



Cold Spring City Council Caucus Agenda May 13, 2024 7:30pm

1. Call Meeting to Order and Emergency Exit Instructions
2. Prayer & Pledge
3. Additions/Deletions to Meeting Agenda
4. Citizen's Comments
5. Recognition of Scheduled Guests
6. Old Business
 - Sign Ordinance text amendment
7. New Business
 - Medical Marijuana
 - Yard Sale Ordinance
8. Committee
 - Public Works
9. Follow Up Citizen Comments
10. Police Department Comments
11. Council Comments
12. Attorney Comments
13. Mayor's Comments
14. Adjourn

ARTICLE XIV

SIGN REGULATIONS

SECTION 14.0 SCOPE OF REGULATIONS: The regulations set forth herein shall apply and govern signs in all zones, except as otherwise specifically provided within this ordinance. This Article shall be known as the Sign Ordinance for the City of Cold Spring.

SECTION 14.1 PURPOSE AND INTERESTS SERVED:

A. The purpose of this Article is to establish a comprehensive scheme for the regulation of signs. These regulations are designed to protect and promote the public health, safety and welfare by controlling the type, number, location and physical dimensions of signs, to reduce the disruptions, obstructions and hazards to vehicular and pedestrian traffic that signs may cause, and to enhance the quality of the environment in residential and nonresidential districts. As a basis for adopting these regulations, the City finds that:

1. Signs are an essential form of communication in the built environment, providing way-finding guides to residents, visitors, public safety officials, customers and potential customers of local businesses, delivery people and others.
2. Signs also provide communication on public issues but may not afford the same opportunities for conveying complex ideas as do other media.
3. Retailers and other businesses depend on signs to help people find their businesses, and many small businesses depend on signs as one of the most affordable forms of advertising.
4. Signs, which overtly distract pedestrians, cyclists, and/or drivers, can cause safety concerns and require regulation. These include but are not limited to a proliferation of signs on a site, and/or moving, flashing, and rapidly changing signs.
5. Protecting the visual cacophony while providing basic information and free expression is desirable. However, limiting the size, height, number, and duration of signs is an important tool in preserving a sense of place, and serves as a tool that accompanies the City's standards for landscaping.
6. Temporary signs uniquely require additional regulation to balance the competing visual aesthetic and communication needs.

SECTION 14.2 GENERAL RULES, REGULATIONS, AND LIMITATIONS:

- ~~A. All business and identification signs, as defined herein, shall be deemed accessory structures and all advertising signs, as defined herein, shall be deemed non-accessory structures.~~
- ~~B. No sign shall be erected, maintained, or continued unless it is in full compliance with the regulations for the zone in which it is located, all applicable provisions and regulations of this ordinance, and any other applicable laws, codes, or ordinances of the city. The Zoning Administrator shall have the duty and authority to remove, or cause to be removed, any sign which is not in full compliance with all applicable provisions and regulations of this ordinance or any other applicable laws, codes, or ordinances of the city when the owner or agent has failed to comply within the time specified by the Zoning Administrator to make said sign comply. Said owner or agent shall bear full costs of such removal, including, but not limited to, attorney fees and court costs, and shall be assessed as civil damages all costs of removal and compliance.~~
- A. GENERAL: No sign shall be erected, maintained, or continued unless it is in full compliance with the regulations for the zone in which it is located, all applicable provisions and regulations of this ordinance, and any other applicable laws, codes, or ordinances of the city.
- B. AUTHORITY: Unless otherwise noted, the Zoning Administrator shall have the power and authority to remove, or cause to have removed, any and all signs which have been determined to be installed in violation of this ordinance or the property maintenance code including becoming defective, dangerous, in a state of disrepair, a hazard or obstruction. The Zoning Administrator shall provide the owner or the agent responsible for the sign written notice regarding the sign violation(s). If the owner or the agent fails to take corrective action within two (2) weeks of the notice condemnation of the sign may proceed. Furthermore, if the building inspector or code enforcement officer determines that said sign is of possible immediate danger to persons or vehicles, which may be passing nearby, the Zoning Administrator shall place or cause to have placed, signs or barriers indicating such danger. The owner and/or agent shall bear the full costs of these actions and shall be billed accordingly.
- C.- **TIME SCHEDULE FOR COMPLIANCE OF SIGN REGULATIONS:**
Compliance with the provisions of this article of the ordinance shall be according to the following time schedule:
1. All new signs shall comply when erected.
 2. Except as herein provided, signs which become nonconforming upon the adoption of this ordinance may be continued and maintained.

Nonconforming signs may be modified provided, however, that no such sign shall be changed beyond its height and area, as it existed at the time of passage or amendment of this ordinance which rendered it nonconforming.

3. Requests for new signs on the same lot may be denied until such time as the previously nonconforming signs are brought into compliance.

D. OBSTRUCTIONS:

- ~~D. No sign constituting a nuisance, because of light, glare, focus, noise, animation, flashing, intensity of illumination as to unduly disturb the use of surrounding properties or causing a traffic hazard, shall be erected, maintained, or continued in any zone.~~
- ~~E. No radio, phonograph, tape recorder, whistle, bell, gong, siren, or other sound or noise making or transmitting device or instrument shall be allowed, permitted, or continued in connection with any sign or may it be used separately for advertising purposes in any zone.~~
- ~~F. No sign shall be erected, maintained, or continued which constricts the flow of air through any window or door.~~
- ~~G. No sign shall be erected, maintained, or continued which is misleading, fraudulent, obscene, immoral, indecent, or unsightly in character.~~
- ~~H. No advertising sign, except those of a governmental entity, shall be erected, maintained, or continued unless the following provision is complied with; and said provision shall go into effect ninety (90) consecutive calendar days after the effective date of this ordinance:~~
- ~~1. The name of the company or person owning, maintaining, or erecting said sign is plainly displayed thereon.~~
- ~~I. No sign shall be erected, maintained, or continued over or into any street, public way, alley, or right of way, unless specifically provided for within this ordinance.~~
- ~~J. It shall be unlawful and a violation of this ordinance for any person to fasten, place, paint or attach in any way: any sign, handbill, poster, advertisement, or notice of any kind, whether political or otherwise, or cause the same to be done in or upon any curb stone, lamp post, telephone pole, telegraph pole, electric light or power pole, hydrant, bridge, culvert, public drinking fountain, public trash container, courtesy benches, rest station building, tree, or in or upon any portion of any public sidewalk, street or sign, except as specifically permitted within this ordinance.~~

- ~~K. No sign, except for a reader board, shall be erected, maintained, or continued upon the inside of a curve of a street which causes any interference to sight distance.~~
- ~~L. No sign shall be erected, maintained, or continued displaying flashing or intermittent lights, or lights of changing degrees of intensity, with changes alternating on not less than a five (5) second cycle.~~
- ~~M. No sign shall be erected, maintained, or continued in any zone which does not comply fully with Section ~~13.0~~14.2 of this ordinance, except as specifically permitted within this ordinance.~~
- ~~N. No sign shall be erected, maintained, or continued in any zone, except as provided for in Section 14.1, C. of this ordinance, unless the sign complies with all of the following regulations:~~
- ~~1. Is erected and maintained to advertise a use specifically permitted in the zone in which the sign is located, or for a nonconforming use subject to the limitations contained in Section 9.12, E., of this ordinance.~~
 - ~~2. Is clearly incidental, customary to, and commonly associated with the operation of the use being advertised.~~
 - ~~3. Is established and controlled under and by the same ownership as the use being advertised.~~
 - ~~4. Is limited in location to the premises on which the use being advertised is located.~~
 - ~~5. Is limited in subject matter to the name, design, picture or phone number and address of owner, operator, builder, sales agent, managing agent, lessor, lessee, of the premises or of the activities (including merchandise handled or services rendered) on the premises on which such sign is located and does not include any general commercial advertising unrelated to or extending in substantial degrees beyond the specifically permitted subject.~~
 - ~~6. Compliance with the exemptions listed in Section 14.2 of this ordinance.~~
- E. SIGN MAINTENANCE: Any sign, particularly those exposed to the elements, is going to need maintenance periodically. With the exception of temporary signs, no permit is required for the maintenance of a sign or for a change of copy on painted, printed or changeable copy signs. The

replacement of temporary signs will require the renewal of a temporary sign permit (refer to Section 14.3)

If any sign is deemed to be in disrepair of more than 50% of its value or moved, enlarged or extended, a new permit is required and the sign is subject to the most current regulations.

~~O. When any sign becomes defective or dangerous, as determined by the building inspector, the Zoning Administrator shall have the power and the authority to remove or cause to have removed such sign when the owner or agent has failed to comply within the time specified by the Zoning Administrator to repair or make said sign safe or has failed to satisfy the building inspector that the sign is not defective or dangerous. The owner or agent of said sign shall bear the full costs of such removal and shall be billed accordingly. If the building inspector determines that said sign is of possible immediate danger to persons or vehicles, which may be passing nearby, the Zoning Administrator shall place or cause to have placed, signs or barriers indicating such danger.~~

~~P. Whenever any sign, which does not comply with the provisions and regulations of this ordinance, collapses, burns, or if said sign is removed from its location, except for normal maintenance, said sign shall not be replaced or reconstructed, except in full compliance with all of the provisions and regulations of this ordinance.~~
However, if such a sign is removed or destroyed, other than by intentional means of the owner or their agent, the sign may be reconstructed, but shall not be enlarged, extended, or moved.

