

COMMONWEALTH OF KENTUCKY
MASON FISCAL COURT
ORDINANCE NO. 20-05

AN ORDINANCE ADOPTING THE PROPOSED TEXT AMENDMENT RELATING TO THE DEFINITION OF DETOX FACILITIES, SOBER LIVING FACILITY, AND AMENDING OR CREATING DEFINITIONS FOR RELATED TERMS, AND ADDING DETOX FACILITIES AS A CONDITIONAL USE IN CERTAIN ZONING CLASSIFICATIONS WITHIN THE LAND USE CHARTS; ALSO AMENDING THE DEFINITION OF RESIDENTIAL TREATMENT CENTER AND AMENDING THE LAND USE CHART TO ALLOW RESIDENTIAL TREATMENT CENTER AS A CONDITIONAL USE IN VARIOUS CLASSIFICATIONS

WHEREAS, the Mason Fiscal Court adopted a Land Use Ordinance, by virtue of its Ordinance No. 02-07, as amended; and

WHEREAS, the Mason County Joint Planning Commission held a duly noticed Public Hearing on October 7, 2020, to consider proposed text amendments pertaining to detox facilities and sober living facilities, and adopted Findings of Fact recommending text amendments to Ordinance No. 02-07; and

WHEREAS, thereafter the Mason County Joint Planning Commission held a subsequent Public Hearing On November 4, 2020, to consider proposed text amendments pertaining to Residential Treatment Facilities, and adopted Findings of Fact recommending text amendments to Ordinance No. 02-07; and

WHEREAS, the Fiscal Court of Mason County, Kentucky, unanimously approved the recommended amendments to its Ordinance No. 02-07, such amendments affirming the Findings of Fact, Conclusions of Law, and Recommendation of the Mason County Joint Planning Commission adopted from the public hearings held on October 7, 2020, and November 4, 2020.

NOW THEREFORE, THE FISCAL COURT OF MASON COUNTY, KENTUCKY, does hereby **ORDAIN** that the Findings of Fact, Conclusions of Law and Recommendations entered by the Mason County Joint Planning Commission on October 7, 2020, are hereby **ADOPTED**, and Mason Fiscal Court Ordinance No. 02-07 is hereby **AMENDED** as follows:

1. "Detox Facility" is a new entry in the "Educational/Social Service" category in the land use charts at Section 406.62 and shall be a conditional use in the R-4 Oldtown Residential, B-1 General Business, B-2 Highway Business, B-3 Neighborhood Business, P-1 Professional Office, and I-1 Light Industrial classifications.

2. Additional definitions shall be incorporated, amended or entered in Article V of the ordinance as follows:

- A. New definition for “Detox Facility” as “Programs/locations offering short-term medical and/or nonmedical detoxification from all substances in preparation for transition into a sober living facility. The participants of such a program should not leave the facility for the duration of their detoxification, unless doing so is essential for immediate medical needs or counseling related to detoxification, and stay only as long as is necessary for detoxification. Non-hospital detox facilities are licensed by the Commonwealth of Kentucky Cabinet for Health and Family Services.”
- B. New definition for “Sober Living Facility” as “A transitional facility where a resident is involved in school, work, and/or training. The resident lives onsite while either stabilizing or re-entering society substance abuse free. The resident usually receives individual counseling, as well as group/family/marital therapy. Also considered a ‘Residential Care Facility’ as defined in this ordinance.”
- C. The amendment provides that the definition for “Halfway House” be amended to “SEE Sober Living Facility”.
- D. Amended definition for “Residential Care Facility” as “A residence typically operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for persons with disabilities. Pursuant to the Fair Housing Act, amendments thereto and relevant case law, people recovering from alcohol and substance abuse addictions are classified as having a disability. Therefore, sober living facilities are considered residential care facilities and residents of such facilities, although likely unrelated by blood, marriage or legal means, may collectively be considered families under the policies of sober living facilities. Dwellings for sober living facilities must adhere to the requirements of the Kentucky Residential Code and the International Property Maintenance Code.”

