

ORDINANCE NO. 24- 08-02

ORDINANCE AMENDING PLANNING AND ZONING REGULATIONS TO ADDRESS MEDICAL CANNABIS

WHEREAS, the 2023 Kentucky General Assembly passed Senate Bill 47 (2023 Ky. Acts Ch. 146) legalizing the use of medical cannabis and establishing a framework for state licensure of cannabis businesses such as dispensaries, cultivators, processors, producers and safety compliance facilities in the Commonwealth effective Jan. 1, 2025.; and

WHEREAS, on the final day of the 2024 session, the legislature passed House Bill 829 amending the medical cannabis law to expedite the process of licensing cannabis businesses. This change allows the Cabinet for Health and Family Services (Cabinet) Medical Cannabis Program to begin issuing licenses to those businesses July 1, 2024 rather than waiting until January so that operations and products can be developed. Cannabis dispensaries will still not be allowed to open to the public or dispense cannabis until Jan. 1, 2025; and

WHEREAS, the City of Benton desires to allow the operation of medical cannabis businesses within its limits; and

WHEREAS, the city believes it is necessary to place reasonable limitations on geographic locations and advertisements of cannabis businesses to protect its citizens; and

WHEREAS, it is necessary to establish general provisions and determine zoning requirements of cannabis businesses; and

WHEREAS, the Benton Planning and Zoning Commission held a public hearing on Monday, July 1, 2024, to consider amending the Planning and Zoning regulations related to medical cannabis and have made recommendations to the legislative body of the City of Benton regarding same; and

WHEREAS, the City of Benton desires to amend Chapter 155, Planning and Zoning, **Sections 155.006**, in the Benton Code of Ordinance to address planning and zoning issues related to the production and sale of medical cannabis in the City of Benton;

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BENTON, KENTUCKY that:

1. Section 155.006, Definitions, of Chapter 155: Planning and Zoning, in the Benton Code of Ordinances, shall read as follows:

§ 155.006 DEFINITIONS.

Unless the context otherwise requires, the following definitions shall be used in the interpretation of this chapter. The words that are defined are those having special or limited meanings in this chapter. Words with self-evident meanings are not defined here.

ACCESSORY USES, ACCESSORY BUILDINGS, OR ACCESSORY STRUCTURES. Accessory uses, accessory buildings, or accessory structures are subordinate to the principal use of the land or building or structure, are located on the same lot, and serve a purpose that is customarily incidental to the principal land use or principal building use. See § 155.035(F) for key regulatory provisions applicable to ***ACCESSORY USES, ACCESSORY BUILDINGS, AND ACCESSORY STRUCTURES***, including, but not limited to, storage sheds and outbuildings.

ADMINISTRATIVE OFFICER. That individual or individuals who shall be appointed by the legislative body of Benton to administer this chapter. This officer may be known as the Building Inspector, Codes Enforcement Officer, Codes Administrator, Administrative Officer or various other titles descriptive of his or her work.

ALLEY. Any public or private way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

ALTERATION. Any change or addition to the supporting members or foundation of a structure.

APARTMENT. A room or suite of rooms in a multi-family building, consisting of at least one habitable room, together with a kitchen or kitchenette and sanitary facilities.

APARTMENT HOUSE. See ***DWELLING, MULTI-FAMILY.***

ASSISTED LIVING FACILITY. See § 155.069

AUTOMOTIVE REPAIR, MAJOR. Repair of motor vehicles or trailers, including rebuilding or reconditioning of engines and/or transmissions; collision services including body, frame or fender straightening or repair; overall painting or paint shop and vehicle steam cleaning.

AUTOMOTIVE REPAIR, MINOR. Incidental minor repairs, oil or other fluid change, upholstery, replacement of parts and motor service to passenger cars and trucks not exceeding one and one-half tons capacity, but not including any operation named under “Automotive Repair, Major”, or any other similar thereto. Cars or trucks being repaired or under repair shall not be stored outside the building for more than 48 hours.

AUTOMOTIVE WRECKING. The dismantling or disassembling of used motor vehicles, or the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts.

BASEMENT. A story whose floor line is below grade at any entrance or exit and whose ceiling is not more than five feet above grades at any such entrance or exit.

BIG BOX SERVICE BUILDINGS. New retail and commercial service buildings in excess of 20,000 gross square feet in any non-residential zoning district.