It is further provided, however, that if a nonconforming sign, which was permitted at the time it was installed, is required to be moved due to deed restrictions or encroachment over property boundaries which existed at the time of the original installation, or due to a taking or condemnation for public roadway improvements, and such taking is limited to only a portion of the sign, then the sign may be moved the minimum distance necessary, at an angle perpendicular to the property line at the point of encroachment or taking or condemnation, to comply with the deed restriction or property boundary, as long as it can be maintained on the same site, and provided that there shall be no dimensional changes relative to height, square footage, or total usable area.

~~Q. The Zoning Administrator shall have the power and authority to remove, or cause to have removed, any and all signs which have been determined to be a traffic hazard, when the owner or agent responsible for the maintenance of said sign has failed to eliminate such traffic hazards within two (2) weeks from the date that the written notice is mailed by the Zoning Administrator. Said owner or agent shall bear the full costs of such removal and shall be billed accordingly.~~

~~R. G. BUILDING CODE:~~ Except as otherwise specified in this ordinance, signs shall be in conformance with the building code, ~~where applicable,~~ and shall be subject to the inspection and approval by the Building Inspector.

~~H. DIRECTIONAL AND SAFETY:~~ For the purpose of this ordinance, direction and safety symbols and signals such as those which conform to the Manual on Uniform Traffic Control Devices (MUTCD) is adopted by Kentucky shall not be considered a sign.

SECTION 14.2 ~~SPECIAL~~3 TEMPORARY SIGNS: ~~With the exception of signs in Subsection A, 1., the following signs may be permitted in any zone without a fee. A fee shall be required for signs within Subsection A., 1. Signs in subsections A., 2. and A., 3. shall not require a sign permit. All other signs within this section shall require an application for a sign permit, as provided for in Section 14.4 of this ordinance.~~

~~A. TEMPORARY SIGNS:~~

- ~~1. Temporary miscellaneous signs, including those which are placed on the exterior of structures (i.e., banners, posters, pennants, or similar type devices) shall be permitted in all zones, subject to the following requirements:~~
 - ~~a. For permitted uses within residential zones, temporary signs may only be utilized for yard/garage sales and personal messages (i.e., happy birthday, congratulations, etc.). Temporary signs for personal messages shall be permitted without permits or fees. Personal message signs are limited to one (1) per property, no more than thirty two (32) square feet in size, no more than eight (8) feet off the ground, and can be up for no more than five (5) days at a time. However, these restrictions shall not apply to signs relating to holidays (i.e., Christmas, Easter, etc.).~~
 - ~~b. Such signs, when permitted, shall not be used for a period to exceed fourteen (14) consecutive days, and not more than four (4) permits shall be issued for any site or use in any calendar year.~~
 - ~~c. Temporary signs, identified as mobile signs, on wheels, carts, or free-standing devices, with or without illuminated message boards, are not permitted in any zone.~~
 - ~~d. Temporary signs placed on the inside of windows of retail and service commercial uses, such as food stores, drug stores, furniture stores, general merchandise stores, dry cleaners, service stations, and new and used car/truck sales, to advertise sales and special events, shall be permitted without permits or fees. Such signs shall not be illuminated.~~

2. ~~Real estate signs shall be permitted in all zones, subject to the following requirements:~~
 - a. ~~Such signs are limited to one (1) per lot.~~
 - b. ~~Such signs shall not exceed twelve (12) square feet in outside area nor exceed a maximum height of eight (8) feet.~~
 - c. ~~Such signs may be illuminated, but only from a concealed light source, and only until 10:00 PM.~~
 - d. ~~Such signs shall advertise the sale, rental, or lease of the premises on which the sign is located.~~
 - e. ~~No part of any sign shall be located closer than ten (10) feet from any property line.~~
 - f. ~~Such signs shall be removed by owners or agents within ten (10) consecutive calendar days after the sale, rental, or lease of the premises.~~
3. ~~Political signs may be permitted in all zones in accordance with the following regulations:~~
 - a. ~~On each lot, there may be located one (1) sign per candidate supporting the candidacy of any person for local, state, or national office, or any local or state issue.~~
 - b. ~~Permission to install the sign must be obtained from the occupant of the premises.~~
 - c. ~~Such signs shall be permitted not more than sixty (60) days prior to the date of the election and not more than ten (10) days after the date of the election.~~
 - d. ~~Such signs shall not exceed forty (40) square feet in size nor be located closer than five (5) feet to any property line.~~
4. ~~Signs, not over twenty (20) square feet in outside area, single or double faced, maximum height of eight (8) feet, denoting the person/firm, architect, engineer, or contractor, when placed upon the premises where construction work is being performed. Said sign shall be removed by owner or agent within ten (10) consecutive calendar days after completion of project or that person/firm's part of the project.~~
5. ~~Special Event Signs: When churches, schools, or other charitable organizations are planning a special event open to the public, a sign not larger than thirty two (32) square feet may be erected on the same premises as the event. The sign must be set back a minimum distance of twenty (20)~~

~~feet from any right-of-way or property line. The sign may be illuminated, but only by concealed lighting. The sign may be erected ten (10) days prior to the event and must be removed within twenty-four (24) hours after the event is completed.~~

~~B. Professional name plates, not exceeding one (1) square foot in outside area; single or double faced. Such signs shall not be animated nor illuminated.~~

~~C. Memorial signs or tablets, containing the name of the building and the date of erection when built into the walls of the building and constructed of bronze, brass, marble, stone, or other incombustible materials.~~

~~D. Traffic signs, provided that said signs are designed and located in accordance with the "Manual on Uniform Traffic Control Devices for Streets and Highways", U.S. Department of Transportation, Federal Highway Administration.~~

~~E. Temporary signs, where permitted or required by the Zoning Administrator, to fulfill requirements of this ordinance or other resolutions or regulations imposed by a governmental entity.~~

~~F. Repainting or cleaning of an advertising structure or the changing of the advertising copy or message thereon, unless a structural change is made.~~
The City recognizes the importance of the temporary and short-term signs. Likewise, the City recognizes that short-term or temporary signs are often made of temporary materials which can easily be abandoned. As such they can become a nuisance and/or contribute to clutter after they have served their purpose.

Given this consideration and the importance of character of the City as supported by this ordinance, comprehensive plan and landscape plan, the City has implemented a temporary sign registration program administered through the City Clerk's office. A fee is imposed for this registration based upon the number, size and duration of the sign. Unless otherwise indicated, signs must be registered and all fees paid prior to installation.

Temporary and short-term signs are limited in size and quantity as follows:

A. One sign not exceed two (2) square feet in size (single or double-faced) is permitted per property without a City sign registration. This sign shall be limited to fourteen (14) consecutive days not to exceed a cumulative total of thirty (30) days per year on a lot. Signs which exceed the duration, size, or quantity are subject to a City sign registration.

B. For properties within Residential zones – One (1) temporary sign (single or double-faced) per lot is permitted with a size not to exceed six (6) square feet in area for each one hundred (100) feet of publicly maintained roadway

frontage up to a maximum of eighteen (18) square feet. These signs are required to be registered.

- C. For properties within Non-Residential zones - Each lot shall be permitted up to six (6) square feet of signage (single or double-faced) in area for each one hundred (100) feet of publicly maintained roadway frontage up to a maximum of thirty-six (36) square feet (single or double-faced). In no case shall any one (1) sign exceed eighteen (18) square feet (single or double-faced). These signs are required to be registered.

Temporary and short-term signs are subject to the following conditions:

- A. Signs may be freestanding or affixed to a wall of the principal or accessory structure.
- B. Freestanding signs including the support structure shall not exceed six (6) feet in height be set back a minimum of ten (10) feet from any property line or right-of-way whichever is greater.
- C. In no case shall such sign be affixed to a tree or other natural feature, utility pole, or light fixture on the property.
- D. The sign shall not be illuminated, animated, nor have moving parts.
- E. Signs whose registration has expired or are in a state of disrepair are subject to removal as defined under Section 14.2 of this Article.
- F. Permission to install the sign must be obtained from the property owner.

SECTION 14.3-4 SIGN PERMIT REQUIRED FOR ERECTION OF SIGNS:

No sign shall be erected, except as exempted or specified within this ordinance, until all required fees have been paid to the proper authorities, or their agents, and a permit has been issued for such, by the zoning administrator and building inspector.

- A. ~~If any sign is removed and any new sign is erected in its place, a permit shall be obtained the same as if a new sign were erected at a new location subject to all requirements enumerated herein.~~
- B. ~~If any sign is removed for maintenance and replaced on the same supports, a new permit will not be deemed necessary if the size or type of sign is not changed.~~
- C. ~~If any sign is removed from one location and erected at a new location, a new permit shall be obtained.~~

- ~~D. Alteration or enlargement of any sign shall require a permit the same as for a new sign.~~
- ~~E. No permit shall be granted until and after an application has been filed with the designated administrative official, showing the plans and specifications, including dimensions, materials, and details of construction of proposed structure and meeting all provisions of this ordinance.~~

SECTION 14.4-5 APPLICATION FOR A SIGN PERMIT:

- A. ~~Application for a sign permit shall be made and submitted at the office designated by the city on the appropriate forms furnished by said city. Submitted at the office of the designated administrative official, showing the plans and specifications, including application fees, dimensions, materials, and details of construction of the proposed structure and meeting all provisions of this Article.~~

Multiple signs may be listed on a single permit only when they are all on the same lot or parcel, or are part of a single, comprehensive development.