3. The following definitions exist under the definition for “Dwelling” in in Article V of the ordinance. Such definitions will remain in the “Dwelling” definition, and the ordinance will be amended to create a separate definition for each term in the “Definitions” section, as follows:

- A. Amended definition for “Group Home” as “A dwelling unit housing persons unrelated by blood, adoption, or marriage, and operating as a single household. Group homes include sorority or fraternity houses, hospices, or orphanages.”
- B. New definition entry for “Single-Family Detached Dwelling” as “A building and accessories thereto principally used, designed, or adapted Detached Dwelling for use by a single family.”

- C. New definition entry for “Duplex Dwelling” as “A building and accessories thereto principally used, designed, or adapted for use by two families, the living quarters of which are completely separate.”
- D. New definition entry for “Townhouse” as “A group of three or more attached single-family dwellings each separated by a common vertical wall and each having a separate lot and entrance at street level. Townhouses may be owner-occupied or rental properties.”
- E. New definition entry for “Rooming and Boarding House as “A building designed or used to provide living accommodations for not more than six occupants in which there are no cooking facilities for each occupant, or in which all occupants share common cooking facilities.”
- F. New definition entry for “Multi-Family Dwelling” as “A building or group of buildings designed or used for rental or lease as Dwelling dwelling units for three or more families with separate living quarters and cooking and bathroom facilities for each family.”
- G. New definition entry for “Condominium” as “The ownership of a single unit within a multiple unit structure or complex in which all common elements are held in joint ownership by the owners of the individual units.”

4. The Findings of Fact, Conclusions of Law and Recommendation entered by the Mason County Joint Planning Commission on October 7, 2020, are attached hereto as Exhibit A and incorporated herein by reference as if set forth in full.

IT IS FURTHER RESOLVED as follows:

- 1. The chart entries at Section 406.62 shall be amended for “Residential Treatment Center” within the “Educational/Social Services” category as follows:
 - A. Currently a conditional use in B-2 Highway Business and I-1A Light Industrial zones.
 - B. This Ordinance amends Section 406.62 to include “Residential Treatment Center” as a conditional use in B-1 General Business, B-3 Neighborhood Business, I-1 Light Industrial, I-2 Heavy Industrial, R-3 Multi-Family Residential, and D-1 Downtown Business classifications.
- 2. “Residential Treatment Center” definition in Article V is amended to “Programs offering medical and non-medical detoxification from all substances, and long-term treatment following detoxification, which includes individual, group and family counseling. The residents of such treatment programs do not leave the program premises for work or other assignments or

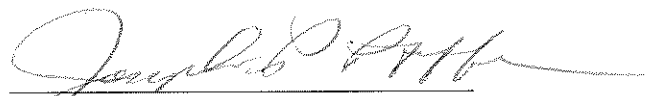
activities (SEE Sober Living Facility definition). Residential treatment centers are licensed by the Commonwealth of Kentucky Cabinet for Health and Family Services."

3. The Findings of Fact, Conclusions of Law and Recommendation entered by the Mason County Joint Planning Commission on November 4, 2020, are attached hereto as Exhibit B and incorporated herein by reference as if set forth in full.


THESE AMENDMENTS SHALL BE INCORPORATED IN A REPUBLISHED ORDINANCE NO. 02-07, WHICH SHOULD INCLUDE ALL AMENDMENTS THERETO.

Given first reading this 10th day of November, 2020.

Thereafter, given second reading, and unanimously adopted, after publication in accordance with KRS Chapter 424 this 15th day of December, 2020.


Hon. Joseph P. Pfeffer
Judge Executive

ATTESTED BY:


Stephanie Schumacher
Mason County Clerk

MASON COUNTY JOINT PLANNING COMMISSION
PUBLIC HEARING
October 7, 2020
5:30 P.M.

IN RE: Proposed text amendments regarding Detox
Facilities and other related definitions.

