

Article 110: COMMERCIAL ZONE C-III

(Adopted 03/08/2005; Amended 3/10/2009, 03/08/2011,3/13/2012, 3/10/2015)

110.1 DESCRIPTION AND PURPOSE

- A. DESCRIPTION OF ZONE:** All lots/property, as shown on Town of Kingston 2004 Tax Map, in Tax Map R-3 except lot R3-18, and only those lots of record at time of adoption with frontage along NH Route 125 in Tax Maps R-2, R-4, R-5, R-8, R-9, R-10, R-11, R-13, and the following lots: R5-15, R8-40, R8-40-A, R8-41, R8-43, R9-4, R11-2A, R11-5, R11-6, R11-7, R11-20, R13-9, R13-15, R13-19, R19-7, R19-8, R19-15, R19-16, R20-16-1, R20-20, R20-21, R20-22, R20-23, R20-26, R21-15, R21-15-2, R21-16, R21-17, R21-18, R21-19, R21-20, R26-38, R26-38A, R26-39. To eliminate confusion, Tax Map R-8, Lots 34 and 35 are zoned C-III.
- B. PURPOSE:** To establish an attractive, financially viable commercial zone that encourages business development to provide services to the public increase employment opportunities and broaden the tax base.

110.2 DEFINITIONS:

- A. Non-conforming Use:** Any use of land, building or premise lawfully existing at the time of adoption of this Zoning Ordinance or any subsequent amendment there to which does not conform to the permitted uses in this zone. Note: this definition refers only to the use of a property.
- B. Non-Conforming Lot:** Any lot or structure that does not conform with the lot requirements of this ordinance. Note: this definition does not refer to the use. It refers only to lot requirements such as setbacks, lot coverage, landscaping, etc.
- C. Pre-Existing Use:** Valid 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. Exception: Residential uses existing at the time of this ordinance may be continued and expanded as long as the use remains residential.

D. Pre-Existing Lot: Valid non-conforming lots legally in existence prior to the enactment of this ordinance may be continued, and expanded as long as the lot does not become more non-conforming.

E. Accessory Uses: Any subordinate use which customarily is accepted as a reasonable corollary to the principal use and which is neither injurious nor detrimental to properties within this Zone.

110.3 PERMITTED USES: The following uses, while permitted in this zone, must comply with all other zoning ordinances and regulations, such as, but not limited to: Wetlands, Shoreland Protection, and Aquifer Protection. In case of conflict, the more stringent standards shall apply unless explicitly stated otherwise.

A. Business Center Development: A tract of land, buildings or structures planned as a whole and intended to include those uses allowed in this district whether built at one time as a unit or in two or more construction stages.

B. Any retail business such as, but not limited to: book, stationary, or news store, drug store, dry goods or variety store, jewelry store, florist, gift or antique shop, hardware store, meat market, or wearing apparel store.

C. Supermarket/Grocery Store.

D. Professional and business offices, medical and dental clinics and funeral homes.

E. Banks and other similar financial institutions.

F. Personal services businesses such as, but not limited to: barber and beauty shops, Laundromats, dry cleaning outlets, tailor and dressmaking shops.

G. General service or repair shops such as for, but not limited to: jewelry, clocks, radios and television, appliances, bicycle repair and services of a similar nature.

H. Commercial recreation establishments such as, but not limited to: indoor theaters, bowling alleys, golf courses and campgrounds.

I. Establishments serving food and beverage such as, but not limited to: restaurants, cafes, and taverns.

- J.** Automotive filling/service stations; car washes.
- K.** Vehicular, trailer and recreational vehicle sales, rentals or leasing and service repair facility provided that no lot used for this purpose may be located any closer than 1,000 (one thousand) feet in any direction to any other lot used for this purpose.
- L.** Landscaping/Nursery Facilities.
- M.** Educational Facilities such as, but not limited to: child day-care/nursery schools, karate schools, driving schools.
- N.** Care and Treatment of Animals.
- O.** Wholesale Businesses.
- P.** Private/Service Clubs.
- Q.** Publishing and Printing Facilities.
- R.** Lodging Establishments such as, but not limited to: hotels, motels, bed and breakfasts, inns.
- S.** Establishment for the care of the Elderly.
- T.** Alternative Treatment Center in compliance with NH Chapter 126-W. (Amended 3/10/15)

Accessory Uses to one of the above listed permitted uses are allowed.