- ~~B. If any required information is left off of the application, or if any of the submitted information is misrepresented on the application, the permit shall be denied or shall become null and void if already issued, regardless of actual construction being started or completed.~~

- ~~G.B.~~ Any sign erected without an approved permit, or not erected or constructed as represented on the application upon which the permit was issued shall not be construed as a hardship case, but shall be construed as a misrepresentation of facts on the application and a violation of this ordinance, and the owner or agent shall be given a two (2) week notice to remove said sign or correct the error.

SECTION 14.5-6 SIGN PERMIT FEES: The fee for a sign permit shall be as provided for in the building code or as otherwise established by the legislative body.

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SECTION 14.6-7 PERMITTED USE AND LOCATION OF SIGNS: The following classes of signs may be erected and maintained in the following zones:

ZONES	USES	PERMITTED SIGN CLASSES
R-RE, R-1C, R-1D, R-1DD and R-1F	(1) Any use permitted in these zones	4
	(2) In addition to sign classes permitted in (1): (a) Conditional uses permitted in these zones	5 and 8* or 6 and 8*
	(3) Ground sign for identification of a residential development as approved by the Planning Commission	11
R-2 and R-3	(1) Any use permitted in these zones	4
	(2) In addition to sign classes permitted in (1): (a) Off-street parking areas (excluding parking garages) (b) Conditional uses permitted in these zones	3 5 and 8* or 6 and 8*
	(3) Ground sign for identification of a residential development as approved by the Planning Commission	11
PUD and RCD	As approved according to the Final Development Plan	

* ~~A combination of classes 5 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.~~

** ~~Each use is permitted an individual class 7 sign unless it is part of a shopping complex in which case only one class 7 sign identifying the shopping complex is permitted.~~

*** ~~When a class 8 ground sign is used to identify a business on an outlet/parcel, no other signage shall be permitted for that business on any class 9 sign advertising other businesses within the shopping complex.~~

ZONES	USES	PERMITTED SIGN CLASSES
NSC	(1) Any permitted or conditionally permitted use in this zone	1, 2, and 4

(2) In addition to sign classes permitted in (1):	
(a) Off-street parking areas (excluding parking garages)	3
(b) All uses other than permitted uses in this zone including parking garages All uses other than off-street parking areas (however, including parking garages), permitted in this zone	5 or 6*
(c) Signs for identification of name of a shopping complex (3 or more businesses located in a unified building or attached group of buildings)	9
(d) Outlots/outparcels which are part of a shopping complex, ground signs only	8***

* ~~A combination of classes 5 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.~~

** ~~Each use is permitted an individual class 7 sign unless it is part of a shopping complex in which case only one class 7 sign identifying the shopping complex is permitted.~~

*** ~~When a class 8 ground sign is used to identify a business on an outlot/parcel, no other signage shall be permitted for that business on any class 9 sign advertising other businesses within the shopping complex.~~

ZONES	USES	PERMITTED SIGN CLASSES
PO	(1) Any use permitted in this zone	1, 2, and 4
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas	3
	(b) Signs for identification of names of office a complex (3 or more office uses located	9

	in a unified building or attached group of buildings)	
	However, each individual office including accessory uses as provided herein in this complex may have Individual buildings not within a unified complex	7**
(c)	All other uses not located in an office a complex (3 or more offices located in a unified building or attached group of buildings)	5 and 8* or 6 and 8*

* ~~A combination of classes 5 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.~~

** ~~Each use is permitted an individual class 7 sign unless it is part of a shopping complex in which case only one class 7 sign identifying the shopping complex is permitted.~~

*** ~~When a class 8 ground sign is used to identify a business on an outlet/parcel, no other signage shall be permitted for that business on any class 9 sign advertising other businesses within the shopping complex.~~

ZONES	USES	PERMITTED SIGN CLASSES
NC	(1) Any permitted or conditionally permitted use in this zone	1, 2, and 4
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas (excluding parking garages)	3
	(b) Signs for identification of name of a shopping complex (3 or more businesses located in a unified building or attached group of buildings)	7
	(c) All other permitted uses in this zone including parking garages All other uses not located in a shopping complex (3 or more businesses located in a unified building or attached group of buildings) including parking garages	5 and 8* or 6 and 8*
IP	(1) Any use permitted in this zone	1, 2, and 4
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas (excluding parking garages)	3
	(b) All other permitted uses in this zone including parking garages All uses other than off-street parking areas (however, including parking garages), permitted in this zone	5 and 8* or 6 and 8*

* ~~A combination of classes 5 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.~~

** ~~Each use is permitted an individual class 7 sign unless it is part of a shopping complex in which case only one class 7 sign identifying the shopping complex is permitted.~~

*** ~~When a class 8 ground sign is used to identify a business on an outlet/parcel, no other signage shall be permitted for that business on any class 9 sign advertising other businesses within the shopping complex.~~

ZONES	USES	PERMITTED SIGN CLASSES
HC and HC-2	(1) Any permitted or conditionally permitted use in this zone	1, 2, and 4
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas (excluding parking garages)	3
	(b) Signs for identification of name of a shopping complex (3 or more businesses located in a unified building or attached group of buildings)	7
	However, each individual business in this complex may have	5 or 6*
(c) All other permitted uses in this zone including parking garages All other uses not located in a shopping complex (3 or more businesses located in a unified building or attached group of buildings) including parking garages	5 and 8* or 6 and 8*	
SDA	(1) Any use permitted in this zone	1, 2, 4, and 5 or 6*
	(2) In addition to sign classes permitted in (1):	
	(a) Off-street parking areas	3
	(b) Each development site	10
	(c) Rear entrances to any permitted use in this zone	5 or 6*
MUPD	As approved according to the Stage I and Stage II Development Plans	

* A combination of classes 5 and 6 signs may be used provided that the combined total number of square feet of sign area used shall not exceed one (1) square foot of area for each horizontal linear foot of building wall upon which the sign or signs are to be located.

** Each use is permitted an individual class 7 sign unless it is part of a shopping complex in which case only one class 7 sign identifying the shopping complex is permitted.

- *** When a class 8 ground sign is used to identify a business on an outlot/parcel, no other signage shall be permitted for that business on any class 9 sign advertising other businesses within the shopping complex.

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SECTION 14.7-8 CLASSIFICATION OF SIGNS:

A. CLASS 1: ~~The following signs, meeting the following specifications, shall constitute Class 1 and shall be only business or identification signs, as defined herein:~~

1. Structural Type ~~— Flat;~~ attached to wall or window sign; single faced ~~only~~
2. Maximum Size ~~Of Single Sign~~ — One (1) square foot
3. Maximum Height ~~Above Grade At Top Of Sign~~ Attached to building, parallel to wall face ~~— May not extend above building or wall face~~
4. ~~Quantity~~ — Limitation On Number Of Signs ~~— One (1) sign for each separate permitted use~~
5. Other ~~— Limitations~~ ~~Flashing, animated and illuminated signs including electronic message display boards are not permitted.~~
 - a. Shall be neither, animated, flashing nor illuminated
 - b. Electronic display boards are prohibited

B. CLASS 2: ~~The following signs, meeting the following specifications, shall constitute Class 2 and shall be only business or identification signs, as defined herein~~

1. Structural Type ~~— Flat, window, or projecting sign;~~ attached or wall or window; single or double faced
2. Maximum Size ~~Of Single Sign~~ — Two (2) square feet for each side
3. Maximum Height ~~Above Grade At Top Of Sign~~ Attached to building and projecting no more and Projection ~~— May not extend above building or wall face; may project up to~~ than eighteen (18) inches from the wall face of the building
4. ~~Quantity~~ — Limitation On Number Of Signs ~~— One (1) sign for each separate permitted use~~
5. Other ~~— Limitations~~ ~~Flashing, animated and illuminated signs including electronic message display boards are not permitted.~~
 - a. Shall be neither, animated, flashing nor illuminated

b. Electronic display boards are prohibited

C. ~~CLASS 3: The following signs, meeting the following specifications, shall constitute Class 3 and shall be only business or identification signs, as defined herein:~~

1. ~~Structural Type — Flat; ground or pole sign; single or double faced~~
2. ~~Maximum Size Of Single Sign — Six (6) square feet for each side~~
3. ~~Maximum Height Above Grade At Top Of Sign — Twelve (12) feet~~
4. ~~Quantity — Limitation On Number Of Signs — One (1) sign for each curb cut, plus any number within off-street parking areas~~
5. ~~Other Limitations —~~
 - a. ~~Sign may~~May be illuminated, ~~but only~~ from a concealed light source. ~~Flashing and~~
 - b. ~~Shall be neither~~ animated signs ~~including electronic messagenor flashing~~
 - c. Electronic display boards are not permitted, prohibited
 - b. ~~Shall be limited in subject matter to off street parking directions and instructions and shall have no merchandise, manufacturing, or service advertising~~
 - c. ~~No part of any ground or pole sign shall be located~~
 - d. May be no closer than five (5) feet from any property line or right-of-way line.

