

**ZONING LOCAL LAW
TOWN OF KIRKWOOD**

**ARTICLE II
DEFINITIONS**

SECTION 201. Definitions.

A. For purposes of this Local Law certain terms or words used herein shall be interpreted or defined as follows: the word “shall” is intended to be mandatory; the word “person” may include more than one, an association or a corporation.

1. Accessory Building: A building subordinate or supplement to the main building, located on the same lot and used for purposes customarily incidental to those of the main building.
2. Accessory Use: A use customarily incidental and subordinate to the principal use of a building.
3. Agriculture: Shall mean the use of land for agricultural purposes including farming, dairying, horticulture, floriculture, animal and poultry husbandry and such accessory uses incidental to agricultural activities.
4. Automobile (Motor Vehicle): Every vehicle operated or intended to be operated or formerly operated upon a public highway which is propelled by any power other than muscular power, but excluding farm type tractors and all terrain type vehicles used exclusively for agricultural purposes.
5. Basement: That portion of a building that is partly or completely below grade plane. A basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is:
 - a. More than 6 feet (1829mm) above grade plane:
 - b. More than 6 feet (1829mm) above the finished ground level for more than 50 percent of the total building perimeter; or
 - c. More than 12 feet (3658 mm) above the finished ground level at any point.
6. Building: Any structure other than a boundary wall or fence.
7. Building Line: A line parallel to the street line drawn between the points of front yard setback as measured along each side lot line, and/or the required setback from property lines to the building proper (see building), front, sides and rear.
8. Building Principal: A building in which the principal use of the lot on which it is located, is conducted.
- 8a. Construction Equipment Yard: A lot on which vehicles, tools and equipment used by construction contractors are parked or stored, including contractor’s offices and storage buildings located on premises.
9. Coverage: That portion of or the total plot or lot area covered or occupied by buildings.
10. Cellar: A story 50% or more underground the walls of which are used as the foundation and/or substructure for those remaining stories of the structure partially or completely above grade level. A cellar is not an underground dwelling unit (see definition 40b).
- 10a. Commercial Composting Facility: A solid waste management facility used to provide aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.
11. Dwelling, One-Family: A detached building designed for or occupied exclusively by one (1) family.

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12. Dwelling, Two-Family: A building designed for or occupied exclusively by two (2) families living independently.
13. Dwelling, Multiple: A dwelling or group of dwellings in one structure containing separate living units for three (3) or more families.
14. Dwelling Unit: A building or portion thereof providing complete housekeeping facilities for one (1) family.
15. Electrical Distribution Substation: An assembly of equipment designed to receive energy from a high-voltage distribution supply system, to convert it to a form suitable for local distribution and to distribute the energy to feeders through switching equipment designed to protect the service from the effects of faults.
16. Enforcement Officer: The person or persons designated by the Town Board to enforce the Zoning Local Law and/or issue Building Permits.
17. Family
- a. Any number of individuals related by blood, marriage or adoption, and their domestics and servants, if any, living and cooking together on the premises, as a single housekeeping unit, or
 - b. Not more than two (2) persons, living and cooking together on the premises as a single housekeeping unit though not related by blood, marriage or adoption, or
 - c. More than (2) persons not related by blood, marriage, or adoption, living together on the premises as a functional family unit subject to the issuance of a special permit by the Town Zoning Board of Appeals pursuant to the standards enumerated in Section 503.5 of the Town of Kirkwood Zoning Local Law.
18. Farm: Any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry and dairy products.
19. Fire Wall: A wall of non-combustible construction, with qualities of fire resistance and structural stability which resists the spread of fire.
- 19a. Flea Market: A location where new, old or used articles are sold.
20. Gross Floor Area: Shall be the total area of all floors within the exterior walls of the building, excluding basements, cellars, garages, open or screened porches, patios or awning overhangs.
- 20a. Haulage Way: All roads utilized for mining purposes, together with that area of land over which material is transported, that are located within the permitted area.
- 20b. Heavy Rigging Operations: The actual movement of a customer's equipment or material by means of forklift, crane or manually, using rope, snatch blocks, jacks and blocks, chain falls, or ramps including the use of tractor trailers, straight trucks, forklifts, cranes, utility trucks, and pick-up trucks. Such operation consists of:
- 1. inbound rigging operations: receiving equipment, un-crating, reloading and transportation to customer's facility for offload and rigging into place,