110.4 PROHIBITED USES:

- A.** Residential construction is prohibited, except as provided in “pre-existing use” exception or in a mixed commercial/residential use plan when the residential structures are for over age 55 housing and are a minimum of 1,000 feet from the center line of Route 125. All residential buffers must apply.
- B.** Motor vehicle junkyards and junkyards are prohibited.
- C.** Truck terminals are prohibited.
- D.** Overnight Kenneling of animals, unrelated to medical care, is prohibited.
- E.** Adult Oriented Businesses are prohibited.

110.5 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.

110.6 LOT REGULATIONS:

A. Building height: All construction shall be subject to the State of New Hampshire Fire and Building Code. In all cases, no building or structure shall be greater than 45 feet in height.

B. Setbacks:

1. Setbacks for Structures: Structures, for this requirement, are defined as: Buildings, and septic systems.
 - a. Route 125 setback (Any Side): 100 feet from Centerline of NH Route 125.

- b. Residential setback (side or rear only): 50 feet, when abutting a residential zone.
 - c. Otherwise, Front: 25 feet, Side: 20 feet, Rear: 20 feet
 - d. In cases where 2 or more Structure setback numbers apply, the largest number is to be used.
2. Setbacks for Other Improvements: Other improvements, for this requirement, are defined as: storage areas, display areas, parking areas, access lanes, drainage systems, etc., but not landscaping, not “structures” (as defined above), and not curb cuts for access to a Road/Street or for access to an adjoining lot.
- a. Residential setback (side or rear only): 50 feet when abutting a residential zone.
 - b. Otherwise, Front: 15 feet, Side: 10 feet, Rear: 10 feet.
 - c. In cases where adjoining lots wish to share parking areas, the parking areas can be built up to the property line.
 - d. In cases where 2 or more Other Improvement setback numbers apply, the largest number is to be used.
 - e. The planning board can allow infringement on an Other Improvement non-residential setback as long as some green space is provided elsewhere in return.
3. Additional setbacks may be required due to existence or proximity of Shoreland or Wetlands or in accordance with the Aquifer Protection Ordinance.

110.7 LOT COVERAGE:

- A.** For lots in the Aquifer Protection Zone, 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. The lot coverage requirement in this ordinance shall supercede the lot coverage requirement in the Aquifer Protection Ordinance.
- B.** For lots outside the Aquifer Protection Zone, lot coverage shall be no more than 75%.

- 110.8 OUTSIDE SALES AND/OR STORAGE:** Any outside sales and/or storage in this commercial district is subject to Planning Board approval. Outside storage, in this district, shall be defined as the placement and location of equipments, supplies, parts, inventory and materials that are not intended for or being made accessible to the public or customers for sale or use. If outside storage is allowed, all storage areas will be visually screened from access streets, arterials and adjacent property. No storage shall be allowed between a

frontage street and the building line. No storage will be allowed within the property setbacks or any designated green space

- 110.9 SIGNS:** Signs shall be in accordance with the Town of Kingston Sign Ordinance.
- 110.11 LANDSCAPING:** Minimum area to be suitably planted and permanently maintained with grass, ground cover, shrubs and/or trees shall be twenty per cent (20%) of the total lot area. Excepting shared parking areas, curb cuts for access to a Road/Street, and curb cuts for access to an adjoining lot, a “green” area shall enclose the entire lot perimeter.
- 110.12 FRONTAGE:** A minimum contiguous frontage of 200 feet on a Class V or better highway is required; this frontage must be able to provide access to the site.
- 110.13 ACCESS:** Access will comply with Town of Kingston Access Management Regulations.
- 110.14 SITE PLAN REVIEW:** The Kingston Planning Board will review and approve or disapprove plans for the development of land tracts for whether or not such development includes a subdivision or re-subdivision of the site.
- 110.15 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.
- 110.16 Must comply with all other Town of Kingston ordinances and regulations unless explicitly stated otherwise.**