

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

**SECTION 501            Performance Standards**

- A. Land uses in all districts shall operate within the limits specified as follows as safe guards and conditions for the protection of the community welfare.
- B. Standard methods of collection, measure and chemical analysis, or any method approved by the United States Bureau of Standards, shall be used in the application of these standards.

**SECTION 501.1        Noise**

A. Measurement of Noise

- 1. The measurement of noise or sound shall be made by the town enforcement officer or his designee with a sound level meter meeting the standards prescribed by the American National Standards Institute S1.4
- 2. Except where otherwise prescribed, the slow meter response of the sound level meter shall be used in order to determine that the average of three readings taken over a 15-minute period does not exceed the limiting sound levels set forth in this section.
- 3. Measurement of noise levels shall be made at the prescribed locations and shall be taken at least four (4) feet from ground level.
- 4. Compliance with noise limits is to be maintained at all elevations at the boundary of the property.
- 5. For any source of sound which emits a pure tone or impulsive sound, the maximum sound level limits set forth in subparagraph B shall be reduced by five dBA.

B. Maximum Permissible Sound Levels by Receiving Land Use

No person shall operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category below when measured at or within the property boundary of the receiving land use.

Receiving Land Use District	Time of Day	Sound Level Limit dBA
Agricultural/Rural Residence (A/R-R) Residence (R) Residence (R-1) Residence Multi (R-M) Planned Unit Development	{ { 7:00a.m. -9:00p.m. { 9:00p.m. -7:00a.m.	60 50
Business One (B-1) Business Two (B-2) Industrial Development	} } } All Hours	60

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

C. Exemptions

The provisions of subparagraph B shall not apply to:

- a. The use of bells, chimes or sound amplifiers by churches engaged in church activities.
- b. Activities of the Town or Volunteer Fire Companies in the performance of their duties, drills or public demonstrations.
- c. Activities in public parks, playgrounds or public buildings under permission or authority of the Town.
- d. Motor vehicles and motorcycles operating off public rights-of-way pursuant to permission or authority of the Town.
- e. Refuse collecting vehicles as regulated pursuant to subparagraph D5.
- f. Recreational motorized vehicles operating off public rights-of-way as regulated pursuant -to subparagraph D4.
- g. The use of snow blowers, lawn mowers and domestic power tools.
- h. Electrical distribution transformers.

D. Without limiting the general applicability of subparagraph B, the following acts are further regulated as herein provided:

1. Sound Trucks

- a. A sound truck as referred to herein shall mean a motor vehicle or trailer containing sound amplification equipment capable of generating a sound level reading of 65 dBA or more measured at a distance of 50 feet from the source.
- b. Sound trucks may be operated in accordance with the following regulations upon the issuance of a permit by the Town Zoning Board of Appeals for each occasion and each location:
  - 1) Sound trucks shall not be operated in the Town before 9:00 a.m. and after 9:00 p.m.
  - 2) Moving sound trucks shall keep to the extreme right hand side of the road and shall proceed at a speed of not less than ten miles per hour.
  - 3) Stationary sound trucks are prohibited in all R, RI, R-R, R-M, Planned Mobile Home and Planned Development-Residential Districts in the Town, but may be operated in all other zoning districts during the hours referred to above.

2. Noise Sensitive Zones: Schools, Courts, Churches, Hospitals, Nursing Homes, etc.

The creation of excessive noise on a street adjacent to a school, institution of learning, church or court while in use or adjacent to a hospital or nursing home, which unreasonably interferes with the working of the institution or which disturbs or unduly annoys patients in the hospital or nursing home, is prohibited provided that conspicuous signs are displayed in such a street indicating that it is a school, hospital, church or court street.

3. Motor Vehicles and Motorcycles Operating Off Public Rights-of-Way

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

No person shall operate or cause to be operated a motor vehicle or motorcycle off a public right-of-way at any time and in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the following levels measured at 50 feet or 15 meters:

**Maximum Sound Level in dBA**

Vehicle Class	Speed Limit 35 MPH or less	Speed Limit Over 35 MPH	Stationary Rumup
Motor Carrier Vehicle engaged in interstate commerce of GVWR or GCWR of 10,000 lbs. or more	86	90	88
All other motor vehicles of GVWR or GCWR of 10,000 lbs. or more	82	86	
Any motorcycle	82	86	
Any other motor vehicle of any combination of vehicles towed by any motor vehicle	76	80	

4. Recreational Motorized Vehicles Operating Off Public Rights-of-Way.

- a. Except as permitted in subsection D4c below, no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the following limits at a distance of 50 feet (15 meters) or more from the path of said vehicle.
- b. This section shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, go-carts, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats.
- c. Permits for motor vehicle racing events may be obtained from the Town according to appropriate procedures.

