

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE XVII**  
**APPLICATION OF REGULATIONS**

**SECTION 1701            Purpose**

The purpose of Article XVII is to establish one location that identifies all current Ordinance Violations and Penalty Fee Schedules for the Town of Kirkwood. A fee schedule established by LL #3 -2019 dated 12/03/2019 and maybe amended by resolution of the Town Board of Kirkwood. Such fee schedule may thereafter be amended from time to time by like resolution.

**SECTION 1702            AMUSEMENTS – Ordinance for Licensing and Regulating**

Reference: Amusement Ordinance, SECTION 6, Violation of ordinance; penalties therefore:

- A. A violation of this ordinance is a violation and is punishable as set forth in Section 6(B). Note that the maximum fine on any one occasion cannot exceed \$1,000. (Amended 11/3/14)
- B. Conviction of an offense as provided herein shall be punishable as follows:
  - 1. An activity which commences prior to 11:00 o'clock P.M. and terminates between 11:31 P.M. and midnight shall for a first conviction thereof be punished by a fine of \$250.00; and for a conviction of a second or subsequent violation thereof committed during any calendar year by a fine of \$500.00.
  - 2. An activity which commences after 11:00 o'clock P.M. and terminates prior to 11:30 P.M. shall for a first conviction thereof be punished by a fine of \$250.00; and for a conviction of a second or subsequent violation thereof committed during any calendar year by a fine of \$500.00.
  - 3. An activity which commences after 11:00 o'clock P.M. and terminates between 11:31 P.M. and midnight shall for a first conviction thereof, in addition to the fine set forth in subparagraph 2 above, be punished by an additional fine of \$250.00; and for a conviction of a second or subsequent violation thereof committed during any calendar year by an additional fine of \$500.00.
  - 4. Any activity which terminates after midnight for a conviction thereof shall be punished by a fine of \$750.00 in addition to any other fine for such activity set forth above.
  - 5. However, in no event, shall the cumulative fines imposed above exceed the sum of \$1,000.00 for any individual activity.

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**Fines to be Imposed for Violation(s) of Amusement Ordinance**

Race starts before 11:00 PM and ends by 11:30 PM	No Violation → No Fine
Race starts before 11:00 PM and ends between 11:31 PM (ex: 11:35 PM) and 12 AM	Violation → 1. 1 <sup>st</sup> Offense: \$250 fine 2. 2 <sup>nd</sup> or subsequent Offense, within the same calendar year: \$500 fine
A race that starts after 11:00 PM and ends before 11:30 P.M.	Violation → 1. 1 <sup>st</sup> Offense: \$250 fine 2. 2 <sup>nd</sup> Offense: within the same calendar year, \$500 fine
A race that starts after 11:00 PM and ends between 11:31 PM and 12 AM	Violation → In addition to above fine 1. 1 <sup>st</sup> Offense: \$250 fine 2. 2 <sup>nd</sup> or subsequent Offense: within the same calendar year, \$500 fine
Race that extends beyond 12 AM	Violation → Fine of \$750 in addition to above fines

Note: Maximum fine on any one occasion cannot exceed \$1,000.

**SECTION 1703 BUILDINGS, UNSAFE**

Reference: LL #2-1980, SECTION 10, Assessment of Expenses.

All expenses incurred by the town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, and all reasonable and necessary legal expenses incidental thereto, shall, at the option of the Kirkwood town board, either:

- A. Be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in article fifteen of the Town Law for the levy and collection of a special ad valorem levy, or
- B. Be collected by commencement of a special proceeding against the owner of said unsafe or dangerous building or structure pursuant to General Municipal Law section 78-b.

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**SECTION 1704 BUSINESS TWO—ENTERTAINMENT (B2-E)**

Reference: ARTICLE V, SECTION 507.7, Penalty.