BOARD. The Board of Zoning Adjustment of Benton, Kentucky.

BOARDING OR LODGING HOUSE. A dwelling or part thereof occupied by a single housekeeping unit where meals and lodgings are provided for four or more persons (not transients) for compensation by previous arrangement.

BUILDABLE LOT AREA. The part of a lot not included within the open areas required by this chapter.

BUILDING. Any structure having enclosed space and a roof used or intended to be used for the shelter of persons, animals or property.

BUILDING, HEIGHT OF. The vertical distance from the average contact ground level at the front wall of the building to the highest point of the copying of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

BUILDING LINES. The line beyond which no building or part thereof shall project, except as otherwise provided by this chapter.

BUILDING PERMIT. A permit issued by the Administrative Officer authorizing the construction or alteration of a specific building on a specific lot.

CANNABIS CULTIVATOR. An entity licensed by the State of Kentucky pursuant to the Kentucky Revised Statute and 915 KAR 1:030 to plant, grow, cultivate, raise, harvest, trim, store, test, package, label, transfer, transport, sell medical cannabis seed, seedlings, medical plant, medical cannabis, or medicinal cannabis product to other licensed cannabis business in the state.

CANNABIS DISPENSARY. An entity licensed by the State of Kentucky pursuant to the Kentucky Revised Statute and 915 KAR 1:070 to perform retail sales of medical cannabis to

registered qualified patient or visiting qualified patient as defined by Kentucky Revised Statutes and corresponding regulations.

CANNABIS PROCESSOR. An entity licensed by the State of Kentucky pursuant to the Kentucky Revised Statute and 915 KAR 1:040 to process and/or package raw medical cannabis plants material or plants into approved forms of medical cannabis under Kentucky Revised Statutes and regulations.

CANNABIS PRODUCER. An entity licensed by the State of Kentucky pursuant to the Kentucky Revised Statute and 915 KAR 1:050 which operates as both a cannabis cultivator and processor.

CERTIFICATE OF OCCUPANCY. A certificate issued by the Building Inspector, after construction has taken place, which certified that the building meets minimum standards for human occupancy.

CLINIC. A place used for the diagnosis and treatment of sick, ailing, infirm and injured persons and those who are in need of medical or surgical attention, but limited to outpatients only.

COMMISSION, PLANNING. City Planning Commission of Benton, Kentucky.

COMPREHENSIVE PLAN. The 2008 Comprehensive Plan of the City of Benton, Kentucky as it may be amended or superseded.

CONDITIONAL USE. A use which is essential to or would promote the public health, safety and/or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or of adjoining zones, unless restrictions on location, size, extent and character of performance are imposed in addition to those set forth by the zoning regulations.

CONDITIONAL USE PERMIT. Legal authorization to undertake a conditional use, issued by the Board of Zoning Adjustment, pursuant to KRS 100.237, as amended, consisting of two parts.

hereinafter amended, and means those health-care facilities in the Commonwealth of Kentucky which are defined by the Cabinet for Health and Family Services to be family-care homes, personal-care homes, intermediate care facilities, skilled nursing facilities, nursing facilities as defined in federal Omnibus Budget Reconciliation Act of 1987 (OBRA- 87), Title IV, Subtitle C, §§ 4201-4218, 101 Stat. 1330-160 through 1330-221 (December 22, 1987), Pub. L. 100-203, nursing homes, and intermediate-care facilities for the mentally-retarded and developmentally disabled. A hospital or sanitarium shall not be construed to be included in this definition. A **CONVALESCENT OR NURSING HOME OR LONG-TERM CARE FACILITY** is not an assisted-living community for purposes of this Zoning Ordinance or KRS 194A.700 through 194A.729, as now in effect or as it may be amended.

COUNCIL, CITY. Legislative body for the City of Benton, Kentucky.

COURT. An open, unoccupied and unobstructed space other than a yard, on the same lot with a building or a group of buildings.

DWELLING. A building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, boarding or rooming house, shed, pole barn, metal building typically designed for equipment, tool and/or vehicular storage, hotel or motel.

(1) **DWELLING GROUP.** A group or two or more detached dwellings located on a parcel of land in one ownership and having any yard or court in common.

(2) **DWELLING, MULTI-FAMILY.** A building or portion thereof designed for or occupied by two or more families living independently of each other.