~~D. CLASS 4: The following signs, meeting the following specifications, shall constitute Class 4 and shall be only business and identification signs, as defined herein:~~

1. ~~Structural Type — Flat, window, or ground sign; single or double faced~~
2. ~~Maximum Size Of Single Sign — Twelve (12) square feet, except as specified in Subsection D., 4., below~~
3. ~~Maximum Height Above Grade At Top Of Sign — Twenty (20) feet~~
4. ~~Limitation On Number And Total Area Of Signs — The total area of all signs, in a single designated land area, shall not exceed in square feet the product of the number of acres, or fractions of acres, in the designated land area multiplied by twenty five (25), provided,~~

~~however, that no single sign shall have an area of more than thirty-five (35) square feet on premises already developed or an area of not more than seventy five (75) square feet on premises not developed~~

5. ~~Other Limitations~~

a. ~~Sign may be illuminated, but only from a concealed light source between 7:00AM and 10:00 PM. Flashing and animated signs including electronic message display boards are not permitted.~~

b. ~~Shall be temporary only, for advertising development, new construction, or the sale, lease, rental, remodeling and rebuilding of designated structures or a designated land area. Permits shall be temporary, and shall be valid for a period not exceeding one hundred eighty two (182) consecutive calendar days, but are renewable one (1) time only for an additional one hundred eighty two (182) consecutive calendar days. Such signs shall be removed within ten (10) consecutive calendar days after the completion of the project.~~

c. ~~Sign shall be located only on the premises of the property being referred to.~~

d. ~~No part of any ground sign shall be located closer than five (5) feet from any property line or right-of-way line.~~

D. CLASS 4:

Temporary Sign – Refer to Section 14.3

E. ~~CLASS 5: The following signs, meeting the following specifications, shall constitute Class 5 and shall be only business or identification signs, as defined herein:~~

1. ~~Structural Type – Flat; Individual letters, attached to building; single faced-only~~

2. ~~Maximum Size – Of Individual Sign~~

a. ~~One (1) square foot of area for each horizontal linear foot of building or wall upon which the sign or signs are to be located.~~

b. ~~The total size for individual letter signs shall be computed by taking the area enclosed within a rectangle that is needed to completely encompass each individual letter or insignia of the sign.~~

3. Maximum Height and Depth – May not extend above or beyond the building or wall face; letter depth is limited to twelve (12) inches

~~Above Grade At Top Of Sign~~ Attached flat to building, but shall not extend above the top or ends of the wall surface on which the sign is placed

4. Quantity – Limitation On Number Of Signs—One (1) sign for each street frontage of the lot on which the primary permitted use is located, except that where a complex of buildings is an attached shopping complex or a coordinated group of buildings, only plus one (1) such sign shall be permitted for each individual separate business building. Separate business building shall be construed to mean space allotted to the operation of one (1) firm, company, or incorporation having separate ownership, or separate rental or lease. A professional office building within such a complex, if permitted within the zone under consideration, shall not be considered as containing separate businesses for this purpose, but shall have only one (1) such sign regardless of how many firms, companies, or incorporations having separate ownership, rental or lease are located within said office building

5. Other – Limitations

- a. Sign May be illuminated, but only from a concealed light source.
 b. Shall be neither animated nor fFlashing and animated signs
 c. Encluding electronic message display boards are not permitted.prohibited.

- b. ~~Sign may not extend outward from the building wall more than twelve (12) inches. If the sign is illuminated, the reflectors may not project more than four (4) feet beyond the wall.~~

- F. CLASS 6: The following signs, meeting the following specifications, shall constitute Class 6 and shall be only business or identification signs, as defined herein:

1. Structural Type – Flat, attached—Single faced flat sign, mounted to the face of the building; single faced sign painted, applied, or otherwise installed in a display 1. Structural Type window; single faced sign painted, applied, or otherwise installed on an awning or canopy.

2. Maximum Size – Of Single Sign

- a. A combination of building mounted, window, awning, or canopy signs may be used, provided that the total square footage does not exceed two (2) square feet of sign area for each horizontal linear foot of building ~~width upon which the sign or signs are to be located.~~
 - b. ~~The total size for window or awning signs shall be computed by taking the area enclosed within a rectangle that is needed to completely encompass the sign. In no case shall the total square footage of a window sign not exceed twenty percent (20%) of the total area of the display window on which the sign is placed area.~~
3. ~~Maximum Height Above Grade At Top Of Sign Attached to building, but shall May not extend above or beyond the building wall or face; depth is limited to twelve (12) inches. the top or ends of the wall surface on which the sign is placed~~
 4. ~~Quantity – Limitation On Number Of Signs Not more than two (2) signs when a combination of building mounted, window, or awning signs is utilized. When no combination is used, One (1) sign for each street/roadway frontage of the lot on which the permitted use is located except that where a complex of buildings are so constructed and maintained that said complex of buildings is an attached shopping complex or a coordinated group of buildings, only plus one (1) such sign shall be permitted for each individual separate business building. Separate business building shall be construed to mean space allotted to the operation of one (1) firm, company, or incorporation having separate ownership, or separate rental or leased space. A professional office building within such a complex, if permitted within the zone under consideration, shall not be considered as containing separate businesses for this purpose, but shall have only one (1) such sign regardless of how many firms, companies, or incorporations having separate ownership, rental, or lease are located within said office building~~
 5. Other =
 - a. May be illuminated from a concealed light source
 - b. May be neither animated nor flashing
 - c. Electronic display boards are prohibited

Limitations

- a. ~~Sign may be illuminated, but only from a concealed light source. Shall be neither flashing nor animated. Flashing and animated signs including electronic message display boards are not permitted.~~

- ~~b. Sign may not extend outward from the building wall more than twelve (12) inches. If the sign is illuminated, the reflectors may not project more than four (4) feet beyond the wall.~~
- ~~c. For the purpose of this section, awnings or canopies shall be defined as roof-like coverings made of canvas, plastic, or similar flexible materials, on a retractable or fixed frame.~~
- ~~d. In the case of an internally illuminated awning, the entire surface of the awning shall be included in the calculation of the sign area.~~
- ~~e. For any awning sign, lettering or graphic elements shall be located only on that portion of the awning that is parallel to the building facade.~~

G. ~~CLASS 7: The following signs, meeting the following specifications, shall constitute Class 7 and shall be only business and identification signs, as defined herein:~~

- ~~1. Structural Type — Pole sign or ground sign; single or double faced~~
- ~~2. Maximum Size — Of Single Sign— Sixty (60) square feet~~
- ~~3. Maximum Height Above Grade At Top Of Sign— Pole: twenty (20) feet; Ground: ten (10) feet~~
- ~~4. Quantity – Limitation On Number Of Signs—One (1) sign may be erected for each street frontage of the lot or building site on which the permitted use is located~~
- ~~5. Other — Limitations
 - ~~a. May be illuminated from a concealed light source~~
 - ~~b. May be neither animated nor flashing~~
 - ~~c. Electronic display boards are prohibited~~
 - ~~a. Sign may be illuminated, but only from a concealed light source. Flashing and animated signs including electronic message display boards are not permitted.~~
 - ~~bd. No part of any ground or pole sign shall May be located no closer than five (5) feet from any property line or right-of-way line.~~~~

H. ~~CLASS 8: The following signs, meeting the following specifications, shall constitute Class 8 and shall be only business or identification signs, as defined herein:~~

1. Structural Type - Ground sign; single or double faced
2. Maximum Size ~~Of Single Sign~~ - Twenty-five (25) square feet
3. Maximum Height ~~Above Grade At Top Of Sign~~ - Seven (7) feet
4. Quantity - Limitations On Number Of Signs
 - a. ~~One (1) sign may be erected for each street frontage of the lot or building site on which the permitted use is located.~~
 - b. ~~One (1) sign may be erected for identification purposes of a residential development at each major street entrance.~~

5. Other Limitations-

- a. May be illuminated from a concealed light source
- b. Shall be neither animated nor flashing except Variable Message Sign as defined in Article VII.
- c. May be no closer than five (5) feet from any property line or right-of-way.

a. ~~Sign may be illuminated, but only from a concealed light source. Flashing and animated signs are not permitted except Variable Message Reader Boards as defined in Article VII. Modification of an existing sign to include a Variable Message Reader Board will be considered a significant alteration to the sign and/or site.~~

b. ~~No part of any sign shall be located closer than five (5) feet from any property line or right of way line.~~

I. ~~CLASS 9: The following signs, meeting the following specifications, shall constitute Class 9 and shall be only business or identification signs, as defined herein:~~

1. Structural Type ~~—~~ Pole or ground signs; single or double faced
2. Maximum Size ~~Of Single Sign~~ ~~—~~ One hundred fifty (150) square feet
3. Maximum Height ~~Above Grade At Top Of Sign~~ ~~—~~ Pole sign: thirty (30) feet; ground: seven (7) feet
4. Quantity - Limitations On Number of Signs

