

Article 108: COMMERCIAL ZONE C-I

(Adopted 03/09/2004; Amended 03/08/2005, 03/14/2006, 3/10/09, 3/09/10, 3/08/11, 3/13/12, 3/10/2015)

- 108.1 DESCRIPTION OF ZONE:** That area of land bordered by Rte. 125, Depot Road, the East Kingston Town Line and the northern property boundary that serves as the dividing line between tax maps R29 and R35 as shown on the Town of Kingston Tax Maps dated 2002.
- 108.2 PURPOSE:** The following regulations shall govern the erection and alteration of buildings and use of land in the Commercial Zone C-I.
- 108.3 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.
- 108.4 EXCEPTION:** Residential uses existing at the time of this ordinance may be continued and expanded as long as the use remains residential.
- 108.5 PERMITTED USES:** The following are permitted:
- A.** Animal hospitals, kennels and veterinarian establishments; and residential units as an accessory use to these primary principal uses.
 - B.** Driving schools
 - C.** Shops for the use of a carpenter, cabinet maker, electrician, painter, upholster, plumber, television and home appliance repair.
 - D.** Plants for the manufacturing of electrical or electronic devices, appliances, apparatus or supplies, medical, dental or drafting instruments, optical goods, watches or other precision instruments.
 - E.** Research, experimental or testing laboratory excluding biological, radiological or chemical laboratories. Chemical, biological or radiological processes may be permitted as an accessory use at a research and development laboratory and

related facility upon approval of special exception granted by the Zoning Board of Adjustment.

- F. Manufacturing, fabricating, assembling or conversion facilities.
- G. The storage of toxic materials used in the normal course of operation of a permitted use.
- H. Professional office and business parks and business center development.
- I. General indoor recreation facilities (i.e. a building for indoor activities such as a health club, indoor soccer facility or racquetball facility).
- J. Warehousing
- K. Multi-Family Workforce Housing
- L. Continuing Care Retirement Community (CCRC) (Amended 3/10/15)
- M. Accessory uses customarily incident to the above.

108.6 PROHIBITED USES:

- A. Residential construction with the exception of Multi-family Workforce Housing.
- B. Motor vehicle junk yards and junk yards.
- C. Truck Terminals.
- D. Vehicle sales, vehicle repair/auto body shops, vehicle-detailing establishments.

108.7 Conditional Use Permits. The Planning Board may grant a Conditional Use Permit for the construction of multi-family workforce housing in accordance with the requirements outlined herein.

- A. **Purpose.** The purpose of the Multi-Family Dwelling conditional use permit is to allow for multi-family housing in appropriate locations in Kingston in order to comply with the requirements of RSA 674:59.
- B. **Conditional Use Permit Required.** Within the C-1 District multi-family dwellings and multi-family developments require a

Conditional Use Permit from the Planning Board. The Planning Board may approve a Conditional Use Permit which complies with the requirements of this section and the requirements of the Planning Board’s subdivision and site plan review regulations. Applications for a Conditional Use Permit shall be submitted to the Planning Board and reviewed in accordance with the Planning Board’s procedural requirements for subdivision review if applicable site plan review.

C. Requirements for Multi-Family Dwellings and Development

1. **Location.** Multi-family dwellings may be located in the C-1 Commercial Zone.
2. **Parcel Size.** The minimum parcel size shall be 10 acres, which may include wetlands.
3. **Frontage.** A multi-family dwelling or a multi-family development shall have a minimum contiguous frontage on a town road or street of 150 feet.
4. **Number of Dwelling Units.** A multi-family dwelling shall not have more than 8 dwelling units. A multi-family development shall not have more than 40 dwelling units.
5. **Density.** The density of a multi-family development shall not be greater than four (4) dwelling units per contiguous upland acre located in Kingston. No single contiguous area of uplands on a parcel shall have a density greater than four (4) dwelling units per acre. The density is the maximum allowed, and it may be reduced by the planning board if the characteristics of the site; or the configuration of the site plan; or the relationship of the development proposal to its environs so warrant.
6. **Workforce Housing.** Not more than 50% of the dwelling units in a multi-family dwelling shall be workforce housing as defined by RSA 674:58, II and IV. The Planning Board shall enact such regulations as are necessary to administer this requirement to assure the continued compliance with it.
 - a. **Certification of Income Levels.** To ensure that only eligible households purchase/rent the designated affordable housing units, the purchaser/renter of an affordable unit must submit copies of their last three years federal income tax returns and written certification, verifying that their annual income level, combined with household assets, does not exceed the maximum level as established by this ordinance. The tax returns and written certification of income and

assets must be submitted to the developer of the housing units, or the developer's agent, prior to the transfer of title. A copy of the tax return and written certification of income and assets must be submitted to all parties charged with administering and monitoring this ordinance, within 30 days following the transfer of title.