(3) **DWELLING, SINGLE-FAMILY.** A building for or occupied exclusively for residence purposes by one family.

(4) **DWELLING UNIT.** One or more rooms designed for or used by one family for living or sleeping purposes and having one kitchen or kitchenette.

(5) **DUPLEX DWELLING.** A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from basement or foundation to roof.

EXTENDED STAY HOTEL. Any hotel or motel in which 40% or greater of all guest rooms have facilities for both the storage, refrigeration, and preparation of food, and/or which are advertised, designed, or utilized for weekly, monthly, or longer occupancy. **EXTENDED STAY HOTELS** are regulated specifically by § 155.070.

are in a group living arrangement as a result of criminal offenses. **FAMILY** also represents an intentionally structured relationship and implies a permanent and long-term voluntary relationship as opposed to one that is short-term, transient and mandated by law.

FLOOR AREA TOTAL. The area of all floors of a building including finished attics, finished basements and covered porches.

GARAGE, PRIVATE. A detached accessory building or a portion of the principal building used by the occupants of the premises for the shelter or storage of vehicles owned or operated by the occupants of the principal building.

GARAGE, PUBLIC. A building or structure used for the parking of vehicles on an intended profit basis.

HEIGHT. The vertical distance measured from the average finished grade at the front building line to the highest point of the structure.

HOME OCCUPATIONS. An occupation or profession carried on within a dwelling by the occupant thereof which is clearly incidental and secondary to the use of the dwelling for residential purposes.

HOSPITAL OR SANITARIUM. An establishment which provides accommodation, facilities and services over a continuous period of 24 hours or more for observation, diagnosis and care of two or more individuals suffering from illness, injury, deformity or abnormality or from any condition requiring medical services.

IMPACT FEE FOR INFRASTRUCTURE COSTS ("IFIC"). See § 155.077.

INDUSTRY, HEAVY. Those industries whose processing of products result in the emission of any atmospheric pollutant, light flashes or glare, odor, noise or vibration which may be heard and/or felt off the premises and those industries which constitute a fire or explosion hazard.

INDUSTRY, LIGHT. Those industries who's processing of products results in none of the conditions described for heavy industry.

JUNK YARD. A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled including auto wrecking yards, house wrecking for storage of salvaged house wrecking and structural steel materials and equipment; but not including such uses when conducted entirely within a completely enclosed building, and not including pawn shops, and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, used or salvaged machinery in operable condition or the processing of used, discarded or salvaged materials as a minor part of manufacturing operations.

FAMILY. A person living alone or two or more persons related by blood, marriage or adoption, or not more than five unrelated persons living together in a dwelling unit, as distinguished from a group occupying a boarding house, lodging house, hotel or motel. **FAMILY** does not include any society, club, fraternity, sorority, association, lodge, federation, or like organizations; or any group of individuals who **KENNEL, NONCOMMERCIAL.** A compound in or adjoining a private residence where hunting or other dogs are kept for the hobby of the householder or for protection of the householder's property. The occasional sale of pups by the keeper of a **NONCOMMERCIAL KENNEL** does not change the character of residential property.

LAND USE PLAN OR COMPREHENSIVE PLAN. Proposals for most appropriate economic, desirable and feasible patterns for the general location, character, extent, and inter-relationship of the manner in which the community should use its public and private land as contemplated by KRS Chapter 100. The **LAND USE PLAN** is a component of the 2008 **COMPREHENSIVE PLAN** for the City of Benton, Kentucky, as it may be amended or superseded.

LOADING SPACE. An off-street space or berth on the same lot with a building or contiguous to a group of buildings and accessory buildings, for the temporary parking of a commercial vehicle

while loading or unloading merchandise or materials, and which abuts on a street, alley or other appropriate means of access.

LOT. A piece or parcel of land occupied or intended to be occupied by a principal building or group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this chapter and having frontage on a public street.

LOT AREA. The computed area contained within the lot lines.

LOT, CORNER. A lot abutting and situated at the intersection of two streets.

LOT, DEPTH. The mean horizontal distance between the front and rear lot lines.

LOT, INTERIOR. A lot other than the corner lot.

LOT LINES. The property lines bounding a lot.

LOT LINE, FRONT. The property line separates the lot front and the street.