- a. One (1) sign may be erected on each abutting street identifying a ~~shopping complex and/or tenants of~~with three (3) or more businesses ~~which are located~~ in a unified building or a coordinated group of buildings.
 - b. One (1) sign may be erected for identification purposes of an industrial development for each entrance.
- 5. Other ~~Limitations~~—
 - a. ~~May be illuminated from a concealed light source~~
 - b. ~~May be neither animated nor flashing~~
 - c. ~~Electronic display boards are prohibited~~
 - d. ~~May be no closer than five (5) feet from any property line or right-of-way.~~
 - a. ~~Sign may be illuminated, but only from a concealed light source. Flashing and animated signs including electronic message display boards are not permitted.~~
 - b. ~~No part of any ground or pole sign shall be located closer than five (5) feet from any property line or right of way line.~~
- J. CLASS 10: ~~The following signs, meeting the following specifications, shall constitute Class 10 and shall be only business or identification signs, as defined herein:~~
 - 1. Structural Type — Ground sign; single or double faced
 - 2. Maximum Size ~~Of Single Sign~~— Forty (40) square feet for the first one hundred fifty (150) linear feet of frontage. ~~However, if the site in question has frontage in excess of one hundred fifty (150) linear feet, the sign area may be increased by~~An additional five (5) square feet for every fifty (50) linear feet, up to a maximum sign area of sixty (60) square feet per sign
 - 3. Maximum Height ~~Above Grade At Top Of Sign~~— Seven (7) feet
 - 4. Quantity – Limitations On Number Of Signs
 - a. One (1) sign may ~~be erected for~~on each street frontage ~~of the lot or building site on which the primary permitted use is located~~
 - b. One (1) sign may be erected for ~~identification purposes of~~ a each major residential development ~~for each major~~ entrance

5. Other ~~Limitations~~

- a. ~~Sign may be illuminated, but only from a concealed light source~~ May be illuminated from a concealed light source
- b. ~~Shall be neither Flashing flashing and nor animated signs are not permitted.~~
- b. ~~A maximum of except~~ twenty-five (25) percent of the ~~total~~ sign area may be ~~used for~~ a Variable Message Reader Board as defined in Article VII. (Modification of an existing sign to include a Variable Message Reader Board will be considered a significant alteration to the sign and/or site.)
- c. ~~No part of any ground sign shall~~ May be located closer than five (5) feet from any property line or right-of-way ~~line~~

K. CLASS 11: ~~Signs attached to ornamental structures, as permitted in Section 13.3, A., 3., identifying a residential subdivision entryway.~~

- 1. Structural Type ~~—~~ Letters placed on an ornamental structure.
 - 2. Maximum Size ~~—~~ Limited by size of ornamental structure.
 - 3. Maximum Height ~~Above Grade At Top Of Sign — Limited by~~ Maximum height of ~~ornamental structure. letters may not exceed 24 inches~~
 - 4. ~~Quantity — Limitations On Number Of Signs —~~ An ornamental structure may be placed on either side of each major entrance to a subdivision. The sign attached to this ornamental structure may be affixed to either or both ornamental structures.
 - 5. Other ~~Limitations —~~
 - a. ~~May be illuminated from a concealed light source~~
 - b. ~~May be neither animated nor flashing~~
 - c. ~~Electronic display boards are prohibited~~
 - d. ~~May be no closer than five (5) feet from any property line or right-of-way.~~
- a. ~~Sign may be illuminated, but only from a concealed light source. Flashing and animated signs including electronic message display boards are not permitted.~~
 - b. ~~Maximum height of the letters used may not exceed 24 inches in height.~~

SECTION 14.9 VARIANCES AND APPEALS:

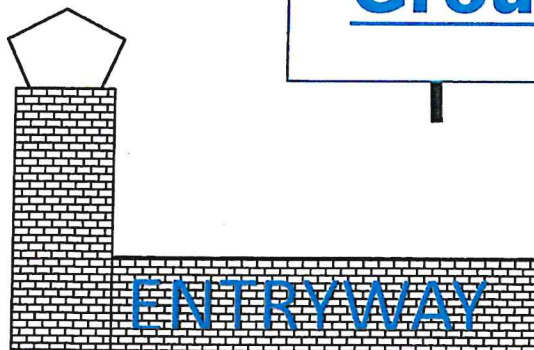
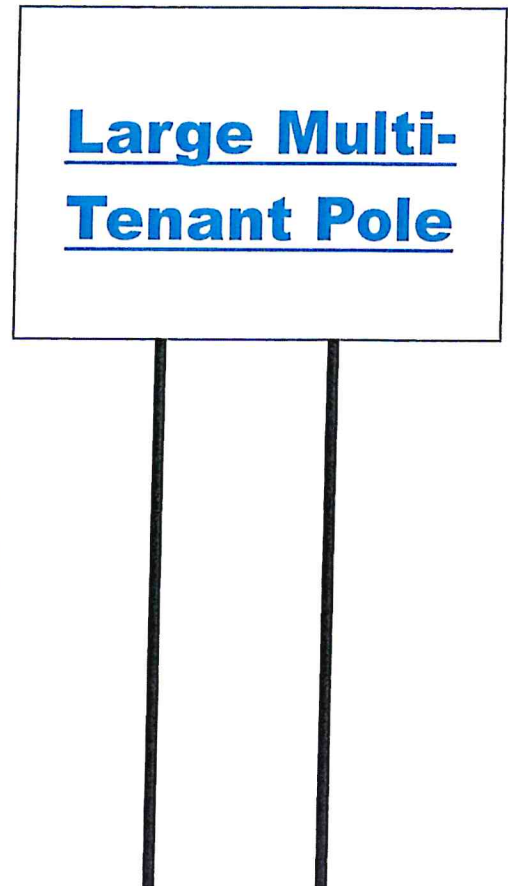
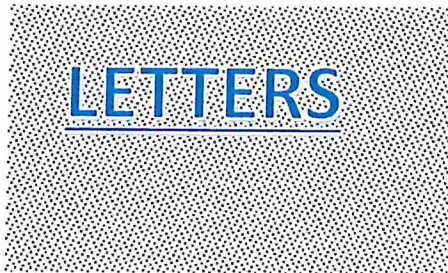
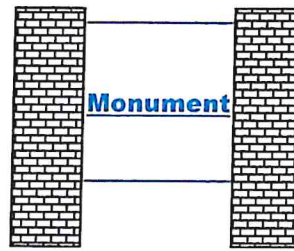
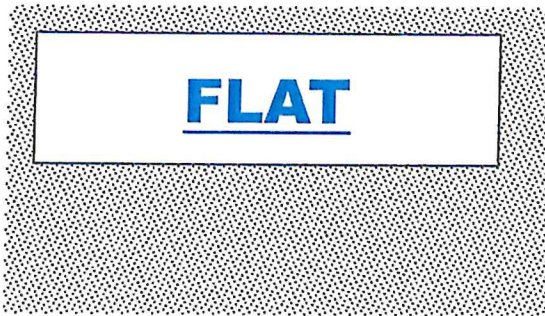
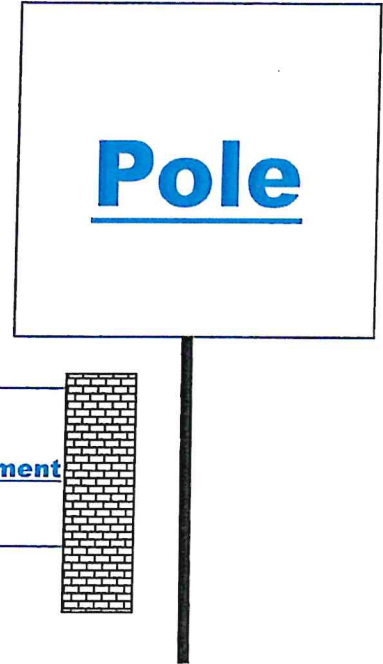
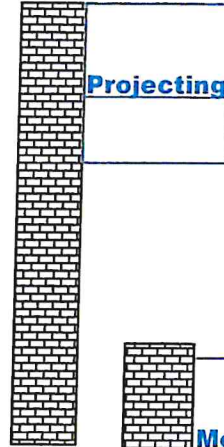
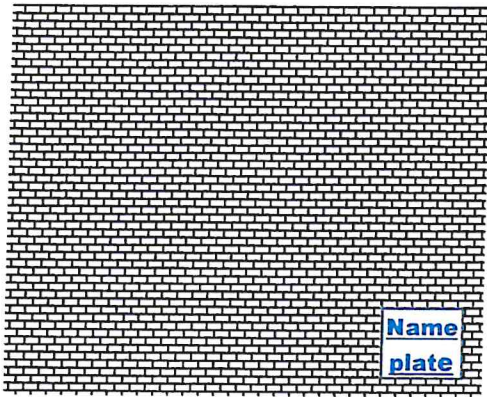
- A. Variance: Dimensional or location variances are subject to the requirements and procedures set forth under Article 18 of this ordinance and in KRS §100.241 and KRS §100.243.

NOTE: As stated in Article 18.6 (b) and KRS §100.247, a variance cannot contradict zoning regulation. The board shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by the zoning regulation in the zone in question, or to alter density requirements in the zone in question. In terms of signage, density refers to the number of signs permitted; use refers to the sign Type. A variance request which constitutes dimensional changes to which would recategorize the sign to a new Type which is not permitted in that zone will be expressly denied.

- B. Appeals: Decisions on sign permit applications, as well as directives, orders, notices and all other sign-related decisions of the Zoning Administrator may be appealed to the Board of Adjustment by following the procedures set forth under Article 18 of this ordinance and in KRS §100.261, within the time allowed.

While any sign related matter is on appeal, the status quo of the subject sign(s) shall be maintained, except when, by virtue of physical condition, the sign poses an immediate threat to the public health, safety and welfare, in which case the threat may be abated in the same manner as any other immediate threat to the public health, safety and welfare.

