

Article 109: COMMERCIAL ZONE C-II

(Adopted 03/09/2004; Amended 03/14/2006, 3/13/2007, 3/10/2009,
/08/2011, 03/13/12, 3/11/14, 3/10/2015, 03/12/2019, 03/08/2022)

- 109.1 DESCRIPTION OF ZONE:** At the intersection of Rte. 125N and Rte. 107N (Marshall Road), that area of land bordered by Rte. 125, Rte. 107 (Marshall Road), and the Little River. Also, the following lots located in Tax Map R40: 2,3,4,5,6,7,8,11,12,13,14,15,16,17, and 18. To eliminate confusion, Tax Map R-40 Lot 8 will be zoned entirely Commercial II.
- 109.2 PURPOSE:** The following regulations shall govern the erection and alteration of buildings and use of land in the Commercial Zone C-II.
- 109.3 PRE-EXISTING USE:** Non-conforming uses legally in existence prior to the enactment of this ordinance may be continued, maintained, repaired and improved, unless and until such use becomes an imminent hazard to public health and safety. Non-conforming uses may not be expanded or changed to other non-conforming uses.
- 109.4 EXCEPTION:** Residential uses existing at the time of this ordinance may be continued and expanded as long as the use remains residential.
- 109.5 PERMITTED USES:** The following are permitted:
- A.** Manufacturing and Storage Facilities for the storage of non-toxic materials.
 - B.** Recreational Facilities
 - C.** Materials distribution plants, Truck terminals.
 - D.** Accessory uses customarily incident to the above.
 - E.** Professional office and business parks and business center development.
 - F.** Supermarkets and Grocery Stores*
 - G.** Banks and other Financial Institutions*
 - H.** Multi-Store retail business complexes*
 - I.** Establishments serving food and beverage such as, but not limited to: restaurants, cafes, and taverns.
 - J.** Continuing Care Retirement Community (CCRC)
 - K.** Retail stores, medical facilities, child care facilities, commercial recreational activities* (Amended 3/13/18)
 - L.** Agriculture, farms and farming (Amended 3/12/19)
 - M.** Food Truck (Amended 3/8/22)

* These uses are permitted uses for the following Rural Residential Lots in Tax Map R33: Lots 20, 21, 21-1, 21-2 and Tax Map R34: Lots 1, 1-A, and 2 (amended 3/13/2007, 3/11/2014).

109.6 PROHIBITED USES:

- A. Residential construction.
- B. Motor vehicle junk yards and junk yards.
- C. Vehicle sales, vehicle repair/auto body shops, vehicle-detailing establishments.

109.7 SPECIAL EXCEPTIONS: If, after a Public Hearing by the Board of Adjustment, a proposed Business, not specifically permitted or prohibited in this zone, is found to conform in character of operation and would be in harmony with the permitted uses as described in this Zone, then such use may be allowed by Special Exception of the Board of Adjustment, subject to appropriate conditions and safeguards as may be deemed necessary by said Board of Adjustment. The Board shall deny requests for special exceptions that do not meet the standards of this section.

A. Special Exception shall meet the following standards:

1. No detriment to property values in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other structures, parking area, access ways, odor, smoke, gas, dust or other pollutant, noise, glare, heat, vibration or unsightly outdoor storage of equipment, vehicles or other materials.
2. No creation of traffic safety hazard or substantial increase in the level of traffic congestion in the vicinity.
3. No excess demand on municipal services including, but not limited to: water, sewer, waste disposal, police, fire protection, and schools.
4. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.
5. Notification of the hearing will be provided to the Planning Board, Conservation Commission and Board of Selectmen.