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
and
RECOMMENDATION

In accordance with the Maysville Code Of Ordinances and KRS Chapter 100, the Mason County Joint Planning Commission (hereinafter "Commission") conducted a public hearing at the Cox Building, 2 East Third Street, 2nd Floor, Maysville, Mason County, Kentucky on October 7, 2020 at 5:30 P.M. regarding proposed amendments to the Land Use Management Ordinance.

The purpose of the hearing was to receive comments from the public and address any questions the public may have regarding the proposed amendments.

The meeting was called to order with a quorum in attendance. Commission members present were Tim Teegarden, David Reed, Jean Everett, Tom Coe, Peggy Frame and Annette Walters. Xandy Stewart and Joe Brannen were absent.

At the conclusion of the public hearing, a quorum being present,

and upon a majority vote of the members present, the Commission adopted the following Findings Of Fact, Conclusions Of Law, and Recommendation.

FINDINGS OF FACT

- A. The notice requirements of KRS Chapters 100 and 424 were complied with, written notice of the public hearing having been provided to the public in general by publication in the Ledger-Independent newspaper, as evidenced by the documents submitted for the record by the staff.
- B. The proposed text amendment would create a Detox Facility land use entry in the Ordinance, list the zoning classifications in which same could operate. Additionally, the amendment would change the Halfway House entry to Sober Living Facility and modify the definition of Residential Care Facilities to include Sober Living Facilities. Finally, the amendment would modify and add to the definition of Residential Care Facilities.
- C. The purpose of the proposed amendments is to facilitate the creation of facilities and related land uses to battle the opioid epidemic and abuse of other intoxicating and addicting substances in Maysville/Mason County and the Buffalo Trace Region at large, and to provide appropriate land use planning for same. The most recent version of the Comprehensive Plan

addressed the issue of substance abuse and its affect on the area and called for the Joint Planning Commission to address same through appropriate zoning regulations.

- D. The addition of a Detox Facility definition would allow for the creation of facilities that would address immediate and urgent short term placements for individuals dealing with substance abuse. Further, Detox Facilities would be conditional uses in all zones in which they could be placed so the public would have opportunity for comment at necessary public hearings to permit same.
- E. Changing the defined land use entry from Halfway House to Sober Living Facility reflects changes in the treatment community and better reflects the modern view on such land uses.
- F. Modifying the definition for Residential Care Facilities, including Sober Living Facilities, reflects the need for modification of existing definitions due to Federal statutory necessities, including but not limited to the Fair Housing Act, and Federal case law interpreting same.
- G. Numerous members of the public attended the hearing and offered input as follows:
 - 1. Cathy Walston is a former respiratory therapist and also worked in cardiac care. She strongly believes the area needs a detox facility. She hopes for collaboration

between law enforcement, the medical community, government agencies, local churches, and those in need. She further hopes that any such facilities have programs in place to assist after people leave. She has a relative who is a recovering addict and knows how important it is to address all angles of the problem.

2. Dr. Alicia Moran is the owner and operator of New Hope Community Services. One of the services they provide is treatment of substance abuse. She previously sought to open a facility for same but ran into considerable opposition from the public. She feels that attitudes are changing and the public now sees the need for more resources to combat the problem. She is a former addict herself and she began her recovery on the cold concrete floor of a jail cell. Unfortunately that's where most such recoveries begin and they're rarely successful. She says the community needs to help itself by allowing such a facility as the closest ones are in Lexington and Louisville.
3. Ray Reed tried to start a sober living facility a few years ago and was unsuccessful due to opposition. He feels that sober living facilities are useful tools to battle addiction as they can provide peer on peer pressure but

also support to those in recovery. Most rural areas don't have one and Maysville could benefit by allowing it.

