

Article 204: INNOVATIVE ZONING

(Adopted 03/11/86; Amended 03/14/89; 03/09/93; 03/12/02; 03/14/06; 03/08/2022)

204.1 PROCEDURES

For the purposes of the Ordinance, Innovative Zoning development is defined as a form of land subdivision. All proposals submitted under this section shall follow the standard subdivision procedures for application and review established by the Kingston Planning Board. In cases where multi-family units (defined as structures containing more than two dwelling units) are proposed, the development shall also be subject to site plan review by the Planning Board.

For all residential subdivisions or residential site plans of 20 acres or more the Planning Board shall have the option to require any conventional subdivision applicant to also present an innovative zoning plan. The Board shall retain the discretion to require such application to be developed as an innovative zoning application. (Amended 03/14/2006)

204.2 GENERAL REGULATIONS

A. Permitted Uses:

Cluster Developments shall be permitted for residential and appropriate recreational uses only.

1. Detached single family units.
2. Townhouse multi-family units of up to six (6) individual units per structure only in the rural residential zone. Townhouse units are defined as units separated by party walls in which no portion of a dwelling unit extends over a portion of another.
3. Dwelling units shall be permanent structures on foundations.
4. Buildings accessory to a permitted use.
5. Outdoor recreation, which is incidental to residential use, provided that such use does not result in noise, odors, unsightly or dangerous activities which are injurious or detrimental to the neighborhood.

B. Building Density:

1. The total number of dwelling units allowed within a cluster development shall be no greater than that permitted for a conventional subdivision or multi-family use on the same parcel under the Kingston Zoning Ordinance and Subdivision

Regulations. The overall building density for a cluster development shall be determined by subtracting all land that would be excluded from development by the Kingston Wetlands Ordinance, then subtracting ten percent of the remaining land for roads and utilities, the remainder of this would be divided by 80,000 square feet (three acres in the Aquifer zone) to determine the number of dwelling units. The allowed number of units may be grouped or dispersed over the project area in any fashion within the limits imposed by applicable lot dimension restrictions and septic system siting requirements. The number of bedrooms per unit shall not exceed four bedrooms per unit.

2. In those zones that permit multi-family housing, the residential unit calculation result may be converted to a bedroom count by multiplying the unit total by a factor of 4 (e.g., 15 units yield a bedroom count of 60). The total bedrooms may then be configured by the applicant into dwelling units of 1-4 bedrooms, with no more than 6 units per structure. (Amended 03/14/2006) Twenty-five percent (25%) of such units shall not exceed 1200 sq. ft. of heated living space (this excludes basements, breezeways, garages and porches). All unit deeds shall contain covenants that prohibit expansion of the heated living space. The remaining units are not restricted in maximum size.

C. Dimensional and Lot Requirements: (Amended 03/14/2006)

Standard dimensional and lot size requirements shall be waived for Innovative Zoning and replaced with the following:

1. External Setback:
 - a) Front: No structure or parking area in a cluster development shall be located within 200 feet from a public right of way in existence prior to the cluster development proposal.
 - b) Side and Rear: No building or parking area shall be within 100 feet of an abutting property line to the subdivision.
 - c) Natural Screening: The natural vegetation within the external setback areas shall be left undisturbed except for the purposes of providing access to public streets and ensuring proper sight distances as determined by the Kingston Road Agent. Project related drainage and storm water management treatment devices, if

predominantly natural in appearance, may be constructed within the external setback. *(Amended 3/8/22)*

2. Internal Setback: No structure shall be closer than thirty (30) feet from the right of way of a proposed street or parking area. No structure shall be located within thirty (30) feet from an adjacent structure or within fifteen (15) feet of an internal lot line.
3. All units shall be serviced by an existing public street.

D. Water and Septic Systems:

A cluster development or portions thereof may be served by common water and septic systems. No proposal involving community disposal systems shall be approved by the Planning Board until legal responsibility for ownership and maintenance is established and found to be satisfactory by the Board. The design, siting and construction of both common and on-lot septic systems shall be subject to all applicable local and state regulations including the incorporation into the project design of back-up leach field areas.

E. Open Space:

1. All wetland in the project plus a minimum of 1/3 or 33% of the total project upland area shall be set aside for open space of which forty percent (40%) shall be contiguous. *(Amended 03/14/2006)* This common open space shall be permanently restricted for recreation, open space or conservation uses. It shall not be re-subdivided but may contain accessory or utility structures and improvements necessary for the development or for educational or recreational use. The open space or common land, or any portion of it shall be held, managed and maintained by the developer until it is owned, in one or more of the following ways. The Planning Board reserves the right to approve, from the options below, the holder of open space rights. *(Amended 03/14/2006)*
 - a) By a Homeowners, or Condominium Association, set up by the developer and made a part of the deed or agreement for each lot or dwelling unit;
 - b) By a Conservation Trust or private nonprofit organization, such as the Society for the Protection of New Hampshire Forest or Audubon Society which will ensure that the common land will be held in perpetuity as open space;
 - c) A public body which shall maintain the land as open space for the benefit of the general public - for example,

the Town.

All agreements, deed restrictions, organizational provisions for a Homeowners' Association and any other method of management of the common land shall be established prior to Planning Board approval.

2. Common open space areas shall have adequate access to allow for recreational use of those areas.

F. Maintenance of Open Space and Other Common Features:

In cases where the proposed cluster development results in areas or project features of common ownership, there shall be established procedures and responsibilities for the perpetual maintenance of open space, private streets and utilities by the inclusion of covenants running with the land in the deeds or other instruments of conveyance delineating such areas in accordance with RSA 479A; and

1. Obliging purchasers to participate in a homeowners' association and to support maintenance of the open areas by paying to the association assessments sufficient for such maintenance and subjecting their properties to a lien for enforcement of payment of the respective assessments;
2. Obliging such an association to maintain the open areas and private streets and utilities;
3. Empowering the Town, as well as other purchasers in the development, to enforce the covenants in the event of failure of compliance; and
4. Providing for agreements that, if the Town is required to perform any maintenance work pursuant to item c. above, said purchasers would pay the cost thereof and that the same shall be a lien upon their properties until said cost has been paid; provided that the developer - or if the developer is not the owner of the development, then such owner - shall be a member until all of the lots of record are sold. Other equivalent provisions to assure adequate perpetual maintenance may be permitted if approved by the Planning Board.

204.3 REPEALED 03/14/2006