Example Signs



MEMORANDUM

TO: PDS Stakeholders

FROM: Sharmili Reddy, AICP, Executive Director sreddy@pdskc.org
Timothy B. Theissen, Esq., PDS Attorney tbtheissen@strausstroy.com

RE: Zoning for medical cannabis

DATE: April 15, 2024

INTRODUCTION

In 2023 Kentucky adopted a Medical Cannabis law where local governments are legally granted the right to impose zoning restrictions on medical cannabis businesses, though cannot affect lawful use of the product by cardholders in their jurisdiction.

There are important deadlines approaching that require attention if a city or county wants to regulate the cannabis businesses in their jurisdiction. This memorandum will explore those issues.

PURPOSE

Medical cannabis legislation (KRS 218B) was passed by the Kentucky General Assembly in 2023 with a delayed effective date of January 1, 2025. In the recently concluded 2024 legislative session, HB 829 was passed by the legislature in the last two days of session. This bill included additional provisions of interest to local governments. The governor currently has 10 days to veto the bill. While that is considered unlikely, this memo will be updated if the bill is vetoed.

HB 829 filed during the 2024 legislative session allows licenses to be issued upon the passage of the bill, but stipulates that local governments have until Jan 1, 2025, to adopt local regulations. Even those cannabis businesses that were issued a license prior to Jan 1, 2025 by the State, will be required to meet local regulations. This bill was introduced with the intent of having product available for sale prior to the Jan 1, 2025, timeline. Under the new law, local

governments have no ability to regulate or prevent the lawful use of medical cannabis by cardholders in their communities but may regulate or prohibit cannabis business operations in their communities through zoning and local licensing.

The purpose of this memorandum is to provide guidance on the zoning implications of the medical cannabis legislation. Additional proposed administrative regulations were released in January and March 2024 that provide a few additional zoning considerations. The legislation (KRS 218B) and administrative regulations (KAR) are available on the Kentucky Medical Cannabis Program website (www.kymedcan.ky.gov)

This is the assessment of the current state law as determined by PDS staff and counsel but may not reflect the position of any stakeholder's legal counsel. Detailed information is supplied with this memorandum to allow independent assessment by your organization. This memorandum does not provide guidance on the additional licensing provisions of the legislation that jurisdictions may pursue in addition to the state licensing requirements.

Development and adoption of consistent methods of regulating medical cannabis uses in Kenton County and its jurisdictions could benefit the community in various ways including uniform enforcement methods.

PDS received requests from jurisdictions in Kenton County to assess the zoning implications of the medical cannabis legislation and provide guidance on the same. Jurisdictions within Kenton County may have different viewpoints as it relates to medical cannabis and whether cannabis business operations should be permitted to locate within their community. It is not PDS's intent to provide an opinion on those community viewpoints but rather offer guidance on zoning in an impartial manner regardless of how local jurisdictions wish to proceed.

ZONING FRAMEWORK

Cities and counties can either prohibit by ordinance medical cannabis businesses in their jurisdiction, put it up for a citizen vote, or regulate the operations through zoning within limitations. Specifically, KRS 218B.130 states that cities and counties can either:

- (i) Prohibit all cannabis business operations in their territory, and notify the Cabinet in writing of its decision within 5 days after the passage of the ordinance or

- (ii) Adopt a resolution directing that the question of prohibiting cannabis businesses from operating within its territory be submitted to the voters of its territory at the next regular election pursuant to KRS 218B.130(3)(b) asking the voters of the city the question: “Are you in favor of the sale of medicinal cannabis at a licensed dispensary and the operation of other cannabis businesses in (affected territory)?” After the results of the ballot are certified, the Cabinet must be notified within 5 business days.
- (iii) Provide for the new industry but enact ordinances not in conflict with state statute or with the cabinet's administrative regulations, regulating the ***time, place, and manner*** of cannabis business operations, providing that a local government shall not enact ordinances that impose an undue burden or make cannabis business operations unreasonable or impractical.

Each of these optional policies will be examined below.

During the recently-concluded 2024 legislative session, HB 829 was passed by the legislature, but currently awaiting to be signed by the governor. The Bill includes various amendments to the previous 2023 law. In a pertinent part it would provide:

Notwithstanding any provision of law to the contrary, a cannabis business licensed by the Cabinet pursuant to this chapter shall be subject to and required to comply with:

- (a) *Any subsequent action that may be taken pursuant to subsection (2)(a) of Section 13 of this Act by the local government within whose territory the cannabis business is licensed to operate if such action is taken prior to January 1, 2025, including but not limited to the prohibition of cannabis business operations within the territory of local government; and*
- (b) *Any local zoning ordinance and regulations that may be adopted pursuant to subsection (2)(b) of Section 13 of this Act by the local government within whose territory the cannabis business is licensed to operate.*

A local government should act on this issue particularly in light of the provisions of HB 829, which stipulates a timeframe by when a local government needs to take action barring which a license issued for a cannabis business by the State will take precedent. The zoning options are addressed below.

1. Prohibition of medical cannabis uses.

The state statute specifically authorizes a city or County to prohibit medical cannabis businesses in their jurisdiction. KRS 218B.130(2)(a) states that a local government may prohibit all cannabis business operations within its territory through the passage of an ordinance or by directing through resolution that the question be submitted to the voters of its territory. The local government is required to notify the Cabinet in writing of its decision within 5 days after the passage of such an ordinance or after the results of a ballot question to prohibit cannabis business operations are certified. This statute also provides cities within a county to permit the use through the passage of an ordinance, even if the county takes action to prohibit it.

An ordinance will need to be adopted that prohibits the location of medical cannabis business facilities within the City/County limits. A sample ordinance is provided in **ATTACHMENT 1** with a comprehensive list in its preamble of many of the traditional objections to the industry in the findings and justifications (“Whereas”) clauses to help jurisdictions select those that may be uniquely applicable to their community. Consultation with legal counsel is strongly encouraged to determine the reasoning listed in the ordinance for prohibition of medical cannabis. This process requires an ordinance passed with two readings. A community choosing to proceed in this manner should consider its timing and seek adoption before the end of 2024.

Some jurisdictions may want to consider an initial prohibition ordinance to be in place until more thorough discussion and decision-making on the subject can be undertaken by the elected officials.

The local jurisdictions should be aware that if they prohibit cannabis business operations through the passage of an ordinance, a petition can be submitted requiring that the issue be submitted to voters to consider that could override the ordinance. The question on the ballot will be as follows – “Are you in favor of overturning the decision of the local government legislative body and allowing the sale of medicinal cannabis at a licensed dispensary and the operation of other cannabis businesses in (affected territory)? KRS 218B.130 provides details for the petition process.

2. Resolution to submit question to voters.

If local government officials prefer to have their voters decide on whether to impose a prohibition of medical cannabis businesses operating within their jurisdiction, it can adopt a resolution to put the question on the ballot. A proposed draft of a Resolution to do so is attached as **ATTACHMENT 2**. If this option is chosen, the voters are posed the question: *“Are you in favor of the sale of medicinal cannabis at a licensed dispensary and the operation of other cannabis businesses in (affected territory)?”*

If the vote is “NO”, it has the effect of a prohibition of the businesses operating in the city/county. If the vote is “YES”, then a local jurisdiction should plan to quickly adopt zoning regulations to address medical cannabis businesses or risk the application of their current zoning ordinance in a non-specific way that may not adequately address the unique nature of these medical cannabis business operations. If the question submitted fails to pass, 3 years shall elapse before the question of medicinal cannabis sales and cannabis business operations may be included on a regular election ballot for the affected territory.

3. Licensing and zoning requirements.

Zoning regulations and local licensing requirements of the industry are permitted. This memo does not seek to provide guidance on licensing requirements for local jurisdictions. However, 218B.130(8) and (9) outlines provisions for cities and counties to establish a reasonable fee to compensate for any additional corrections or impact caused by the approval of the medical cannabis business operations, but the fee cannot exceed the corrections or impact. Cities and counties can also establish, assess, collect and share the fee in a manner negotiated between the two parties.

The State, through legislation and additional administrative regulations, has established stringent state licensing requirements for these businesses. KRS 218B.090(3)(b), subsection 3, also requires the Cabinet for Health and Family Services to provide notice of licensure approval and issuance to the city and county in which the cannabis business intends to operate. Should a city or county choose to institute licensing provision, it will be important to ensure consistency or no conflict between the licensing and zoning requirements.

4. Zoning ordinance options for regulating medical cannabis operations.

A. Types of medicinal cannabis land uses. KRS 218B requires all uses to be within a completely enclosed building. All businesses must be licensed through the Cabinet.

The law classifies medical cannabis business land use into five (5) categories:

- I. Cultivators
- II. Processors
- III. Producers
- IV. Dispensaries
- V. Safety Compliance Facilities.

One valued interpretation of the legislation is that local governments will have to permit either all or none of the medical cannabis business operations. This could prove to be challenging for those jurisdictions that do not have any industrial or very limited commercial zones within their boundaries.

The elements of each type of business operation, and how they might fit into an existing zoning ordinance, are outlined as follows:

I. CULTIVATION

Cultivation is defined as acquiring, possessing, planting, cultivating, raising, harvesting, trimming or storing. It also includes delivering, transporting, transferring, supplying or selling raw plant material and related supplies to other licensed cannabis businesses in the state. There are four tiers defined in KRS218B.105(3) for cultivators based on the size of their operation:

- Tier 1 cultivator shall not exceed indoor growth area of 2,500 square feet.
- Tier 2 cultivator shall not exceed indoor growth area of 10,000 square feet.
- Tier 3 cultivator shall not exceed indoor growth area of 25,000 square feet.
- Tier 4 cultivator shall not exceed indoor growth area of 50,000 square feet.