Failure to register said adult use with the Town Clerk as hereinbefore directed is an offense in violation of this section and upon conviction thereof, is punishable by a fine not to exceed Five Hundred (\$500.00) Dollars. Continuation of such violation for each subsequent period of one week shall be a separate offense punishable by an additional fine not to exceed Five Hundred (\$500.00) Dollars

**SECTION 1705 DOG CONTROL**

**This Section (1705) was Repealed in its entirety on January 2, 2024 by LL #2-2024.**

For Dog Control Information Refer to the Dog Control Section on Page 1001.

**SECTION 1706 DOG FECES, REMOVAL OF**

Reference: LL #1-1997, SECTION 8.

- A. A violation of this local law is an offense, punishable as follows:
  - 1. For conviction of a first offense: A fine not exceeding twenty five dollars.
  - 2. For conviction of a second offense both of which were committed within a period of six months: A fine not exceeding fifty dollars.
  - 3. For conviction of a third or subsequent offense, all of which were committed within a period of six months: A fine not exceeding one hundred dollars.
- B. A first violation shall be deemed to have occurred from the date of written notification of violation issued by the Dog Control Officer or Enforcement Officer or from such date as may be designated in such written notice.

**SECTION 1707 HIGHWAYS, DEPOSIT AND/OR TRACKING MATERIALS ON**

Reference: LL #1-1993, SECTION 4, Enforcement and Penalties.

- A. Conviction under this local law shall be a violation as defined by Section 55.10(3) of the Penal Law of the State of New York.
- B. Each day during which a violation continues may be deemed to be a separate violation.
- C. Conviction of an offense as provided by this local law shall be punishable by the following:

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1. In the case of a corporation, a fine in accordance with Penal Law Section 80.10, and/or
  2. In the case of an individual(s), a fine of not more than \$250.00 or a term of imprisonment not to exceed fifteen (15) days or both, and/or
  3. Restitution based on the costs incurred by the Town in the removal of any debris deposited or tracked in violation of this local law, and/or
  4. Community service.
- D. In addition to the above provided penalties and punishment, the town board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with this local law by injunction, abate or otherwise compel cessation of each violation, or obtain restitution to the Town for costs incurred by the Town in identifying and remedying each violation, including but not limited to reasonable attorney's fees.

**SECTION 1708            HUNTING/TRAPING IN RECREATIONAL AREAS**

Reference: LL #1-1981, SECTION 5, Penalties:

Upon conviction, a violation of this local law shall be deemed an offense and punishable by a fine not exceeding fifty dollars (\$50.00) for the first offense, and one hundred dollars (\$100.00) for each offense thereafter.

**SECTION 1709            ILLICIT DISCHARGES TO SEPARATE STORM SEWER SYSTEMS**

Reference: LL # 8-2007, SECTION 14.2, Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

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**SECTION 1710            JUNK ORDINANCE**

Reference: Junk Ordinance, SECTION 8, Violation of ordinance an offense; penalties therefor:

- A. A violation of this ordinance is an offense, punishable by a fine not exceeding one hundred dollars, imprisonment for a period not to exceed fifteen days, or both.
- B. A civil penalty not to exceed one hundred dollars per day of violation.
- C. In addition to the above prescribed penalties, the Town Board may in its discretion revoke any permit or license previously issued after a public hearing at which the applicant shall have an opportunity to be heard, or in the alternative, may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with this ordinance by injunction, abatement or otherwise compel cessation of each violation, and obtain restitution to the Town for costs incurred by the Town in remedying each violation, including but not limited to reasonable attorney's fees.
- D. Additional enforcement provisions:
  - 1. Compliance Orders. - The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in, or on about any building, structure, or premises in violation of this ordinance. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates this ordinance; (4) specify the provision or provisions of this ordinance which is/are violated by the specified condition or activity; (5) specify the period of time which the code enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail.
  - 2. Appearance Tickets. - The Code Enforcement Officer and his designee are authorized to issue appearance tickets of any violation of this ordinance.
  - 3. Injunctive Relief. - An action or proceeding may be instituted in the name of the town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of,

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or to enforce, any provision of this ordinance, Certificate, License, compliance Order, or other notice or order issued by the code Enforcement Officer pursuant to any provision of this ordinance. In particular, but not by way of limitation, where the construction or use of a building or structure, or any activity on the premises, is in violation of any provision of this ordinance or a Compliance Order or other order obtained under this ordinance, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the compliance with this ordinance and the abatement of the condition or activity in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the town board.