LOT LINE, REAR. The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE. Any lot line other than a front or rear lot line. A **SIDE LOT LINE** separating a lot from a street is called a side street lot line. A **SIDE LOT LINE** separating a lot from another lot or lots is called an interior side lot line.

LOT LINE, STREET OR ALLEY. A lot line separating the lot from a street or alley.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH. The mean width of the lot measured at right angles to its depth.

LOT OF RECORD. Recorded lot on file in the County Court Clerk's Office.

MOBILE HOME OR TRAILER. Any vehicle or structure constructed in a such a manner as to permit occupancy thereof as sleeping or living quarters and so designed that it is, has been, or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

MOBILE HOME PARK OR TRAILER PARK. An area of land upon which two or more occupied mobile homes are placed, either free of charge or for revenue purposes.

MANUFACTURED HOME. A single-family residential dwelling constructed after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 *et seq.*, as amended, and designed to be used as a single-family residential dwelling with or without permanent foundation when connected to the required utilities,

and which includes the plumbing, heating, air conditioning and electrical systems contained therein.

MANUFACTURED HOUSING. See § 155.051.

MIXED USE ZONING OVERLAY DISTRICT. Includes both C-1 Central Business Commercial District and C-2 Neighborhood Commercial District and any other property specifically placed in this zoning district by zoning map amendment. The **MIXED USE ZONING OVERLAY DISTRICT** is the only district in which mixed commercial and residential use of a building with a commercial use on the majority square footage of the first floor and residential use on the second or any higher floor may be approved by conditional use permit pursuant to this Zoning Ordinance. Home occupation uses are governed by separate sections of this Zoning Ordinance and are not required to be undertaken in a Mixed Use Overlay District.

MIXED USE CONDITIONAL USE PERMIT. A permit for a specific property to be used for mixed commercial and residential uses based on standards in § 155.071 and other conditions as added by Board of Zoning Adjustment.

MOTEL OR MOTOR HOTEL. A series of attached, semi-attached or detached sleeping or living units, for the accommodation of automobile transient guests, said units having convenient access to off-street parking spaces, for the exclusive use of the guests or occupants.

NONCONFORMING USE. Subject to the terms of KRS 100.253, as amended, a dwelling, building or structure or any land or premises legally existing and/or used at the time of adoption of this chapter, or any amendment thereto, which does not conform to the use regulations of the district in which located. Any such building, structure, or premises, conforming in respect to use, but not in respect to height, area, yards or courts, or distance requirements from more restricted districts or uses, shall not be considered a nonconforming use.

PARKING SPACE. A permanent area not less than 160 square feet either within a structure or in the open, exclusive or driveways or access drives, for the parking of a motor vehicle.

PATIO HOME. A detached single family dwelling unit situated on a typically reduced width lot, with a reduced or no side yard setback on one side of the lot to facilitate better overall use of the lot, and to incorporate some aspects of cluster style developments within subdivisions.

PLANNED DEVELOPMENT PROJECT.

(1) Any development of land for residential purposes other than a single residential structure and accessory use or structure that is regulated by zoning district regulations shall be defined as a **PLANNED DEVELOPMENT PROJECT**.

(2) Any development of land for industrial purposes other than a single industrial structure and accessory use or structure, to be occupied and used by one industrial firm, that is regulated by zoning district regulations shall be defined as a **PLANNED DEVELOPMENT PROJECT**.

(3) Any development of land for commercial purposes other than a single commercial structure and accessory use or structure, to be occupied and used by one commercial establishment, that is regulated by zoning district regulations shall be defined as a ***PLANNED DEVELOPMENT PROJECT***.

QUALIFIED MANUFACTURED HOME. A manufactured home that meets all the following criteria:

- (1) Is manufactured on or after July 15, 2002;
- (2) Is affixed to a permanent foundation and is connected to the appropriate facilities and is installed in compliance with KRS 227.550;
- (3) Has a width of at least 20 feet at its smallest width measurement or is two stories in height and oriented on the lot or parcel so that its main entrance door faces the street;
- (4) Has a minimum total living area of 900 square feet; and
- (5) Is not located in a manufactured home land-lease community.