KAR 1:030 includes additional stipulations related to the maximum indoor growth area and include the following:

- a. If a tiered or shelving system is used in the cultivation area, the surface of each tier or shelf shall be included in the calculation.

- b. Calculation shall not include within enclosed facility used for the storage of supplies, pesticides, fertilizers, or other products, as well as square footage used for quarantine, office space or other non-cultivation activities.
- c. Cannot be open to the general public or anyone under the age of 18.

These land uses are similar to indoor agriculture uses and would be appropriate in any industrial zone. A Tier 1 cultivation land use may be appropriate in some commercial or mixed-use zone, being only 2,500 square feet or less; however, this land use cannot be open to the public, so may be problematic in mixed use zones where the intent is to encourage activity at the street level.

915 KAR 1:030, Section 16, also stipulates that if a need for additional medicinal cannabis cultivation in the Commonwealth is demonstrated by the business or the Cabinet, the Cabinet may through a promulgation of administrative regulations increase the canopy size limits for cultivators by up to three (3) times the limits established in KRS 218B.105. This would increase the limits for Tier 1 to 7,500 square feet, Tier 2 to 30,000 square feet, Tier 3 to 75,000 square feet and Tier 4 to 150,000 square feet. Consideration should be given to these potential increases as uses are permitted within zoning districts.

II. PROCESSING

Processing is defined in KAR 1:001 as activities involved with processing raw plant material and medicinal cannabis into medicinal cannabis products, including acquiring, purchasing, possessing, processing, preparing, manufacturing, manipulating, blending, packaging, labeling, transferring, transporting, supplying, or selling medicinal cannabis or medicinal cannabis products to other licensed cannabis businesses in the commonwealth.

These uses are similar to other material processing facilities that are traditionally found within industrial zones and are required to meet all applicable state and local building codes.

III. PRODUCTION

Production is defined as a combination of cultivation and processing. KAR 1:050 stipulates that a producer may conduct cultivation and processing activities at separate locations, but shall not operate more than one cultivation and one processing facility per license issued by the cabinet. It also stipulated that a producer shall not exceed 50,000 square feet of total canopy size at an enclosed, locked facility. But the KAR permits the cabinet to increase the

canopy size limits for producers by up to three times the limits established in KRS 218B.120 essentially providing for these uses to be permitted up to 150,000 square feet in the future.

As mentioned in the cultivation and processing sections, these uses are similar to either indoor agriculture uses and other processing facilities typically found in the industrial and business park zones.

IV. DISPENSARIES

Dispensaries are land uses that are retail in nature that dispense medical cannabis and may be appropriate in commercial zones. KAR 1:070 includes additional stipulations for dispensaries:

- a. These uses cannot be located in the same site and location used for growing, cultivating and processing medicinal cannabis or in the same office space as a medicinal cannabis practitioner or other physician.
- b. A dispensary shall only disperse medicinal cannabis to a cardholder in an indoor, enclosed, secure facility between the hours of 8:00 a.m. and 8:00 p.m.
- c. A dispensary may disperse medical cannabis to cardholders via a drive-thru window or curbside service subject to certain plans and procedures approved through the Cabinet.
- d. A dispensary may not co-locate with a medicinal cannabis practitioner (i.e., a doctor or certain licensed nurses).

A few current industrial zones within zoning ordinances of Kenton County's jurisdictions permit a small component of retail that are sized and designed to serve the employees. However, the regulation stipulates that dispensaries cannot be located in the same zone as cultivation or processing facilities that may typically be found in industrial zones, which leads to the conclusion that they would only be permitted in commercial or mixed-use zones that permit retail.

It is contemplated that medical cannabis dispensaries may co-locate and operate within existing pharmacy businesses.

V. SAFETY COMPLIANCE FACILITIES

These facilities provide testing services to medical cannabis businesses in the Commonwealth. These uses are similar to laboratory or research and development facilities that are typically found in industrial or business park zones.

B. Permitted or Conditional Uses.

From the perspective of a land use, medicinal cannabis facilities are very similar in nature to other industrial uses such as indoor agriculture, manufacturing, research and development and retail uses. They are required to be in a completely enclosed building and heavily regulated by the State through licensing and other requirements. Permitting these land uses outright within certain zones would be in line with how current uses are regulated within zoning ordinances. In determining specific zones to allow these land uses, it is important to understand the purpose of the zone and ensure that this land use is consistent with the stated purpose.

If a local jurisdiction wishes to consider medical cannabis as a conditional use in certain zones to provide an opportunity for a public hearing process before a Board of Adjustment (BOA), careful consideration should be given to several factors including limitation on the conditions that a BOA could place on these uses that do not conflict with KRS 218B and the new applicable KARs. Also, if a regular pharmacy is permitted by right within a commercial zone, distinction would need to be made as to why a medical cannabis dispensary would be treated differently as a conditional use in the same zone, from a zoning perspective. BOA members will also need ongoing training on the legislation and administrative regulations, so they are informed prior to deciding or determining appropriate conditions.

Additional research and consideration will be necessary by those cities that wish to place these as conditional uses within their zoning ordinance as those decisions generally tend to be localized and based on community values and character.

C. Medical cannabis uses in mixed use zones.

Zoning regulations focus on the size and placement of land uses within a zone and their impact on surrounding uses. Strictly from a zoning perspective, among the various medical cannabis land uses permitted per KRS 218B, there are two land uses, dispensaries and Tier 1 cultivation, that may be considered appropriate in mixed use zones that currently allow certain neighborhood-scale retail uses.

Dispensaries. Some mixed-use zones are typically found in the urban core; if a pharmacy is permitted within a residential zone to serve the needs of the neighborhood surrounding it, a cannabis dispensary that functions in a similar manner and the scale of which is appropriate for the neighborhood, may also be appropriate. Dispensaries are

further regulated by state legislation and are permitted to be open only from the hours of 8:00 a.m. to 8:00 p.m.

Tier 1 cultivation. This land use requires the indoor growth area to be under 2,500 sq.ft., and may be considered from the perspective of scale, in a mixed use zone. However, this use is required to be in a completely enclosed building with very stringent access restrictions prohibiting the general public from entering the facility. Consideration should be given to whether the access restrictions to this land use might conflict with the needs of the neighborhood.

The scale at which the other medical cannabis businesses (i.e., cultivation, production and processing) would have to be built would not be appropriate within mixed use zones.

A local jurisdiction may also want to consider a “wait and see” approach to allowing any medical cannabis dispensaries in residential zones until after some business operations get under way in commercial zones and a City/County can observe the experiences that occur there first.

D. Buffer Requirements

KRS 218B.095(2)(a) requires a 1000-foot buffer from an existing school or a day care. It is silent on buffers surrounding any other protected uses, such as churches, parks or libraries. For comparison purposes, the City of Cincinnati requires a 500-foot buffer from other uses such as churches, parks and libraries. The Kentucky statute would allow a local jurisdiction through its zoning ordinance to choose to place a buffer from other such land uses as churches, parks and libraries.

E. Other Considerations

a. Limiting the number or distance

A City/County could consider a limit on the number of medical cannabis businesses within a zone or establish a minimum distance requirement between two cannabis businesses. These options create various issues of their own, so require special attention and legal review if considered by a city/county. Careful consideration should be given to the reasoning behind these requirements and well documented so as to not create a monopoly for the first set of businesses that are established, disallowing others.

b. Parking requirements

The administrative regulations only stipulate that adequate on-site parking for employees, visitors, agents, and transporters be provided. Also, that a secure area for loading and unloading of medical cannabis be provided. Due to the extensive state regulations on access to these facilities, it is not anticipated that these land uses will generate any more need for parking than traditional indoor agriculture, manufacturing, research and development, and retail uses. The current parking regulations for uses within these zones can be applied to cannabis uses.

c. Setback requirements

KRS 218B does not have other stipulations related to setbacks from other land uses. It would be reasonable to apply the current setback requirements within industrial and commercial zones, to these cannabis uses. Typical setback requirements are 25 feet but increases to 35 or 50 feet depending on the zone, if they abut residential.

d. Hours of operation

KAR 1:070, Section 4(2) stipulates that a dispensary can only dispense medical cannabis to a cardholder in an indoor, enclosed, secure facility between the hours of 8 a.m. and 8 p.m. Dispensaries function like many other pharmacy uses, many of which may be open for longer hours. Since the administrative regulation is already restrictive, no additional requirements may be necessary. It is not advisable that a local jurisdiction institute regulations more or less restrictive than what the state allows as it relates to hours of operation for dispensaries; KRS 218B.130(2) allows cities to enact ordinances not in conflict with this chapter or with the cabinet's administrative regulations, regulating the time, place, and manner of cannabis business operations, except that a local government shall not enact ordinances that impose an undue burden or make cannabis business operations unreasonable or impractical.

e. Signage requirements

KAR has 2 stipulations as it relates to signage. KAR 1:030 requires all areas of ingress and egress to a limited access area to be clearly identified by the posting of a sign which shall not be less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height, which shall state: "Do not enter. Limited

Access Area. Access limited to authorized personnel and escorted visitors”. Other than that special requirement, it is reasonable to apply current sign regulations within typical commercial, mixed-use and industrial zones to medical cannabis land uses.

f. *Supremacy of State law*

Due to the extensive requirements in State statutes and related administrative regulations for medicinal cannabis uses, it is important to note in the zoning ordinance that “in the event the requirements of the zoning ordinance conflict with state law or administrative regulations, state law will supersede”.

