15) days prior to the date of such hearing.
2. The zoning regulations imposed and the districts created under authority of this ordinance may be amended, supplemented, changed, modified or repealed from time to time by resolution of the Board of County Commissioners as it affects its jurisdiction, but no such

change shall be made without public notice and hearing and the filing of a report and recommendations upon such proposed change by the Planning Commission.

3. All projects or matters that fall within the purview of the duties of the Planning Commission for investigation and report before any final action shall be taken thereon; provided, however, that if the Planning Commission fails to make an investigation and report on any matter or subject referred to it for a period of thirty (30) days, such failure shall be considered a refusal to approve the proposed plan or project and the Board of County Commissioners shall be under no obligation to wait longer for reports or recommendations concerning said projects.

7.6.5 Effect of Protest

In case of a protest against such proposed amendment signed by the owners of twenty percent or more of the area of the lots immediately abutting either side of the territory included in such proposed change, or separated therefrom only by an alley or street, such amendment shall not become effective except by the favorable vote of two-thirds of all members of the Board of County Commissioners.

Section 7.7 Classification of Certain Areas

7.7.1 Classification of Deannexed Areas

Whereas the Wagoner County Zoning Regulations were prepared by and recommended for adoption by the Planning Commission to the Board of County Commissioners of Wagoner County, with the intent that the ordinance should work together harmoniously with other incorporated cities to effect the Comprehensive Plan and, whereas, provisions should be made for zoning newly deannexed land by the County.

Therefore, the following provisions are hereby adopted:

1. All territory that is deannexed by any incorporated city within the planning area after the effective date of these regulations, if it has prior thereto been zoned for that city, shall thereupon be placed in the same or most nearly corresponding zoning district classification under these regulations until otherwise classified by amendment of these regulations.
2. All territory that is deannexed by any incorporated city within the planning area after the effective date of these regulations, if it has not prior thereto been zoned by that city, shall be an Agricultural District, unless otherwise classified by the Board of County Commissioners at the time of deannexation.
3. All territory that is annexed to the municipality after the effective date of these regulations, if it has prior thereto been zoned by the county shall thereupon be placed in the same or most nearly

corresponding zoning district classification under these regulations until otherwise classified by amendment of these regulations.

4. All territory that is annexed to the municipality, after the effective date of these regulations, if it has not prior thereto been zoned by the County shall be a Residential District unless otherwise classified at the time of annexation by the governing body. These areas will be rezoned by the municipality within one year of annexation.

7.7.2 Classification of Undesignated Areas

In the event there is an area on the zoning map for which the zoning district classification is not shown, such area shall be classified as an Agricultural District until reclassified by the governing body.

10/10/10