- b. Assurance of continued affordability.** Affordable units offered for sale shall require a lien, granted to the Town of Kingston to be placed on each affordable unit. The value of the lien shall be equal to the difference between the fair market value of the unit and its reduced affordable sale price, which is indexed according to the qualifying income standards. The municipality's lien is inflated over time at a rate equal to the Consumer Price Index (CPI). Future maximum resale values shall be calculated as the fair market value minus the CPI adjusted lien value. Subsequent sales are not limited based on income targets, but the combination of maintenance of the municipality's lien and adherence to the Article's definition of affordable housing for a period of 30 years.

Documentation of restrictions. Deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Article must be set forth on all plans filed with the Town's Planning Board and with the Registry of Deeds.

Ongoing responsibility for monitoring the compliance with resale and rental restrictions on affordable units shall be the responsibility of the monitoring agency of the Planning Board's choice including, but not limited to, the New Hampshire Housing Finance Authority. If the Planning Board's choice for monitoring and compliance is the New Hampshire Housing Finance Authority then the owner of said affordable units shall follow the requirements set forth in the New Hampshire Housing Finance Authority's Model for Homeownership Affordability Retention Lien as amended.

- 7. Building Spacing.** All buildings, including parking structures and accessory buildings, shall be separated by at least 25 feet.
- 8. Parking.** Site plans shall include adequate parking, as determined by the Planning Board

9. Building Height. The building height will be a maximum of 35 (thirty-five) feet.

10. Buffer Zone/Landscaping

- a. Each Site Plan approval shall include appropriate buffer areas. The purpose for these buffering provisions is to minimize the impact between traditional commercial uses and multifamily residential use. These buffer areas are to be at least fifty feet in width and maybe required to be wider if deemed necessary by the Planning Board. No parking shall be located within any part of the buffer zone.
- b. Each site plan submitted for approval by the Planning Board shall include a landscaping plan that incorporates appropriate landscaping to serve as both visual and sound buffering from abutting parcels. The extent of landscaping materials necessary to achieve this required buffering is to be established on a site by site review using the following standards. Landscaping shall be maintained as approved.

1. Landscape Buffer Requirements

Landscaped buffers shall be provided where required by this section and shall conform to the standards in the bufferyards illustrated on the attached pages. Fifty percent (50%) of all trees in such buffer areas shall be of the evergreen species. Trees and shrubs shall conform to the following standards:

- a. Deciduous trees shall be planted at least three inches (3”) in caliper measured six inches (6”) above the root ball, with a mature height of at least 12 feet.
- b. Fruit and ornamental trees shall be planted at two inches (2”) in caliper measures six inches (6”) above the root ball, with a mature height of at least 12 feet.
- c. Evergreen trees shall be coniferous species planted at least six feet (6’) in height.
- d. Shrubs shall be either deciduous species planted 2.5 feet in height with a mature height of at least six feet or evergreen species planted at 2.5 feet in spread.
- e. Existing natural growth that meets the requirements of buffering stated above, will be considered as part of the screen.

- f. If deemed appropriate by the Planning Board, stockade fencing may be used as a suitable screening material.
- g. Any planted vegetative buffer is expected to reach maturity and fully screen the developed project within five years. If the planted buffer does not fully screen the proposal at the end of five years, the Planning Board may/shall contact the property owner to assess ways of correcting the buffering deficiencies.

2. Front Yard Buffers:

Landscaped treatments of the front yard are required for all proposals and shall include seeded lawn, evergreen cover, trees, shrubs, or a combination thereof.

3. Side and Rear Yard Buffers:

Landscaped treatments are required for side and rear yards for all proposals. These buffers should follow the parameters of the “A” bufferyard on the attached diagram if the buffer yard is between similar uses. If the bufferyard separates commercial use from residential uses, the “B” bufferyard standards shall be utilized. (See Diagrams below)

c. Bonding of Landscape Improvements

The Planning Board shall require a bond in an amount to cover the cost of 100% of all landscape improvements. These improvements shall include the cost of all plant materials, seed, mulch, topsoil, construction of berms and labor necessary to implement the landscape plan. The bond will remain in effect for five years. 15% of this bond shall be kept in excess of five years to insure the required landscaping survives.