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2. outbound rigging operations: receiving customer's equipment, transportation to the facility, off load crating for export and loading into containers, or loading onto trucks for domestic delivery, and
3. items awaiting delivery or shipment may be stored inside or outside.

21. Height, Building: The vertical distance from the mean finished grade to the highest point of the building measured at the front wall of the building.

22. Home Occupation: Any use customarily conducted entirely within a dwelling or accessory building and carried on by the inhabitants thereof, and which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

22a. HUD: United States Department of Housing and Urban Development.

23. Junk Yard: Any business or activity, whether or not for profit, which involves the collection, storage, burning, dumping, disassembling, salvaging, sorting or otherwise handling or arranging for sale, resale, storage or disposal or otherwise of bodies, engines, or parts of autos, or of any other second-hand or used property of whatever material it is composed or any other waste material of wood, paper, cloth, cardboard, plastics, metal, stone, cement or otherwise.

24. Lot: A parcel of land occupied or capable of being occupied by one (1) or more principal buildings and accessory buildings or uses as permitted in various zoning districts, and including such open space as are required by this Local Law.

25. Lot Depth: The horizontal distance between the front and rear lot lines. Measurement shall be from the street or highway right-of-way lot line to the rear lot line along a line equidistant between the two side lot lines. The "pole" (driveway or access road) portion on a flagpole lot is excluded from the lot depth measurement.

25a. Lot Width: The horizontal width measured at right angles at the mid-point of a line equidistant between the two side lot lines.

26. Machine Shop: A workplace in which metal and other substances are cut, shaped, etc. by machine tools.

26aa. Manufactured Home: Single or multi-section homes built entirely in the factory under Federal Manufactured Home Construction and Safety Standards administered by the U.S. Department of Housing and Urban Development (HUD).

26a. Mine: Any excavation from which a mineral is to be produced for sale or exchange, or for commercial, industrial or municipal use; all haulageways and all equipment above, on or below the surface of the ground used in connection with such excavation, and all lands included in the life of the mine review by the New York State Department of Environmental Conservation.

26b. Mineral: Any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this Local Law, peat and topsoil shall be considered minerals.

26c. Mining: The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use;

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exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. "Mining" shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

26d. Mining Plan: A description of the applicant's mining operation which shall include maps, plans, written materials and other documents required by the New York State Department of Environmental Conservation.

27. Mobile/Manufactured Home: A structure built prior to June 15, 1976 when the HUD Code went into effect and transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and include the plumbing, heating, air conditioning and electrical systems contained therein. A "double wide" mobile/manufactured home shall consist of two or more sections of a mobile/manufactured home joined together to form one mobile/manufactured home structure.

28. Mobile/Manufactured Home Park: A mobile/manufactured home park is any parcel of land which is planned and improved for the placement of two (2) or more mobile/manufactured homes which are used as dwellings and for occupancy of more than ninety (90) consecutive days.

29. Modular Homes: Factory built homes built to State, local or regional code where the home will be located which are transported to the site and installed.

30. Non-Conforming Building: A building or structure or portion thereof, lawfully existing on the effective date of this Local Law or subsequent amendment thereof, which does not completely conform to the regulations applicable in the district in which it is located.

31. Non-Conforming Use: A building, structure or use of land existing at the time of enactment of this Local Law or subsequent district amendments, and which does not conform to the regulations of the district or zone in which it is situated.