Vehicle Type	Sound Level dBA
Snowmobile	75
Any Other Vehicle	82

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

5. Refuse Collection Vehicles

No person shall:

- a. Operate or permit the operation of the compacting mechanism of any motor vehicle which compacts refuse and which creates, during the compacting cycle, a sound level in excess of 80 dBA when measured at 23 feet (7 meters) from any point on the vehicle; or
- b. Collect refuse with a refuse collection vehicle between the hours of 9:00 p.m. and 6:00 am. the following day in an R, R-1, R-R, R-M, Planned Mobile Home and Planned Development-Residential Districts or noise sensitive zone as defined in subparagraph 2 of this subparagraph D.

6. Standing Motor Vehicles

No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached or intended to be attached to such a vehicle, while the vehicle is stationary, for reasons other than traffic congestion or emergency, loading or unloading in R, R-1, A/R-R, R-M, B-1, B-2, Planned Mobile Home and Planned Development - Residential Districts or noise sensitive zone as defined in subparagraph 2 of this subparagraph D, or within 150 feet (46 meters) of such districts or noise sensitive zone, except farm machinery being operated in a A/R-R District or at a truck stop facility in a B-2 District after site plan review.

7. Tampering

The moving or rendering inaccurate or inoperative of any sound monitoring instrument or device positioned by the Town or its designated employee or agent is prohibited, provided such device or the immediate area is clearly labeled to warn of the potential illegality of such tampering.

**SECTION 501.2      Odor**

It shall be unlawful for any person to permit the emission of any odor that is unreasonably offensive as measured at the individual property lines. Nothing in this section shall be construed to prevent ordinarily accepted farm practices in a A/R-R District.

**SECTION 501.3      Dust and Dirt**

It shall be unlawful for any person to permit or cause the escape of such quantities of soot, cinders or fly ash as to exceed 0.3 grains per cubic foot of flue gasses at a stack temperature of 500 degrees F. when measured at the top of the stack. Other kinds of dust, dirt and other particulate matter shall not be in excess of 0.3 grains per cubic foot of air as measured at the top of the stack and corrected to standard conditions, provided that if the top of the stack is 100 feet or more above the finished grade, the amount of particles of not more than 10 microns in size, if any, may be increased to an amount not in excess of 0.03 (H/1002) grains per cubic foot, corrected to standard conditions, where H is the height of the top of the stack above the finished grade.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

**SECTION 501.4          Parking**

Each land user must provide sufficient suitable on-site parking spaces to prevent any necessity for off-site parking as required by Article V, Section 505 - Off Street Parking and Loading Requirements.

**SECTION 501.5          Vibration**

It shall be unlawful to cause any vibration which is discernible without instruments on any adjoining lot or property. Nothing in this section shall be construed to prevent ordinary construction practices.

**SECTION 501.6          Toxic Emissions**

- A. No business or industry shall emit toxic gases or vapors. Toxic substances shall be:
1. Those defined as those named in Documentation of Threshold Limit Values by the American Conference of Government Industrial Hygienists and the latest printed edition of the “Registry of Toxic Effects of Chemical Substances” issued by the National Institute for Occupational Safety and Health and as may be hereinafter amended, and
  2. All chlorinated or brominated dibenzo-para-dioxins, dibenzofurans, biphenyls, and all polycyclic aromatic hydrocarbons.
- B. Any state or municipal law enforcement officer or the town clerk or any member of the town board or any of its duly authorized representatives shall be granted access to the area of the activity or business or industry at all reasonable hours to inspect the same for compliance herewith.

**SECTION 501.7          Glare**

It shall be unlawful to produce intense glare or flashing of lights except within a completely enclosed building in such manner that no discomfort glare shall be disseminated beyond the building. No sky reflected or indirect glare shall be permitted, if any operation is to be conducted in any area outside of a building except where required for safety purposes.

**SECTION 501 .8          Radio-Active Materials**

It shall be unlawful for any person to permit the emission of such quantities of radio-active materials, in any nature whatsoever, as to be unsafe under standards established by the United States Bureau of Standards.

**SECTION 501 .9          Fire and Safety Hazards**

All buildings, operations, storage, waste disposal, etc., shall be in accordance with applicable provisions of the latest published edition of the Uniform Fire Prevention & Building Code of New York State.