4. Bryan Helphenstine is also a recovering addict who is passionate about providing support to those in recovery. He strongly feels that a detoxification facility where addicts can get away from the drugs, their problems, their friends and family and focus on rest and recovery is crucial to beginning the road to sobriety. Peers who have been through what addicts going through withdrawal are experiencing can offer the best support available.
5. Jared Muse, Maysville Police Chief, informed the Commission that in his opinion, it's time for the area to have a detoxification facility and that the police department needs that as a resource. He has seen changes in how drug abuse is policed since the beginning of his career in law enforcement in the 1990s. In his opinion addiction is a medical issue and he would like to be able to have this additional tool to address it as such.
6. Tosha Emmons is also a recovering addict. She felt she didn't have any way out when she was abusing drugs as she went to Louisville once and it was too far away from her support. She had to go to jail to get clean. She has personally lost 15 or so family members and friends to

substance abuse.

7. No persons in attendance opposed the amendments.

H. The public hearing was closed and the Commission discussed in open session issues raised.

1. Tom Coe wanted to know exactly what services do detoxification facilities provide and how do you compel them to stay. Bryan Helphenstine and Dr. Green responded that, among other things, detox facilities provide a place of rest and support, clean detoxification (i.e., not drug assisted) medical services if necessary, peer support and whatever else is necessary. Further, they provide law enforcement an alternative to just taking people to jail. Regarding making people stay, if they come from law enforcement the police would be called if the individual left. If they come on their own they can't force them to stay but they'll do everything to get them to do so.

2. Annette Walters suggested modifying proposed language about persons not leaving until they've completed the program. She did not want to set an unobtainable standard that would only increase public opposition.

3. Further discussion regarding other changes to proposed language, the necessity under Federal law of allowing sober living facilities to be treated the same as family residential dwellings, and additional modifications to the proposed text amendments.

CONCLUSIONS OF LAW

1. That the Mason County Joint Planning Commission is empowered by KRS Chapter 100 and the Code Of Ordinances to conduct public hearings regarding land use matters, and are, in fact, required by law to conduct such hearings.
2. That pursuant to KRS 100.201, the Maysville City Commission and the Mason County Fiscal Court are empowered to enact land use regulations in conjunction with the comprehensive plan.

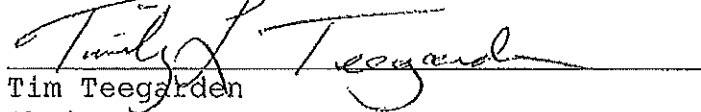
RECOMMENDATION

WHEREFORE, the Mason County Joint Planning Commission respectfully recommends to the Maysville City Commission and the Mason Fiscal Court that the requested text amendments, as modified, be made. As grounds, the Comprehensive Plan endorses planning for substance abuse treatment through appropriate changes to the Ordinance, local law enforcement and providers of substance abuse services support the change, and addressing the issue facing the area

through appropriate land use planning is necessary.

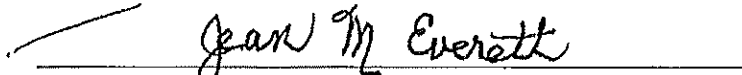
Motion made by Tom Coe, and seconded by David Reed. Motion passed unanimously.

MASON COUNTY JOINT PLANNING COMMISSION



Tim Teegarden
Chairman

Attest:


Secretary

MASON COUNTY JOINT PLANNING COMMISSION
PUBLIC HEARING
November 4, 2020
5:30 P.M.

IN RE: Proposed text amendments regarding Residential
Treatment Centers.

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
and
RECOMMENDATION

In accordance with the Maysville Code Of Ordinances and KRS Chapter 100, the Mason County Joint Planning Commission (hereinafter "Commission") conducted a public hearing at the Cox Building, 2 East Third Street, 2nd Floor, Maysville, Mason County, Kentucky on November 4, 2020 at 5:30 P.M. regarding proposed amendments to the Land Use Management Ordinance.

The purpose of the hearing was to receive comments from the public and address any questions the public may have regarding the proposed amendments.

The meeting was called to order with a quorum in attendance. Commission members present were Tom Coe, Tim Teegarden, Jean Everett, Xandy Stewart, Peggy Frame, Lesley Myers, Annette Walters and David Reed.

At the conclusion of the public hearing, a quorum being present,

and upon a majority vote of the members present, the Commission adopted the following Findings Of Fact, Conclusions Of Law, and Recommendation.