ATTACHMENT 1

ORDINANCE ___-202___

AN ORDINANCE OF THE CITY OF _____, IN KENTON COUNTY, KENTUCKY, AMENDING THE ZONING REGULATION OF THE CITY OF _____ TO PROHIBIT THE OPERATION OF ANY MEDICAL CANNABIS FACILITIES IN THE CITY AS PERMITTED BY KRS 218B.130.

WHEREAS, the Commonwealth of Kentucky has adopted KRS 218B.010, et. seq., providing for the legalization of the use of medical cannabis and the operation of medical cannabis facilities in the Commonwealth pursuant to the terms and conditions of said state law, which statutes *inter alia* contain KRS 218B.130 which allows local governments like this City to prohibit all cannabis business operations within its territories through passage of an ordinance; and

WHEREAS, smoking cannabis, even for medical purposes, can have adverse health effects, particularly on the respiratory system; and the long-term effects of cannabis use, especially on developing brains, are not yet fully understood; and

WHEREAS, legalizing cannabis for medical use could lead to increased recreational use and abuse, especially among young people; and

WHEREAS, using medical cannabis could serve as a gateway to using harder drugs; individuals who start using cannabis for medical purposes might be more likely to experiment with other, more harmful substances; and

WHEREAS, the psychoactive effects of cannabis, particularly THC, impair cognitive function and could potentially pose risks, such as impaired driving or operating heavy machinery; and

WHEREAS, the operation of even-legal medical cannabis facilities create complex legal and regulatory challenges for law enforcement, healthcare providers, and policymakers, leading to difficulties in enforcement and compliance; and

WHEREAS, medical cannabis goes against our City's societal norms or cultural values, as cannabis use is still stigmatized; and

WHEREAS, many still question the efficacy of cannabis as a medical treatment; more research is needed to establish its effectiveness for various conditions and symptoms; and

WHEREAS, there are already approved pharmaceutical drugs available to treat many of the conditions for which medical cannabis is proposed as a remedy; these alternatives should be utilized instead; and

WHEREAS, federal law still prohibits its use, and so conflicts between local, state and federal regulations could potentially lead to legal challenges and uncertainties;

WHEREAS, for the reasons stated above, which the City Council finds as true and accurate, the City Council hereby determines it to be in the interest of public health, safety and welfare to prohibit the operation of any medical cannabis facilities in the City.

WHEREAS, pursuant to KRS 100.211(3), The Kenton County Planning Commission proposed the subject text amendments to each Kenton County cities' zoning regulations; the Planning Commission conducted a public hearing on its application for the text amendments on _____, 202__; and the Planning Commission recommended in favor of adoption of this text amendment to the City's zoning regulations.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF _____, IN KENTON COUNTY, KENTUCKY, AS FOLLOWS:

SECTION 1

The Zoning Regulations of the City of _____ are hereby amended as reflected in SECTION 2 below (any text being added is shown by a single solid line drawn underneath it; text that is removed is marked at the beginning with an opening bracket and at the end with a closing bracket; the text between the brackets is stricken through with a single solid line).

SECTION 2

A new section of the Zoning Ordinance of the City of _____, numbered as Section _____, shall be added stating as follows:

Pursuant to KRS 218B.130, all cannabis business operations as defined in KRS 218B.010 shall be prohibited within the City of _____.

SECTION 3

Any and all Ordinances in conflict with this Ordinance shall be, and hereby are, repealed to the extent of said conflict.

SECTION 4

If any part of this ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this ordinance are severable.

SECTION 5

That this ordinance shall become effective upon its passage and shall be published under KRS 83A.060(9) and other applicable law. This ordinance may be published by summary.

Passed by City Council on _____, 202__

CITY OF _____, KENTUCKY

By: _____
Mayor

ATTEST:

City Clerk

FIRST READING: _____

SECOND READING: _____

PUBLICATION: _____

ATTACHMENT 2

THE CITY OF _____, KY

RESOLUTION NO. ____-2024

A RESOLUTION OF THE CITY OF _____, KENTUCKY, PURSUANT KRS 218B.130(2)(c), DIRECTING THAT THE QUESTION OF ALLOWING CANNABIS BUSINESSES TO OPERATE WITHIN THE LIMITS OF THE CITY OF _____ BE SUBMITTED TO THE VOTERS WHO ARE ELIGIBLE TO VOTE IN THE CITY'S ELECTIONS AT THE NEXT REGULAR ELECTION.

WHEREAS, the 2023 Kentucky General Assembly passed KRS 218B.010-.155 relating to the production, delivery and use of medical cannabis by cradholders; and

WHEREAS, part of that law, specifically KRS 218B.130 (2)(c), allows local governments, including the City of _____, Kentucky, to enact resolutions directing that the question of prohibiting cannabis businesses from operating within its territory be submitted to the voters of its territory at the next regular election; and

WHEREAS, the City of _____ hereby adopts this resolution pursuant to said statute to place the issue before the voters of the City of _____ to ask: "Are you in favor of the sale of medicinal cannabis at a licensed dispensary and the operation of other cannabis businesses in the City of _____?"; and

WHEREAS, if the question submitted to the voters passes, medicinal cannabis sales and cannabis business operations may be conducted in the City of _____, notwithstanding any local government ordinances which prohibit all cannabis business operations within its territory; and

WHEREAS, the provisions of general election law shall apply to public questions submitted to voters under this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF _____, KENTUCKY, AS FOLLOWS: In accordance with KRS 218B.130(2)(c), the City of _____, Kentucky directs that the question of prohibiting cannabis businesses from operating within its territory be submitted to the voters of its territory at the next regular election, by asking the question: "Are you in favor of the sale of medicinal cannabis at a licensed dispensary and the operation of other cannabis businesses in the City of _____?"

This resolution shall become effective upon passage as required by law.

Introduced and enacted on _____, 2024.

This Resolution passed by a vote of the Council ____ in favor, and ____ against.

CITY OF _____, KENTUCKY

By: _____
Mayor

Attest:

City Clerk

**COMMONWEALTH OF KENTUCKY
COUNTY OF CAMPBELL
CITY OF COLD SPRING
ORDINANCE NO. 06- 901**

**AN ORDINANCE PERTAINING TO THE PERMITTING AND REGULATION OF YARD
SALES IN THE CITY OF COLD SPRING**

Whereas, Cold Spring has established license fees and regulations for the privilege of engaging in occupations, trade, professions, business and other activities in the City of Cold Spring; and

Whereas, the aforementioned ordinance establishes business license fees for certain activities; and

Whereas, yard sales routinely occur in the City of Cold Spring, which constitute a business; and

Whereas, it is the intent of the City of Cold Spring to insure proper permitting and regulation govern yard sales within the city.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF COLD SPRING,
COUNTY OF CAMPBELL, COMMONWEALTH OF KENTUCKY:**

Section I

Legislative Findings.

(A) Nonregulated garage sales are causing annoyance to citizens and congestion in the streets;

(B) It is necessary to prohibit the infringement by such nonregulated sales in established residential areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment of such area and to prevent the interference with the orderly operation of businesses licensed to do business within the city;

(C) No control is sought of sales by individuals selling their household or personal items; and

(D) An ordinance should be enacted not to prevent but to regulate garage sales for the safety and welfare of the city's citizens.

Definition. *Yard Sale* for purposes of this Ordinance shall include all general sales, open to the public, conducted from or on a residential premise in any residential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "yard," "attic," "porch," "room," "backyard," "patio," "flea market" or "rummage" sale.

Permit Required; Written Statement and Fee.

(A) No yard sale shall be conducted unless and until the individuals desiring to conduct such sale shall obtain a permit therefore from the City Clerk.

(B) Prior to issuance of any sale permit, the individuals conducting such sale shall file a written statement with the City Clerk setting forth the following information:

- (1) The full name and address of the applicant;
 - (2) The location at which the proposed garage sale is to be held;
 - (3) The date or dates upon which the sale will be held;
 - (4) The date or dates of any other garage sales within the current calendar year;
- and

(C) There shall be an administrative fee of \$5 for issuance of a permit.

Hours of Operation.

Garage sales shall be limited in time to no more than the daylight hours of two consecutive days, excluding Sundays.

Permit Conditions.

The permit shall set forth and restrict the time and location of such garage sale. No more than four such permits may be issued to one residence and/or family household during any calendar year. Such permit shall be produced for inspection upon request by any code enforcement officer and/or police officer.

Penalty.

Any person violating the terms of this Ordinance shall be subject to a civil fine of \$50 for a first offense and \$100 for each offense thereafter.

Section II

Any section or provision of this Ordinance which is declared invalid by a court of competent jurisdiction for any reason, such declaration shall not invalidate, or adversely affect, the remainder of this Ordinance.

Section III

This Ordinance shall be in full force and effect from and after its passage, publication and recording, according to law.

Adopted this 24th day of **April 2006**

First Reading- March 27, 2006

Votes Cast 5 Yes 0 No

Second Reading- April 24, 2006

Votes Cast 5 Yes 0 No

City of Cold Spring

By: *Mark Stoeber*
Mark Stoeber
Mayor

Attest:

Carole Huber
Carole Huber
City Clerk