RECREATIONAL VEHICLE. A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and is primarily designed as a temporary living accommodation for recreational and camping purposes. ***RECREATIONAL VEHICLES*** include, but are not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

SENIOR CITIZEN OR RETIREMENT HOME. An establishment which provides full-time shelter, comfort, and day-to-day non-medical necessities for three or more individuals who are not related by blood or marriage to the operator and who by reason of old age, require or desire aid in day-to-day activities. This establishment is distinguished from a convalescent or nursing home or long-term care facility as the Senior Citizen or Retirement Home does not provide full-time convalescent or chronic care for its inhabitants. A ***SENIOR CITIZEN OR RETIREMENT HOME*** is also distinguished from an assisted living community in that it is not governed by KRS 194A.0501(1) and 910 K.A.R. 1:240, as now in effect or hereinafter amended.

SPOT ZONING. A free standing zoning classification of a tax parcel in which no directly adjoining tax parcel or tax parcel across a street is of the same zoning classification.

STORAGE SHED or OUTBUILDING. An accessory structure or building used primarily for storage purposes. See § 155.035(F)(1) through (13) for regulatory treatment.

STREET. A public right-of-way which provides a public means of access to abutting property. The term ***STREET*** shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

VARIANCE, DIMENSIONAL. A departure from the terms of the zoning regulations pertaining to height or width of structures and size of yards and open spaces, where such departures will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape, or topography and not as a result of actions of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship.

WIRELESS COMMUNICATIONS FACILITY. See § 155.064.

YARD. An open space or lot other than a court, unoccupied and unobstructed from the ground upward as otherwise provided in this chapter.

(1) **YARD, FRONT.** That portion of the yard extending the full width of the lot and extending between the front lot line and the nearest part of the principal building.

(2) **YARD, REAR.** That portion of the lot extending the full width of the lot and extending between the rear lot line and the nearest part of the principal building.

(3) **YARD, SIDE.** That portion of the yard extending from the nearest part of the of the principal building to the side lot line.

ZONING MAP. The Official Zoning Map of the City of Benton indicating zoning districts which shall be maintained in the Benton City Hall. The **ZONING MAP** is a hard copy in Benton City Hall in the custody of the Benton Zoning Administrator. Electronic, web-site, or soft copies do not constitute the Official **ZONING MAP**.
(Ord. 12-11-1, passed 11-19-12)

2. A new section shall be added to the planning and zoning regulations which shall read as follows:

§ 155.078 Cannabis Dispensary

A cannabis dispensary must meet all of the following conditions:

- (1) Shall not be located within one thousand (1,000) feet of all existing elementary or secondary school(s) or daycare center(s) as defined by the applicable KAR;
- (2) Shall not be located within one (1) mile of another cannabis dispensary as measured from the property line;
- (3) Shall not be next to a residential structure;
- (4) Exterior signage may only, at most, include text that is the licensee's (i) business or trade name; (ii) location and contact number; and (iii) business type. Exterior signage cannot include a licensee's logo, symbol, branded colors or any images, including, but not limited to, depicting cannabis/cannabis products or the imagery or action of smoking/vaping. Exterior signs also cannot include mottos, selling messages, or any other non-essential text. Exterior

signs must be on the same parcel as the store affixed to a building or permanent structure (e.g. signpost). Exterior signs cannot be larger than necessary to reasonably display the information on the sign to individuals within or near the licensed premises and cannot be illuminated by neon lights.

3. Section 155.095, Central Business Commercial District (C-1), of Chapter 155: Planning and Zoning, in the Benton Code of Ordinances, shall read as follows:

§ 155.095 CENTRAL BUSINESS COMMERCIAL DISTRICT (C-1).

(A) Principal permitted uses.

(1) Any consumer and personal service establishment such as follows: shoe repair shops, drug stores, cannabis dispensary, hardware stores, barber and beauty shops, clothing stores, banks and other financial institutions, hotels, office buildings, walk-in restaurants, poolrooms, gift shops and variety stores, printing shops, jewelry stores, mail-order houses, radio and television studios, health centers and public buildings.

(2) Dry cleaning establishments are permitted, provided that establishments meet all fire code requirements; have installed venting which assures dispersion of all obnoxious fumes and odors at least 25 feet above the street level or five feet above the roof level of the highest adjoining building, whichever is the higher; use only nonflammable solvents as specified by the Underwriters Laboratory, Incorporated, receive and disburse merchandise for processing on the premises; and provide at least two parking spaces for customers.

(3) Planned commercial development projects are permitted when the requirements of § 155.057 are satisfied.