B. If the Special Exception is granted, formal site plan review by the Planning Board is required.

109.8 LOT REGULATIONS:

- A. Site Plan Review:** The Kingston Planning Board will review and approve or disapprove plans for the development of land tracts for non-residential uses whether or not such development includes a subdivision or re-subdivision of the site.
- B. Size:** Building lots in this zone shall have a minimum lot size of two acres.
- C. Frontage:** Lots shall have a minimum continuous frontage of 200 feet on an approved Class V (or better) road.
- D. Setbacks:**
 - 1. **Front:** New buildings shall be set back 30 feet from the nearest existing or proposed public right-of-way.
 - 2. **Side and Rear:** New buildings shall be set back 20 feet from the side and rear lot lines. When property abuts a residential property, no portion of the development shall be less than 50 feet from residential lot lines. The required 50 foot vegetated buffer will be allowed within this fifty feet and shall be permanently maintained.
 - 3. **From Existing Buildings:** New buildings, whether single or contiguous, shall be set back 30 feet on the non-contiguous sides from the existing buildings.
 - 4. Additional setbacks may be required due to the presence or proximity of wetlands. (See Wetlands Ordinance)
 - 5. Additional setbacks may be required due to the presence or proximity of Shoreland. (See Shoreland Protection Ordinance)
- E.** Before a building permit can be issued, a certification must be provided to the Building Inspector/Code Enforcement Officer verifying the location of all foundations to insure compliance with the setback provisions.

109.9 LOT COVERAGE: Lot coverage shall be no more than 35%. However, lot coverage may be increased up to 60% if the applicant can show stormwater management techniques that would allow for recharge on the property proposed to be developed. (Amended 03/12/19)

109.10 SHAPES: All lots shall be rectangular in shape if possible.

109.11 OCCUPANCY PERMIT: Before an occupancy permit shall be issued, certification will be provided to the Building Inspector that the approved site plan is in compliance.

109.12 STRUCTURE REGULATIONS:

- A. Height:** The maximum height of a building shall not exceed 45 feet measured from grade to the highest roof peak.
- B. Service Area:**

1. Off-street parking facilities shall be made available for workers and patrons of businesses to the satisfaction of the Planning Board.
2. All drives or roadways shall have clear visibility and non-hazardous access to public right-of-way.

109.13 MISCELLANEOUS PROVISIONS: All business and commercial establishments under this Article shall be required to meet at least the minimum standards of the Sanitary Code as specified by the Health Officer.

109.14 ADULT USES: PURPOSE AND INTENT: It is the purpose of this section to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Kingston; and, it is the intent to promote the health, safety and general welfare of the citizens of Kingston; and it is the intent of this section that these provisions be utilized to prevent the problems of blight and deterioration which typically accompany and are brought about by the concentration of sexually oriented businesses; and, the provisions of this section have neither the purpose nor the effect of imposing limitations or restrictions on the content of any communicative materials, including sexually oriented materials; and, it is not the intent nor the effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

A. Adult Uses Defined: The term “adult use” shall mean and include the following: any business where more than 25% of the gross revenue, 25% or more of the stock and trade, or 25% or more of the goods or paraphernalia displayed are of a sexually oriented or sexually explicit nature. Such goods and paraphernalia include, but are not limited to, sexually explicit books, videos, movies, devices, computer software and marital aids. Examples of adult uses include, but are not limited to, theaters or mini-motion picture displays where sexually explicit films or videos are shown, nude modeling studios, massage parlors, escort agencies or sexual encounter centers.

B. Where Allowed: Adult uses shall be allowed in the Commercial Zone II district only, provided that the following locational standards and site appearance criteria are complied with:

1. No structure containing an adult use shall be allowed within 1,000 feet of the property line of a church, cemetery, school, day care center, or within 500 feet of a residential structure.
2. No sexually explicit material or advertising shall be visible from outside the building.
3. No private viewing rooms or booths shall be constructed unless one side is always open to a public central area.
4. No one under the age of 18 shall be permitted inside such a use and a procedure shall be developed to keep those under 18 from entering the building.

109.15 SIGNS: Signs are permitted consistent with The Town of Kingston's Sign Ordinance.

109.16 CONFLICTS: Must comply with all other Town of Kingston ordinances and regulations unless explicitly stated otherwise,