**SECTION 501.10          Open/Outdoor Storage**

It shall be unlawful for any persons to permit the open/outdoor storage of any material, scrap or waste without screening, such as a fence, hedge, or other barrier at least six (6) feet high or of sufficient height

**ZONING LOCAL LAW**  
**TOWN OF KIRKWOOD**

**ARTICLE V – SUPPLEMENTARY STANDARDS**

to hide storage materials in accordance with the Uniform Fire Prevention & Building Code of New York State, that makes the open/outdoor storage invisible to neighboring property owners and persons passing in a normal manner any property line facing the public right of way. Location of said screening shall be subject to the front, side and rear yard restrictions provided, however, that protective fencing, decorative planting etc., shall not be subject to these restrictions. Outdoor storage shall not be allowed in the front yard. All screening shall be maintained in a neat and orderly manner. Contractor storage must be a minimum of 200 feet from a residential district.

**SECTION 501.11      Smoke**

It shall be unlawful for any person to permit the emission of any smoke from any source whatever, as measured at the individual property line, of a density greater than, or equal to that density described as No. 2 on the Ringelmann Chart as published by the United States Bureau of Mines provided, however, that the emission of smoke shall be unlawful if it is unreasonable offensive in terms of odor or noxious gases despite its apparent lack of density when measured by the Ringelmann Chart published by the U.S. Bureau of Mines, Information Circular #'s 7588 or 8333.

**SECTION 501 .12      Pollution of Water**

It shall be unlawful for any person to permit the pollution of surface water drainage or of ground water in any manner that renders it less usable in quality and quantity for irrigation, swimming, drinking, visual attractiveness or whatever lawful uses made of water resources to persons downstream that such water's usefulness as it enters said person's property or area of operation.

**SECTION 501 .13      Visibility at Intersections**

On corner lots clear vision shall be maintained within the triangular area formed by the intersecting Street lines and a straight line joining said street lines at points which are twenty (20) feet distant from the point of intersection, measured along said street lines. In such area no shrubbery, fence or other obstruction shall be permitted higher than three (3) feet from the accepted street grade, nor shall branches or foliage of trees be permitted less than ten (10) feet from the ground.

**SECTION 501.14      Dwelling Units Below Grade**

- A. It shall be unlawful to occupy any dwelling unit below grade prior to such unit having the roof on and upper stories fully enclosed and sided and all utilities and services being connected and a temporary certificate of occupancy having been issued by the Enforcement Officer of the Town of Kirkwood.
- B. It shall be lawful to occupy or use for sleeping quarters all or any portion of a cellar of a completed dwelling unit providing the same is adequately lighted, heated and ventilated and can be occupied safely without endangering life or the public welfare and meeting the New York State Uniform Fire Prevention & Building Code for egress.

**SECTION 501.15      Underground Dwelling Units**

- A. An Underground Dwelling Unit shall only be located in areas where the seasonal high water table is more than fifteen (15) feet below the ground surface level.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

- B. An Underground Dwelling Unit shall be subject to a Site Plan Review by the Planning Board pursuant to Sections 502.1 and 502.2 prior to the issuance of a building permit.

**SECTION 501.16      Incineration**

No person shall operate or use any article, machine, equipment, or other contrivance for the incineration of animal or vegetable matter, garbage, trash, or waste unless all gases, vapors, and gas entrained effluents from such an article, machine, equipment, or other contrivance or incinerated at temperatures of not less than 2200 degrees F. (1200 degrees C.) flame temperature with a dwell time of not less than 1.0 second. Standard residential & commercial/ industrial fossil fuel heating systems and the personal smoking of tobacco products shall be exempt from the provisions of this Section.

**SECTION 501.16      Garage Sales**

**(SECTION 501.17)      (Added December 3, 2002 by LL No. 6-2002. Local Law passed as additional Section 501.16. Should be Section 501.17.)**

- A. For purposes of this section, the following terms, phrases and words and their derivations shall have the meanings given herein:
1. GARAGE SALE: Includes all general sales, open to the public, conducted from or on residential premises or in any residential zone, as defined in the Zoning Local Law, for the purposes of disposing of personal property, including but not limited to all sales entitled “garage”, “lawn”, “estate”, “yard”, “tag”, “porch”, “attic”, “basement”, “rummage”, “flea market” or any similar casual sale.
  2. PERSONAL PROPERTY: Property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.
- B. Sale of other than personal property prohibited.  
It shall be unlawful for any individual to sell or offer for sale under authority granted by this section, property other than personal property.
- C. Prohibited conduct.
1. No garage sale shall be longer than three (3) days in duration. No property may hold a garage sale more
  2. than twice in a calendar year.
  3. A garage sale may be held during daylight hours only.
  4. No signs advertising such sale shall be larger than six (6) square feet (ie, 2 feet by 3 feet).
  5. All signs must be removed by the end of the final day of the sale.
- D. Exemptions.  
This section shall not apply to:
1. Persons selling goods pursuant to an order of process or an order of a court of competent jurisdiction.
  2. Persons acting in accordance with their powers and duties as public officials.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

3. Any public auction conducted by an auctioneer licensed by the State of New York.
4. Any sale conducted by any lawful and legitimate business or commercial or industrial establishment or any sale conducted by any other vendor or dealer in a time, place and manner not otherwise prohibited by state or local laws.
5. Personal property offered for sale but not constituting a garage sale as defined in this section and displayed within a residence.
6. Noncommercial and occasional sales of goods by churches, schools and other governmental or non-for-profit organizations.