(4) In no case shall the following uses be permitted within the Central Business District: farm implement sales, trailer sales, drive-in theaters, drive-in restaurants, or any other similar uses which the Board of Adjustment determines to be detrimental to the district as a pedestrian-oriented retail consumer service center.

(B) Conditionally permitted uses requiring board of adjustment authorization. The following uses are special exceptions and require written approval of the Board of Adjustment: churches and places of worship, parish houses; public libraries, passive recreation and/or park areas; funeral homes; and clinics. The board may attach certain conditions to its approval, which it feels are necessary to preserve and protect the character of the district.

(C) Accessory uses. Any accessory use or building customarily incidental to the above permitted uses.

(D) Required conditions. All permitted and conditionally permitted uses within the Central Business District shall be conducted wholly within an enclosed building except for off-street parking and unloading facilities.

(E) *Height regulations.* No buildings shall exceed five stories or 60 feet in height.

(F) *Lot area, frontage and yard requirements.* None.

(G) *Sign regulations.* Advertising signs, structures or lights for illuminating signs or buildings are permitted. Signs, structures or lights shall not be placed within, on and/or over the street right-of-way.

4. Section 155.096, Neighborhood Commercial District (C-2), of Chapter 155: Planning and Zoning, in the Benton Code of Ordinances, shall read as follows:

§ 155.096 NEIGHBORHOOD COMMERCIAL DISTRICT (C-2).

(A) *Principal permitted uses.* Any convenience-type retail business or service establishment such as follows:

(1) Groceries, drug stores, cannabis dispensary, shoe repair shops, hardware store, barber and beauty shops, clothing shops, automobile sales and services, banks and finance companies, garages for motor vehicle repair within an enclosed building, motels, restaurants, self-service laundries, filling stations, theaters, places of amusement and assembly, car washes, and antique shops. Any other retail business or service establishment which is determined by the Board of Adjustment to be of same general character as the above-mentioned uses. Planned commercial development projects are permitted when requirements of § 155.057 are satisfied.

(2) Any retail or wholesale business or service (except warehouses), including the making of articles to be sold at retail on the premises; manufacturing incidental to a retail business or service where the products are sold principally on the premises by the producer to the consumer and where not more than five persons are employed in such manufacture; provided further; however, that the following uses shall not be permitted; auto wrecking, coal or lumber yards, dairy, electric welding, gasoline, oil or alcohol storage above the ground in excess of 500 gallons, grist or flour mill, junk, scrap paper or rag storage, bailing, laundry or bakery employing more than five persons, machine shop, slaughter houses or stock yard, tinsmith shop, or sheet metal works, or any other use which in the opinion of the Board of Adjustment would be injurious because of offensive fumes, odors, noises, dust, vibrations or other objectionable features or hazardous to the community on account of danger of fire or explosion, even when conducted under safeguards.

(B) *Conditionally permitted uses requiring board of adjustment authorization.* The following uses are special exceptions and require written approval of the Board of Adjustment: churches and other places of worship, parish houses; public libraries; schools offering general education courses; public parks; and noncommercial public recreational facilities; public utilities; funeral homes; cemeteries, nurses' homes; nursing homes; hospitals for human care, philanthropic institutions and clubs, except a club which the chief activity is customarily carried on as a business. The Board of

Adjustment may attach certain conditions to its approval, which it feels are necessary to preserve and protect the character of the district in which the proposed use would locate.

(C) *Accessory uses.* Any accessory use or building customarily incidental to the above permitted uses is permitted.

(D) *Required conditions.*

(1) *Screening:* where a side lot line is shared with an adjoining residential lot, a well-maintained compact hedge, a solid fence or similar solid screening device at least six feet in height shall be installed to screen the business use from the adjoining lot in the residential district. The screen shall begin at the front building line and extend along the common side lot line to the rear property line.

(2) *Access to highways and streets:* in all commercial zones, points of access to highways and streets shall be controlled by the Planning Commission. Before any building permit for any structure in a C-2 zone may be issued, the prospective builder or operator of the proposed C-2 activity shall submit a sketch of the layout and design of the proposed structure and/or use and its access points to the highway and/or street to the Planning Commission. The Planning Commission shall require that when two or more consumer commercial establishments adjoin along one side of any street or highway that they share access points to the street. When more than four consumer commercial establishments adjoin along any highway or street, a road parallel to the highway or street shall be built, at the expense of all adjoining consumer commercial establishments to provide service to all consumer commercial establishments on the same side of the street or highway. This road shall have access to the highway or street at no more than two points for every four consumer commercial establishments.