D. Determinations Required for Conditional Use Permit Approval. Prior to approving a Conditional Use Permit, the Planning Board shall determine, by a vote on the record, that the multi-family dwelling or multi-family development meets each of the following standards:

- 1. The granting of the Conditional Use Permit will not be detrimental to adjacent property or the neighborhood.
- 2. The granting of the Conditional Use Permit will not be detrimental to the public safety, health or welfare.

3. The granting of the Conditional Use Permit will not be contrary to the public interest.

E. Conditions. In approving a Conditional Use Permit, the Planning Board may attach such conditions to its approval as it deems necessary to further the objectives of this section, the Zoning Ordinance and the public health, safety and general welfare.

F. Conflicts. Where the provisions of this section conflict directly with another requirement of the Zoning Ordinance or a requirement of the Planning Board's subdivision or site plan review regulations, the provisions of this section shall govern. Otherwise, all other requirements of the Zoning Ordinance and the Planning Board's subdivision and site plan review regulations shall apply to multi-family dwellings and multi-family developments.

G. Appeal. Pursuant to RSA 676:5, III, appeals of any Planning Board decisions made pursuant to this section shall be taken to the Superior Court, not to the Board of Adjustment.

108.8 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 this 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.

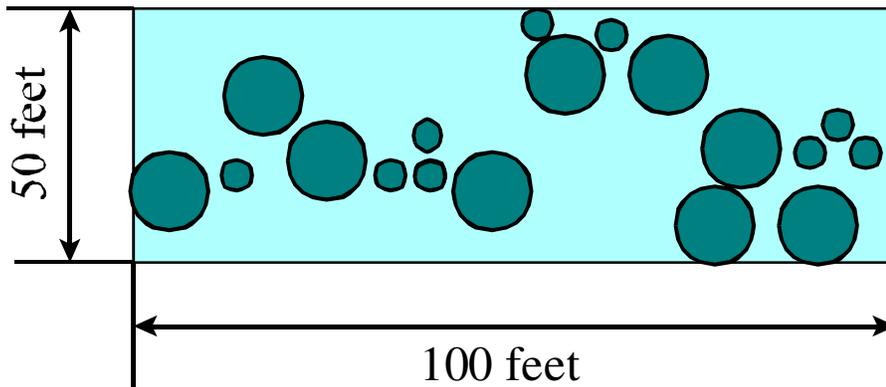
108.9 Lot Regulations:

- 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.

- 108.10 LOT COVERAGE:** Lot coverage shall be no more than 35%. However, lot coverage may be increased up to 50% if the applicant can show storm water management techniques that would allow for recharge on the property proposed to be developed.
- 108.11 SHAPE:** All lots shall be rectangular in shape if possible.
- 108.12 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.
- 108.13 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.
- 108.14 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.
- 108.15 SIGNS:** Signs are permitted consistent with The Town of Kingston's Sign Ordinance.
- 108.16 CONFLICTS:** Must comply with all other Town of Kingston ordinances and regulations unless explicitly stated otherwise.

A Bufferyard

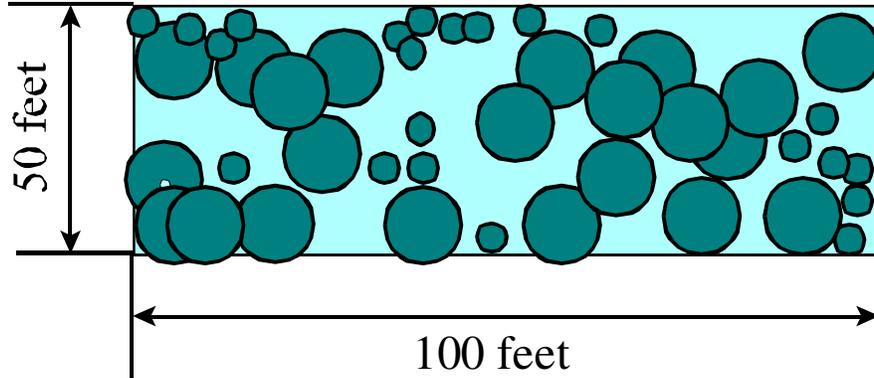


Required Plant Units / 100 Feet

9 Trees

9 Shrubs

B Bufferyard



Required Plant Units / 100 Feet

22 Trees
22 Shrubs

Typical diagram, not to scale