- E. Remedies Not Exclusive. - No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for a limitation of, the other remedies or penalties specified in this section, in other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other Remedy or penalty specified in this section, in any other section of this Local law, or in any other applicable law.

**SECTION 1711            MASS GATHERINGS**

Reference: LL #3-1981, SECTION 12, Enforcement and Penalties:

- A. Any person who shall use, allow, let or permit to be used property for a mass assembly as defined herein or any person who shall promote or advertise such mass assembly without first obtaining a written permit in accordance with the provisions of this Local Law, shall be deemed to have violated this Local Law. Any person who commits or permits any act in violation of any provisions of this Local Law, shall be deemed to have committed a misdemeanor and shall be liable for the penalties provided.
- B. For each violation of the provisions of this Local Law, the person violating the same shall be subject to a fine of not more than \$500, nor less than \$100, or imprisonment not to exceed one year, or both.

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- C. In addition to the above provided penalties, the Town of Kirkwood may maintain an action or proceeding in the name of the Town of Kirkwood in a Court of competent jurisdiction to compel compliance with or to restrain by injunction, the violation of this Local Law.

**SECTION 1712          PARKS USE**

Reference: LL 2-1975, SECTION 5, Penalties of Offenses: Enforcement

- A. A violation of this local law shall constitute an offense punishable by a fine not to exceed one hundred dollars (\$100.00) for each and every such offense.
- B. Any state police officer or police officer of Broome County or any of its municipal subdivisions may, without a warrant, arrest any offender whom he may detect in the violation of any of the provisions of the above sections, take the persons so arrested forthwith before a Magistrate having competent jurisdiction, and he shall have at all times a right to enter the premises of any building, structure or enclosure in any park, including such grounds, buildings, structures or enclosures in any Town Park which may be leased or set aside for private or exclusive use of any individual or groups of individuals for the purpose of arresting violators hereof, and may use all necessary means to attain that end.

**SECTION 1713          PEDDLERS & SOLICITORS**

Reference: LL #5-1979, SECTION 12, PENALTIES FOR OFFENSES.

Any person committing an offense against any provision of this local law shall, upon conviction thereof, be guilty of a violation punishable by a fine not exceeding two hundred fifty dollars (\$250) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this local law shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

**SECTION 1714          POWER PLANTS**

Reference: LL #7-1990, SECTION X, PENALTIES

Upon conviction, a violation of this Local Law shall be deemed a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) for each and every such offense, or imprisonment for a period not to exceed ninety (90) days, or both. Each day's violation shall constitute a separate and additional violation. In addition to the above-provided penalties and punishment, the Town Board in its discretion may immediately suspend the permit to operate said facility or, in the alternative, may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to

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compel compliance with or to restrain by injunction the violation of such local law. Said permit to operate may also be revoked by the Town Board for any violation or violations of this Local Law which continue for a period of 15 consecutive days or more. Any revocation hereunder shall be subject to a public hearing thereon at which the applicant shall have an opportunity to be heard.

**SECTION 1715            RECYCLING LAW**

Reference: LL #6-1989, SECTION 2.8, Penalties

Upon conviction, a violation of this Local Law shall be deemed an offense and shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.00) for each and every such offense, or imprisonment for a period not to exceed fifteen (15) days, or both. Each day's violation shall constitute a separate and additional violation. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such local law.