31a. Overburden: All of the earth, vegetation and other materials which lie above or alongside a mineral deposit.

32. Parking Space, Off-Street: An off-street space, area, or berth, with an appropriate means of vehicular access to a street, intended for the storage of vehicles.

32a. Person: Any individual, public or private corporation, political subdivision, government agency, department or bureau of the state, municipality, industry, partnership, association, firm, trust, estate or any other legal entity whatsoever.

32b. Power Plant Facility or Power Generating Facility: A facility whose primary purpose is for the generation of electric power, in excess of one mega-watt, powered by fossil fuel (including natural gas, oil, coal or any other fossil fuel), or by any other means whatsoever, or any portion of or supporting facility relating to such plant including land areas forming the boundary of the actual facility and supporting facilities and all other land areas incorporated by said plant, including, but not limited to, buffer zones. The

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term “power plant” shall include a “co-generation facility” as that term is defined in Article 1, Section 2, Public Service Law of the State of New York.

32c. Principal Use: The main purpose for which a lot or building is utilized.

32d. Professional Office: An office located in the full-time residence of a professional which includes the practice of accounting, architecture, dentistry, engineering, insurance agent, law, medicine, real estate agent, surveying, photography, artistry, and others as determined by the Zoning Board of Appeals.

33. Public Utility Use: A building or lot used for or in connection with the transmission, distribution or regulation of water, sewer, gas, electric, telephone, or other public utility service.

34. Quarry, Sand Pit, Gravel Pit, Top Soil Stripping: A lot, plot, or portion thereof used for the purpose of extracting stone, sand, gravel, and/or top soil for sale, exclusive of the process of excavation and grading a lot preparatory to the construction of a building.

34a. Reclamation: The conditioning of the affected land to make it suitable for any uses or purposes consistent with the provisions of the Environmental Conservation Law.

34b. Reclamation Plan: A description of operations to be performed by the applicant for mining permit to reclaim the land to be mined over the life of the mine. The reclamation plan shall include maps, plans, the schedule for reclamation, written material and other documents are required by the New York State Department of Environmental Conservation.

34c. Recyclables Handling and Recovery Facility: A solid waste management facility, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream, or at which previously separated recyclables are collected.

34d. Scrap Metal Processor: Any area, lot, land, parcel, building, structure or part thereof used for the temporary storage of less than six months collection, processing, purchase, sale or disposal of used machinery, scrap iron, steel or other ferrous or nonferrous metals, tools, building materials, household appliances, reclaimable material or other recyclables that have been abandoned from their original use and may be used again in its present form or in a new form. The definition of scrap metal processing shall not include whole vehicle salvage, undismantled engines or transmissions, or any vehicle components that have not been drained of fluids. (Added 9-6-11 by LL #5-2011.)

35. Screening: Maintained placement of lawns, ground cover plantings and other materials as interpreted by the Zoning Board of Appeals to provide to the extent needed, the screening of objectionable views, adequate shade and suitable setting for the purposes intended.

35a. Self-Service Storage Facility: An enclosed building consisting of a number of individual storage bays with doors, available for rent or lease by the general public and primarily for the housing or storage of goods, merchandise and household items. Said facility may not be used by tenants as a wholesale/retail distribution point or for any retail or commercial activity.

36. Sign: The term sign shall mean a structure, part thereof, or device attached thereto, or painted or represented thereon, or any material or thing illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, device, trademark or other representation used as an announcement, designation, direction, or display to advertise or promote any person, firm, group,

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organization, commodity, service, profession or enterprise when said display is placed out-of-doors in view of the general public.

a. **Business Sign:** A sign which directs attention to a business, industry, profession, commodity, service or entertainment **SOLD OR OFFERED** upon the same premises where the sign is located.

b. **Advertising Sign:** A sign which directs attention to a business, industry, profession, commodity, service or entertainment **NOT SOLD OR OFFERED** upon the same premises where the sign is located.