(E) *Height requirements.* No buildings shall exceed three stories or 35 feet in height.

(F) *Lot area, frontage and yard requirements.*

(1) The following minimum required lot area, frontage and yard area shall apply within a neighborhood business zone:

<i>Rear Yard</i>	<i>Front Yard</i>	<i>Side Yard</i>
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<i>Lot Area</i>	<i>Frontage</i>	<i>Depth</i>	<i>Width - Ft.</i>	<i>Depth</i>
None	15 feet	None	None, except when adjoining a residential district-then all buildings shall be so located as to comply with the requirements of the adjoining residential district for lot coverage, lot width and yards.	25 feet

(2) All buildings on corner lots adjoining a residential district shall be located so as to conform with corner lot side yard requirements of said residential district.

(G) *Sign and/or billboard regulations.* No more than one advertising sign shall be constructed or erected on a lot of record. All advertising signs and/or billboards shall be located no closer to the street right-of-way than the required front yard depth for a principal building - 25 feet.

5. Section 155.097, Light Industrial District (I-1), of Chapter 155: Planning and Zoning, in the Benton Code of Ordinances, shall read as follows:

§ 155.097 LIGHT INDUSTRIAL DISTRICT (I-1).

(A) *Principal permitted uses.* Adding machine manufacture; artificial flower manufacture; automobile assembly; automobile rental agency' automobile, trailer and farm implement dealers; animal hospitals, veterinary clinic and associated kennels; baggage transfer; storage and warehouse; bakery; bottling works and beverage manufacture; bicycle and motorcycle repair; blacksmith; book publishing; boot and show manufacture; broom manufacture; building materials yard; cabinet maker; candy manufacture; carpenter shop; carpet cleaning; car wash; chicken hatchery; cigar and cigarette manufacture; coal yard; coffin and concrete burial vault manufacture; cold storage warehouses; condensed milk manufacture; contractors storage yard; cosmetic manufacture; creamery; dairy, dental laboratory, drug manufacture; cannabis cultivator, cannabis processor, cannabis producer, dry goods, wholesale or storage; dyeing and cleaning; electrical power plant, electrical sign manufacture; electrical supply manufacture; enameling and painting; engraving plant; envelope manufacture; express storage and delivery station; feed, wholesale; flour and grain storage and elevators; food products manufacture; fruit and vegetable drying; fuel distributing station; fuel gas storage; fur warehouses; furniture warehouse or storage; garage, repair garment factory; grocery store; wholesale; ice manufacture; laundry; lumber yard; not including sawmill; moving company and storage facilities; paper box, can, tube and sack manufacture; radio and television manufacture; screw and bolt manufacture; tinsmith shop; tire manufacture, including recapping plants; warehouses; welding shop; and wood products manufacture; and public water and sewer treatment facilities.

(B) *Conditionally permitted uses requiring board of adjustment authorization.* Any industrial, manufacturing, fabrication or processing uses which the Board of Adjustment determines would not emit obnoxious noise, vibration, smoke, odor, or dust beyond the confines

of its property, and any professional commercial activity that is reasonably related to the industrial use of the property.

(C) *Accessory uses.* Any accessory use or building customarily incidental to the above permitted and conditionally permitted uses.

(D) *Required condition.*

(1) On lots adjacent to a residential zone, all building shall be located so as to provide a minimum side yard of 50 feet.

(2) *Loading docks:* no loading dock shall be constructed fronting on any public street or roadway.

(3) *Storage facilities:* no materials or supplies shall be stored or permitted to remain on any part of the property outside the buildings constructed thereon without proper screening and adequate distances from adjoining properties.

(4) *Waste disposal:* no waste material or refuse shall be dumped upon or permitted to remain upon any part of an industrial park outside of buildings constructed thereon. In addition, the property shall not be used by an industry whose primary business requires industrial sewerage, unless the governing municipal body authorizes the use of its sewage disposal facilities or said industry constructs its own sewage disposal plant.

(E) *Height requirements.* No building shall exceed three stories or 36 feet in height.

