



City of Benton, Kentucky

## PLANNING & ZONING ORDINANCE & PERMIT FORMS FOR MIXED USE ZONING OVERLAY DISTRICT

6.22/6.22 MIXED USE OVERLAY DISTRICT REGULATIONS

- a) The Mixed Use Overlay District ("MU District") includes the C-1 Central Business 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 and KRS 100.237. Mixed Uses of property may be consistent with the Comprehensive Plan and KRS Chapter 100, but only pursuant to appropriate conditions as approved by the Board of Zoning Adjustment in granting a Conditional Use Permit. Two types of Mixed Use are contemplated within the MU District: Owner/Operator Mixed Use

City of Benton, Kentucky

Planning & Zoning  
Administrator  
1009 Main Street  
Benton, Kentucky 42025

Phone: 270-527-0056  
Fax: 270-527-6654 E-mail:  
lcunningham@cityofbenton.org

are contemplated within the MU District:  
Owner/Operator Mixed Use and Unrelated  
Mixed Use.

- i.) Owner/Operator Mixed Use include circumstances where all of the persons residing on the property are either the owner or close family members of the owner of the real property and the owner or a close family member is operating the business on the first floor of the property. Owner/Operator Mixed Use also includes circumstances where there is an employee of the property owner or tenant or manager of a tenant entity leasing from the property owner and operating the business on the first floor of the property while such person and/or their close family members also reside on the property pursuant to a lease from the property owner. Close family members of an owner or operator are defined to include spouses, natural children, adopted children, stepchildren, grandchildren and/or grandparents of the property individual owner or operator or the individual owning the largest percent age equity interest in any relevant owner or operator entity.
  - ii.) Unrelated Mixed Use includes circumstances where the owner of the subject property may or may not reside or operate a business on the subject property and may elect to rent either the commercial use area or the residential area of the building to different persons or entities. Any Unrelated Mixed Use Property must include business use in the building by the owner's tenant.
- b.) Any conditional Use Permit approved for either Owner/Operator Mixed Use or Unrelated Mixed Use shall:
- i) Authorize at least annual inspection by the Administrative Official and/or his or her designee for compliance with the Conditional Use Permit at the cost of the property owner, with acknowledgement by the property owner that failure to maintain ongoing compliance with such Permit may result in revocation of the Conditional Use Permit.
  - ii) Require the property owner, upon ten days of

receiving any building permit, revocation or permit, or notice of building, electrical, or fire code violation or any adverse governmental agency allegation or determination as to the subject property to notify the Administrative Official of receipt of any such document by providing him or her a copy via U.S. Postal Service First Class Mail, Return Receipt Requested, or via hand delivery. Failure to timely provide such documentation shall be a violation of the Conditional Use Permit.

- iii.) Shall require the property owner to obtain and maintain reasonable property, fire and liability insurance to protect both the commercial and residential uses of the property.
- iv.) Shall require the property owner to maintain adequate safeguards to protect the safety of minor children and adults residing on the property from proximate commercial use of the property.
- v.) Shall require separate metering of the utilities for the residential and commercial sections of the building unless the property owner is also the resident of the residential section of the building.
- vi.) Shall require adequate delineation of the commercial and residential sections of the building by sufficient walls or lockable doors.
- vii.) Shall require thermostat controls for heating and/or air conditioning in residential and commercial sections of the building.
- viii.) Shall require at least one restroom with operational toilet, sink, and either bathtub, or shower in each residential section in the building. At least one restroom with operational toilet and sink is required in each commercial section of the building.
- ix.) Shall require compliance with all applicable fire safety codes and that reasonable fire escape routes be maintained and identified by appropriate signage.
- x.) Shall require, if available or if new construction of a building is involved, that at least one automobile parking space on the property be dedicated to use of each residential unit and be identified by appropriate signage or markings on the parking lot. If

no new construction of a building is involved and no dedicated on-site resident parking is available, an applicant for a conditional use permit shall address parking of any resident and the commission may impose reasonable conditions to insure the property owner will make sure such parking is available off-site.

- xi.) May require a report by a Kentucky-licensed Engineer indicating that the subject property is structurally safe for a residential section to be on its second or higher floor to be filed with the Administrative Official prior to any residential occupancy of the building. The cost of such report shall be paid by the applicant property owner.
  - xii.) Shall prohibit animals in the residential section of the building, except for fish in aquariums or birds in cages or service animals providing assistance to disabled persons.
  - xiii.) Shall prohibit use of fire places in the residential or commercial sections of the building.
  - xiv.) Shall require that in any circumstances where the user of the residential or commercial section of the building is not the owner of the property that there be a Written lease between the property owner and the tenant for a period of at least 90 days and that such lease expressly state that it is subject to the Zoning Ordinance of the City of Benton and to a Conditional Use Permit, a copy of which will be provided by the property owner and which is otherwise available from the Administrative Official for a nominal copy charge.
- c.) Any Conditional Use Permit issued for an Owner/Operator Mixed Use or for an Unrelated Mixed Use may include conditions other than those listed above in the sound discretion of the Board of Zoning Adjustment as consistent with the Comprehensive Plan, the Zoning Ordinance, KRS Chapter 100, other applicable law and in protection of the health, safety, and welfare of the citizens and property owners of the City of Benton, Kentucky.
- d.) Home Occupation Uses in Residential Zones are governed by separate sections of the Zoning Ordinance and are not required to be undertaken in a Mixed Use Overlay District Mixed Uses in the C-1 District which include both commercial and residential uses are required to comply with this Section 6.12.

