

**ZONING LOCAL LAW
TOWN OF KIRKWOOD**

**ARTICLE XIV
ADMINISTRATION**

SECTION 1401 Enforcement

This Local Law shall be enforced by a person designated as the Enforcement Officer by the Town Board who shall in no case except under written order of the Zoning Board of Appeals, grant any building permit or certificate of occupancy for any building or premises where the proposed construction, alteration or use thereof would be in violation of any provision of this Local Law. If the Enforcement Officer shall find any violation of this Local Law, he shall serve written notice of said violation upon the violator. From the date of such written notice, or from such date as may be designated in said notice, said person in violation shall have thirty (30) days to comply with the provisions of this Local Law.

SECTION 1402 Building Permit and Certificate of Occupancy

Building permits and certificates of occupancy shall be issued by the Enforcement Officer in accordance with the requirements of the New York State Uniform Building & Fire Prevention Code, when the application for the same is in compliance with the requirements of this Local Law and Section 502.

SECTION 1403 Zoning Board of Appeals

- A. The Town Board shall appoint a Zoning Board of Appeals, the creation and powers and duties of which shall be in accordance with the provision of the Town Law of the State of New York.
- B. Each application being reviewed, except for individual set back and lot line variances and area variances for a single family, two-family, or three-family residences, shall contain a Full Environmental Assessment Form pursuant to Article 8 of the Environmental Conservation Law of the State of New York which shall include a description and evaluation of the nature of the probable environmental impact, including specification of the predictable adverse impacts on the natural environment and an evaluation of measures to mitigate adverse effects. Any Environmental Impact Statement, if required, shall be submitted on electronic media in Microsoft Word format.

SECTION 1404 Amendment

- A. This Local Law may be amended as provided by law. Any proposed amendment shall be submitted to the Town Planning Board for a report and recommendation prior to any action thereon by the Town Board. If the Planning Board recommends against the enactment of any proposed amendment, it shall become effective only by a favorable vote of four (4) members of the Town Board.
- B. The Town Board may, from time to time, on its own motion or on petition, in accordance with the applicable provisions of the Town Law, after public notice and hearing, amend, supplement, change, modify or repeal this Local Law.
- C. Each amendment being reviewed shall contain a detailed environmental assessment form pursuant to Article 8 of the Environmental Conservation Law of the State of New York which shall include a description and evaluation of the nature of the probable environmental impact including specification of the predictable adverse impacts on the natural environment and an evaluation of

measures to mitigate adverse effects. Any Environmental Impact Statement required shall be submitted on electronic media in Microsoft Word format.

SECTION 1405 Notice of Hearing

At the time of the public hearing on any rezoning amendment which is in regard to rezoning of any premises to any classification, an affidavit stating that no earlier than twenty (20) days and no later than ten (10) days prior to such hearing, written notice of the proposed rezoning has been mailed to the owners of the property, as the names and addresses appear on the latest completed assessment roll, within one thousand (1000) feet of the premises to be rezoned, and listing all the names and addresses of the persons to whom such notice was mailed.

SECTION 1406 Violations and Penalties

- A. A violation of this Local Law or regulation made thereunder is an offense, punishable as follows:
1. For conviction of a first offense: A fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both.
 2. For conviction of a second offense both of which were committed within a period of five years: A fine of not less than three hundred fifty- dollars and not more than seven hundred dollars or imprisonment for a period not to exceed six months, or both.
 3. For conviction of a third or subsequent offense all of which were committed within a period of five years: A fine of not less than seven hundred dollars or imprisonment for a period not to exceed six months, or both.
- B. Each week's continued violation shall constitute a separate additional violation.
- C. In the event that any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this Local Law or regulation made thereunder, in addition to other remedies, the Town Board may institute any appropriate action or proceedings to prevent such unlawful act, to restrain, correct or abate such violation or to prevent any illegal act thereunder.

SECTION 1407 Application Fees

Any person applying for a site plan review pursuant to section 502 of this Local Law or for a variance of the provisions of this Local Law or a special permit or interpretation hereunder shall pay to the Town Building Inspector an application fee required in this section before the matter is referred to the Town Planning Board or Zoning Board of Appeals as follows:

- A. Site Plan Review:
1. \$100.00 involving a new structure or new use, plus cost of publication of legal notice in official town newspaper
 2. \$50.00 involving an existing structure or existing use, plus cost of publication of legal notice in official town newspaper
 3. The publication cost for legal notice in the official town newspaper under subsections A(1) and (2) shall be \$50.00, unless otherwise provided by the Town Building Inspector (Added 11/3/14)

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- B. Application to Board of Appeals for variance, special use permit or interpretation of Zoning Local Law:
1. \$50.00, plus cost of publication of legal notice in town newspaper
 2. The publication cost for legal notice in the official town newspaper under subsection B(1) shall be \$50.00, unless otherwise provided by the Town Building Inspector (Added 11/3/14)

SECTION 1408 Separability

The provisions of this local law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 1409 Repealer

The Town of Kirkwood Zoning Ordinance adopted on September 4, 1973, as amended thereafter, be and same is hereby repealed. The repeal of said ordinance, as amended, shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such repeal had not been effected.

All actions and proceedings, civil or criminal, commenced under or by virtue of said ordinance so repealed, and pending immediately prior to the taking effect of such repeal, may be prosecuted and defended to final effect in the same manner as if such provisions were not repealed.

Nothing herein shall act to validate the extension, expansion, enlargement or cessation of any non-conforming use or building that is in violation of said ordinance so repealed on the effective date of said repeal.

Section 1410 Effective Date

This local law shall take effective immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.