FINDINGS OF FACT

- A. The notice requirements of KRS Chapters 100 and 424 were complied with, written notice of the public hearing having been provided to the public in general by publication in the Ledger-Independent newspaper, as evidenced by the documents submitted for the record by the staff.
- B. The proposed text amendment, which initiated from the Commission, would expand the zones in which Residential Treatment Centers would be possible as a conditional use. Further, the amendment would slightly but not substantively modify the definition in the Ordinance.
- C. The text amendment would not change the classification of Residential Treatment Centers as a conditional use in all zones in which they are possible.
- D. As recently addressed by the Commission in its consideration of text amendments related to Detox Facilities, etc., the purpose of the proposed amendment is to facilitate the creation of facilities and related land uses to battle the opioid epidemic and abuse of other intoxicating and addicting

substances in Maysville/Mason County and the Buffalo Trace Region at large, and to provide appropriate land use planning for same. The most recent version of the Comprehensive Plan addressed the issue of substance abuse and its affect on the area and called for the Joint Planning Commission to address same through appropriate zoning regulations.

- D. Presently, Residential Treatment Centers are conditional uses in B-2 Highway Business and I-1A Light Industrial Zones. While the thinking involved in selecting these zones still has some merit the limitation to these zones only has had the effect of preventing the establishment of any Residential Treatment Centers in the area. Thus, consideration of other possible zones is necessary.
- E. Mr. Larger presented to the Commission a proposal that would make Residential Treatment Centers a conditional use in the following additional zones: B-1 General Business, B-3 Neighborhood Business, I-1 Light Industrial, I-2 Heavy Industrial, R-3 Multi-Family Residential, R-4 Oldtown Residential and D-1 Downtown Business.
- F. Keeping Residential Treatment Centers as a conditional use allows the public to have input on specific properties and to allow further scrutiny before a conditional use permit is issued by the appropriate Board of Adjustment.

- G. The only member of the public to speak on the proposed amendment was Cathy Walston. She supports the amendment and hopes that the area will soon have a Residential Treatment Facility. No member of the public expressed opposition to the amendment.
- H. The public hearing was closed and the Commission discussed in open session potential issues.
1. Xandy Stewart expressed reservations about making Residential Treatment Centers a conditional use in R-4 zones. He feared that due to the number of mixed use and vacant properties in the area that R-4 would be a natural draw. However, the high concentration of residential properties would not make it ideal in many instances and he worries that appropriate public comment on individual applications may not prevent the issuance of a permit for a particular property.
 2. Tim Teegarden is a former resident of the R-4 zone and he has many of the same concerns as Xandy.
 3. Tom Coe proposed that R-4 zones be eliminated from the proposed amendment in response to these concerns.

CONCLUSIONS OF LAW

1. That the Mason County Joint Planning Commission is empowered by KRS Chapter 100 and the Code Of Ordinances to conduct public hearings regarding land use matters, and are, in fact, required

by law to conduct such hearings.

2. That pursuant to KRS 100.201, the Maysville City Commission and the Mason County Fiscal Court are empowered to enact land use regulations in conjunction with the comprehensive plan.

RECOMMENDATION

WHEREFORE, the Mason County Joint Planning Commission respectfully recommends to the Maysville City Commission and the Mason Fiscal Court that the requested text amendments, as modified, i.e., R-4 zones be eliminated from the proposal, be made. As grounds, the Comprehensive Plan endorses planning for substance abuse treatment through appropriate changes to the Ordinance and the absence of any such facility in the area thus far is evidence that the range of zones in which they could possibly seek a conditional use permit is too restrictive. Elimination of R-4 zones from the amendment addresses concerns expressed by Commission members about whether placement of a Residential Treatment Center in that zone would be appropriate.

Motion made by Tom Coe, and seconded by Annette Walters. Motion passed unanimously.

MASON COUNTY JOINT PLANNING COMMISSION



Tim Teegarden
Chairman

Attest:

J. Thomas Lee
Secretary
Vice. Chair