**Definition:**

**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.

**Definition: Mixed Use Conditional Use Permit :**

A Permit for a specific property to be used for mixed commercial and residential uses based on standards in Section 5.22 /6.12 of the Ordinance and other conditions as added by Board of Zoning Adjustment.

**City of Benton**



**SPECIAL NOTICE:**

This Brochure also serves not only as an informational source for the relating subject matter, but also as the application form for permitting the relating subject matter and will be valid upon the official signatures for the dates indicated only. A copy of the reviewed form will be kept on file in City Hall. If permitted the issuance of this permit is non transferable, and can become null and void if the terms of the permit have been breached.

**PERMIT APPLICATION FORM must be filled out completely with Appropriate Documentation Attached for Consideration. Non Compliance with terms of Ordinance can result in Revocation to Conditional Use Permit for Mixed Use Zoning Overlay allowance.**

General Information: for the Mixed Use Permit pursuant to this Zoning Ordinance and KRS 100.237/consistent with Comprehensive Plan and KRS Chapter 100 and only pursuant to appropriate conditions as approved by the Board of Zoning Adjustment in granting this Conditional Use Permit. Please answer/check or initial each issue as appropriate on this permit form to verify acknowledgment of requirements. .

Zone \_\_\_ C 1 \_\_\_ C 2

Location & Address of Building \_\_\_\_\_

The majority square footage of first floor(\_\_\_\_ sq ft ) is

Commercial Use identified as \_\_\_\_\_

In Active Business of \_\_\_\_\_

Operated by \_\_\_\_\_

Who is- Owner \_\_\_ Tenant \_\_\_ (Total sq ft of first floor)\_\_\_

If Tenant—Who is Property Owner? \_\_\_\_\_

List Property Owner's Address Information & Phone # \_\_\_\_\_

The residential use- if granted is on the second or higher floor total of \_\_\_\_\_ sq ft

To be occupied by \_\_\_\_\_

who is what relationship to Owner of Building ? : \_\_\_\_\_

This Mixed Use is identified per definition as:

Type 1- Owner /Operator Mixed Use \_\_\_\_\_

Type 2- Unrelated Mixed Use \_\_\_\_\_



**BE ADVISED THAT ALTHOUGH A VALID BENTON ORDINANCE MAY NOT BE LISTED IN THIS BROCHURE ALL RELATIVE**

The following are the Responsibility of PROPERTY OWNER: which includes: Compliance, Documentation, and Cost. Per Ordinance

**\*\* Any Unrelated Mixed Use Property Must Include business use in the building by the owners tenant**

**ORDINANCES MUST BE COMPLIED WITH.**

- \_\_\_ Authorize and have an Annual Inspection of Compliance & Documentation for either type of Mixed Use Overlay.
- \_\_\_ Obtain & Maintain Reasonable property, fire and liability insurance to protect bother the commercial and residential uses of the property. Copy of Certificate of proof insurance must accompany application. (Certificate holder City of Benton. )
- \_\_\_ Safeguards are in place to protect the safety of minor children and adults residing on the property from proximate Commercial Use of the Property.
- \_\_\_ Separate metering of the utilities for the residential and commercial sections of the building unless the property owner is also the resident of the residential section of the building.
- \_\_\_ Have adequate delineation of the commercial and residential sections of the building by sufficient walls or lockable doors.
- \_\_\_ Have thermostat controls for heating and/or air conditioning in residential and commercial sections of the building.
- \_\_\_ Required at least one restroom with operational toilet, sink, bathtub, and shower in each residential unit and commercial section in the building.
- \_\_\_ Must be compliant with all applicable fire safety codes and reasonable fire escape routes be maintained and identified by appropriate signage.
- \_\_\_ Parking (see ordinance ref; B x.) ) for residential tenant permitted for \_\_\_\_\_ Vehicle Make/Model \_\_\_\_\_ Color \_\_\_ Lic. No. \_\_\_\_\_ Licensed to \_\_\_\_\_ (Special Parking Conditions set by Board of Adjustments are as follows:) \_\_\_\_\_
- \_\_\_ Prior to any residential occupancy of the building; A Report by a Kentucky-licensed Engineer indicating that the subject property is structurally safe for a residential section to be on its second or higher floor is to be filed with the Application, if requested.
- \_\_\_ No use of Fire places in the residential or commercial sections of the building.
- \_\_\_ It is Understood that animals in the residential section of the building are prohibited except for fish in aquariums or birds in cages or service animals providing assistance to disabled

persons.

- \_\_\_ In the circumstance where the user of the residential or commercial section of the building is not the owner of the property — that there be A Written Lease between the property owner and the tenant for a period of at least 90 days and that such lease expressly state that it is subject to the Zoning Ordinance of the City of Benton and to a Conditional Use Permit, a copy of which to be provided by the property owner and is otherwise available from the Administrative Official for a normal copy charge.

Date of Submital: \_\_\_\_\_ Fee \_\_\_\_\_

This application has the requested documentation included,

And is submitted for review by: \_\_\_\_\_

Owner of Property Located at \_\_\_\_\_

Owner Contact information including Phone is :

Below is Office Use Only:

This application has been reviewed on \_\_\_\_\_

This application has been (denied \_\_\_ ) (Approved \_\_\_ with conditions \_\_\_)

With the attached Comments \_\_\_\_\_

Signed:



**City of Benton, Kentucky**

Planning & Zoning Administrator  
1009 Main Street  
Benton, Kentucky 42026

Phone: 270-527-0056  
Fax: 270-527-0050 or E-mail:  
lcunningham@cityofbenton.org