**SECTION 1716            ROAD PRESERVATION LAW**

Reference LL #6-2012, Section 18, Violation of Local Law; Penalties Therefore

- A. Any person who violates any provision of this Local Law shall be deemed guilty of a Misdemeanor and, upon conviction thereof, shall be subject to penalties in a fine of not less than \$1,000 and imprisonment up to one year.
- B. In addition to those penalties prescribed herein, any person who violates any provision of this Local Law shall be liable for a civil penalty in an amount not to exceed \$5,000 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town.
- C. If the violation is of a continuing nature, each twenty-four hour period during which it occurs shall constitute an additional, separate and distinct offense.
- D. An action or proceeding may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce any provision of this Local Law. In particular, but not by way of limitation, where there is a violation of this Local Law, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing abatement of the condition in violation of such provisions. The Town may seek restitution for costs incurred by the Town in remedying each violation, including but not limited to reasonable attorney's fees.

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- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this Local Law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section.

**SECTION 1717           SEWER CONNECTION ORDINANCE**

Reference: Sewer Connection Ordinance, SECTION 18, Enforcement and Penalties

- A. Whenever it shall appear to the Town Engineer, after investigation, that any person has violated any provision of this law (other than a provision of Section 22), the Town Engineer shall give written notice to the alleged violator or violators setting forth the nature of the violation, and directing that the matters complained of be corrected within such reasonable time limit as may be set by the Town Engineer. Any such notice shall be served on the violator by personal service or by registered or certified mail sent to the last address of the violator known to the Town Engineer. Where the address is unknown, service may be made upon the owner of record of the property involved. If satisfactory action is not taken within the time allotted by the notice, the violator shall be subject to the penalty provisions set forth in subsection (b) below, in addition to any Town code enforcement procedures otherwise authorized by law.
- B. Any person who willfully violates any provision of this law (other than a provision of Section 22), or any order of the Town Engineer issued pursuant to subsection 1 above, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). Each offense shall be a separate and distinct offense, and in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- C. Any person violating any of the provisions of this law shall, in addition, be liable to the Town for any expense, loss or damage occasioned to the Town by reason of such violations, and any expense incurred in correcting the violation.
- D. The Town Attorney, on his own initiative or at the request of the Town Engineer or Town Board, shall have the right to seek equitable relief in the name of the Town to restrain the violation of, or to compel compliance with, this law, or any order or determination issued thereunder by the Town Engineer.
- E. Notwithstanding any inconsistent provisions of law, whenever the Town Engineer finds, after investigation, that any user is causing, engaging in or maintaining a condition or activity which in

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his judgment presents an imminent danger to the public health, safety or welfare, or to the environment, or is likely to result in irreversible or irreparable damage to the sanitary sewer system, and it therefore appears to be prejudicial to the public interest to delay action until notice and an opportunity for a hearing can be provided, the Town Engineer may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as in his judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. In the event of a user's failure to comply voluntarily with such emergency order, or where the giving of notice is impracticable, the Town Engineer may take all appropriate action to abate the violating condition, including disconnecting the user's premises from the Town's sanitary sewer system. As promptly as possible thereafter, not to exceed fifteen (15) days, the Town Engineer shall provide the user with the written notice required by subsection 1 of this section.

**SECTION 1718            SOLAR ENERGY SYSTEMS**

**This Section (1718) was Repealed on September 6, 2022 by LL #6-2022.**

For Solar Energy System Information Refer to Page 7901.

**SECTION 1719            STORMWATER MANAGEMENT AND EROSION & SEDIMENT CONTROL**

Reference: LL #7-2007, Section 3.4, Penalties

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

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**SECTION 1720            STREET EXCAVATION ORDINANCE**

Reference: Street Excavation Ordinance, SECTION 6, Penalties.