c. **Directional:** A sign which is non-illuminated used for the purpose of stating name or location of a town, town building, hospital, community center, church, school or the name or place of meeting of an official or civic body (e.g., Rotary or Lions or Kiwanis) with no advertising matter contained on such sign.

d. **Facing or Surface:** Means the surface of the sign upon, against or through which the message of the sign is exhibited.

e. **Double-Faced or V-Type Sign:** Means any two-faced sign utilizing both faces or surfaces for display purposes.

f. **Ground Sign:** Shall mean any sign not attached to any building.

g. **Projecting Sign:** Shall mean a sign which is attached to the wall of any building or structure and which extends beyond the surface of such wall a distance greater than twelve (12) inches. Projecting sign shall include marquees. (See also i. above: Wall Sign).

h. **Roof Sign:** Shall mean a sign constructed or supported upon the roof of any building or structure.

i. **Wall Sign:** Shall mean a sign which is attached to the wall of any building or structure and which does not extend beyond the surface of such wall a distance greater than twelve (12) inches. (See also g. above: Projecting Sign).

36a. **Spoil:** Any waste material removed from its natural place in the process of mining and all waste material directly connected with the cleaning and preparation of any minerals.

37. **Street Line:** The line of contact between any lot and the right-of-way of any public street, road or highway.

38. **Story:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

39. **Story, Half:** A story under the gable hip or gambrel roof, the wall plates of which on at least two (2) opposite interior walls are not more than two (2) feet above the floor of such stories.

39a. **Tailings:** Material of inferior quality or value resulting from the removal, preparation or processing of minerals.

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39aa. Temporary Portable Storage Container: A purpose-built, fully enclosed, boxlike container with signage on one or more of its outer surfaces that is designed for temporary storage of household goods and/or equipment. Such containers are uniquely designed for ease of loading to and from a transport vehicle. (Added 9-7-10 by LL No. 14-2010)

39b. Town House(s): A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.

39c. Trailer: See mobile home.

40. Travel Trailer: A travel trailer is any portable vehicle which is designed to be transported on its own wheels; which is temporary living quarters for travel, recreation or vacation purposes or office use; and which may or may not include one or all of the accommodations and facilities included in a mobile home.

40a. Truck Terminal: A facility serving as the point of departure and/or destination for trucks of a gross vehicle weight of 10,000 lbs. or more, typically used for the transfer of goods, the handling, shipping and receiving of freight, and/or the repair, servicing or fueling of trucks.

40aa. Turbine: Any tower, pole or structure that converts wind energy to mechanical work, often referred to as windmills, shall be identified as turbines in this section. Lawn ornaments that are in the shape of a windmill and are less than ten feet in height measured from the ground to the top of the blade shall be excluded from the definition of turbine. Any such lawn ornaments existing at the time of adoption of this local law shall be allowed to remain so long as they are kept structurally sound. (Added 9-1-09 by LL #6-2009)

40b. Underground Dwelling Unit: A permanent living space for a family which is designed, engineered, and built to take advantage of the constant temperature that exists below the frost line, providing in a safe and healthful manner such amenities as proper access and egress, ventilation, freedom from dampness, adequate lighting, and properly engineered water and sanitary systems. A converted cellar is not an underground dwelling unit for the purpose of this definition.

40c. Unregistered Motor Vehicles: A motor vehicle requiring registration pursuant to the Vehicle and Traffic Law of the State of New York for the purpose for which it was originally intended, but not so registered.

41. Yard: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

42. Yard, Front: A yard extending across the full width of a lot and lying between the front lot line of the lot and the front building line of the principal building.

43. Yard, Rear: A yard extending across the full width of a lot and lying between the rear lot line of the lot and the nearest building line of the principal building.

44. Yard, Side: A yard between a side lot line of a lot and the nearest building line of the principal building extending from the front yard to the rear yard.