(F) *Lot area, frontage and yard requirements.*

(1) The following minimum required lot area, frontage and yards shall apply within a light industrial zone:

<i>Lot Area</i>	<i>Frontage Depth</i>	<i>Front Yard Width-Ft.</i>	<i>Side Yard Depth</i>	<i>Rear Yard</i>
None	None	40 feet	25 feet (each side)	25 feet

(2) No yard will be required for that part of a lot which abuts a railroad siding. All buildings on corner lots adjoining a residential district shall be located so as to conform with corner lot side yard requirements of said residential districts.

(G) *Sign and/or billboard regulations.* No more than one advertising sign and/or billboard shall be permitted on a lot of record unless said signs are attached flat against the principal building. A free-standing sign or billboard shall be no more than 150 square feet in total area and said sign or billboard shall be located no closer to the street right-of-way than the required front yard depth, 40 feet.

6. Section 155.09, Agricultural District (A), of Chapter 155: Planning and Zoning, in the Benton Code of Ordinances, shall read as follows:

§ 155.099 AGRICULTURAL DISTRICT (A).

(A) *Future classification.* Upon adoption of this updated Zoning Ordinance in 2012, the City of Benton does not include any property in the Agricultural Classification. However, this classification is included to be available for property which may be annexed in the future or for other property now in the City which may be proposed for rezoning to this classification in the future.

(B) *Principal permitted uses.*

(1) Agricultural activities including agricultural crops, dairying, cannabis cultivator, and the raising of farm animals and feeding lots.

(2) Single-family dwellings occupied by the owner or operator of the farm and such additional single-family dwellings as are necessary for occupancy by employees of the farm operation.

(3) Sale on the premises of agricultural products produced on the premises.

(4) Public, semi-public and private lands for open space reserves that may be for permanent open spaces or for future development in accord with this chapter.

(5) Public and parochial schools and colleges, and private schools and colleges for academic instruction.

(6) Country club or golf courses, libraries, public parks, playgrounds and community centers, churches, public and private noncommercial recreation areas, public utilities, public transportation, and any city or county-owned public buildings and/or uses.

(C) *Conditionally permitted uses requiring Board of Adjustment authorization.* Airports and/or landing strips, cemeteries, public or private sewage disposal plants, hospitals, sanitariums.

(D) *Accessory uses permitted.* Accessory buildings which are not a part of the main buildings, including barns, sheds, and other farm buildings, private garages and accessory buildings, which are part of the main buildings, shall be permitted.

(E) *Dimensional and area regulations.* Agricultural structures shall be set back from the center line of any public transportation route at least 35 feet. Other principal permitted uses in A-1 shall meet whatever regulations are set forth in this chapter for their use in any district. Conditionally permitted uses when approved by the Board of Adjustment for this district shall meet the conditions set forth by the Board and also the regulations of this chapter for their use in any district.

7. The remaining provisions of Chapter 155 shall remain as currently enacted.

8. Pursuant to KRS 83A.060(9), a summary of the ordinance may be published, the full text of the ordinance may be reviewed at Benton City Hall during regular office hours.

Passed this the 8 day of August, 2024.


RITA DOTSON, Mayor

ATTEST:

BETHANY COOPER, City Clerk

FIRST READING: 7-15-24
SECOND READING: 7-31-2024
PUBLICATION: 8-8-2024

COUNCIL MEMBERS VOTING

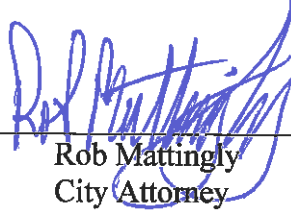
	<u>AYE</u>	<u>NAY</u>
ANN RILEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KEVIN FARLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LORI HENSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BUTCH HOLLAND	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LAURA CRAYNON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GUY HENTON	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Absent

**" ORDINANCE AMENDING PLANNING AND ZONING REGULATIONS TO
ADDRESS MEDICAL CANNABIS "**

This Ordinance is summarized as an Ordinance amending Chapter 155, Planning and Zoning, **Sections 155.006**, in the Benton Code of Ordinance to address planning and zoning issues related to the production and sale of medical cannabis in the City of Benton. A complete copy of this ordinance is available for viewing at the City Hall during regular business hours.

I hereby certify that the above is a true and correct summary of an Ordinance adopted by the City of Benton on August 5, 2024.



Rob Mattingly
City Attorney
P. O. Box 450
Benton, KY 42025