- A. A violation of this ordinance is an offense, punishable by a fine not exceeding two hundred fifty dollars or imprisonment for not more than fifteen days, or both.
- B. In addition to the above prescribed penalties, the Town Board may in its discretion revoke any permit previously issued after a public hearing at which the applicant shall have an opportunity to be heard, or in the alternative, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with this ordinance by injunction, abatement or otherwise compel cessation of each violation, and obtain restitution to the Town for costs incurred by the Town in remedying each violation, including but not limited to reasonable attorney's fees.

**SECTION 1721            SUBDIVISION REGULATIONS**

Reference: Subdivision Regulations, SECTION 501, Violations and Penalties

- A. A violation of these regulations is a misdemeanor, punishable by a fine not exceeding five hundred dollars or imprisonment for not more than 90 days, or both.
- B. Each week's continued violation shall constitute a separate violation.
- C. A first violation shall be deemed to have occurred from the date of written notification of violation issued by the Building Inspector or from such date as may be designated in such written notice.
- D. The Town Board, at the request of the Building Inspector, may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with these rules by injunction, abatement or otherwise compel cessation of each violation, and obtain restitution to the Town for costs incurred by the Town in remedying each violation, including but not limited to reasonable attorney's fees.

**SECTION 1722            SWIMMING POOL ORDINANCE**

Reference: Swimming Pool Ordinance, SECTION 5, Penalty for Violation

A violation of this ordinance is an offense, punishable by a fine not exceeding two hundred fifty dollars or imprisonment for not more than fifteen days, or both.

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**SECTION 1723           TRAFFIC ORDINANCE**

Reference: Traffic Ordinance, SECTION 300, Penalties for Violation or Ordinance.

A violation of this ordinance is an offense, punishable as follows:

- A. For conviction of a first offense: A fine not exceeding fifty dollars or imprisonment for not more than fifteen days, or both.
- B. For conviction of a second offense: A fine not exceeding one hundred dollars or imprisonment for not more than fifteen days, or both.
- C. For conviction of a third or subsequent offense: A fine not exceeding two hundred fifty dollars or imprisonment for not more than fifteen days, or both.

**SECTION 1724           WATER MAINS ORDINANCE**

Reference: Water Mains Ordinance, SECTION 14, Penalties

The violation of any of the provisions of this local law is an offense and any person violating any provisions of this local law shall be subject to a fine not exceeding Fifty Dollars (\$50.00) or imprisonment not exceeding fifteen (15) days or both. In addition to the above provided penalties, the Town of Kirkwood may maintain an action or proceeding in the name of the Town of Kirkwood in a court of competent jurisdiction to compel compliance with or to restrain by injunction, the violation of this local law.

**SECTION 1725           MOBILE HOME - TRAILER ORDINANCE**

Reference: Mobile Home- Trailer Ordinance, ARTICLE VIII - ADMINISTRATION, SECTION 801, Penalties.

- A. A violation of this ordinance is a misdemeanor, punishable as follows:
  - 1. For conviction of a first offense: A fine not exceeding one hundred dollars.
  - 2. For conviction of a second offense: A fine not exceeding two hundred dollars.
  - 3. For conviction of a third or subsequent offense: A fine not exceeding three hundred dollars.
- B. In addition to the above prescribed penalties, the Town Board may in its discretion revoke any permit previously issued after a public hearing at which the applicant shall have an opportunity to be heard, or in the alternative, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with this ordinance by injunction, abatement or otherwise compel cessation of each violation, and obtain restitution to the Town for costs incurred by the Town in remedying each violation, including but not limited to reasonable attorney's fees.

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**SECTION 1726           AQUIFER PROTECTION DISTRICT**

Reference: Aquifer Protection District, ARTICLE VIII, SECTION 812. Penalties.

Upon conviction, a violation of this Article shall be deemed a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) for each and every such offense, or imprisonment for a period not to exceed ninety (90) days, or both. Each day's violation shall constitute a separate and additional violation. In addition to the above-provided penalties and punishment, the Town Board in its discretion may immediately revoke any special permit previously issued or, in the alternative, may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such article.