**SECTION 502                      Site Plan Review**

Building permits shall be issued pursuant to Rules for Building in the Town of Kirkwood for any building on any lot or tract of land in a “R-M,” “B-1,” “B-2,” “B-2-E,” “I-D,” “ID-R,” “ID-PPF,” “PUD,” “AP,” “M,” “AS,” or “CE” District, for non-residential uses in an “R,” “R-1,” and “A/R-R” Districts and for any underground dwelling unit only in compliance with a site plan for such lot or plot duly approved by the Planning Board in accordance with the following procedure. However, site plan review shall not be required for the first single-family residence constructed in an R-M District.

Whether or not a site plan review is needed, site plan review shall be required prior to:

- A. Any new business commencing operation within the Town unless in the judgment of the Town Code Enforcement Officer the new business is substantially the same as the prior business being operated at that location and the existing business is in full compliance with Town Local Laws and local laws, or
- B. Any excavating, cutting, filling, or grading of land within the Town, including but not limited to accessory structures. However, no such site plan review shall be required:
  1. On properties within a “R,” “R-1” or “A/R-R” District where:
    - a. the area so affected is less than one acre, or
    - b. the area so affected is more than one acre and:
      - 1) only brush hogging is to be performed, or
      - 2) agricultural best management practices are being performed which do not require a SPDES General Permit for Storm Water Discharges from Construction Activity set forth in a Memorandum of Understanding between NYS Department of Environmental Conservation, New York State Department of Agriculture and Markets and NYS Soil and Water Conservation Committee for Implementation of Agricultural Best Management Practices in Conformance with the SPDES General Permit for Storm Water Discharges from Construction Activity, GP-02-01, dated September, 2003.
  1. Before the area is disturbed, it must be protected so that soil or other debris cannot leave the property through erosion. Best Management Practices as set forth in the New York State Storm Water Design Manual shall be utilized. The property owner must reclaim the

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

area affected by seeding, planting, rip-rap or other means to prevent soil erosion within 60 days from the start of the disturbance. If the project is to last more than 60 days, it should be completed in stages to allow for the timely reclamation.

**SECTION 502.1      Submission of Site Plan**

Prior to the issuance of a building permit, a site plan for such lot or tract at a scale of 1"= 50' or a scale less to the inch, prepared by an architect, landscape architect, civil engineer, surveyor, land planner or other competent person, (unless, in view of the specific nature of that application, preparation by such a professional is expressly waived by the Chairperson of the Planning Board) including thereon the following information shall be submitted to the Town Planning Board for approval:

- A. Application. Application for a building permit for any land use or activity requiring site plan review and approval shall be made to the Code Enforcement Officer, who shall receive and review such application and refer it to the Planning Board for processing. As a part of the review, the Code Enforcement Officer shall certify that the site development plan meets all the minimum requirements of this section. If the site plan does not meet all minimum requirements of this section, the applicant may appeal to the Zoning Board of Appeals for a variance.
- B. Pre Submission conference. Prior to the preparation and submission of a final plan for site plan review and approval, the applicant may prepare a sketch plan and meet with the Planning Board to consider specifics of the proposed use or development, neighborhood characteristics, and features of the site. Such sketch plan should be submitted in duplicate and include enough information to enable a clear understanding of the proposal.
- C. Plan requirements. A final site plan for any land use or activity requiring site plan review and approval shall be prepared and submitted to the Planning Board. Such final site plan shall contain the following information, as applicable:
  - 1. Location name and address of owner, name of designer (if any) of the proposed development.
  - 2. Identification map showing the location of the site within the Town.
  - 3. Scale, North arrow, and date.
  - 4. Present zoning district in which the site is located.
  - 5. Location of the site in relation to all abutting properties and streets, and showing existing property lines, rights-of- way, and easements.
  - 6. Existing and proposed buildings, structures and land uses.
  - 7. A proposed layout of streets and other vehicular circulation facilities, including the location and width of driveways and type of curbing on site, loading and maneuvering areas, and ingress and egress to existing and prospective streets and highways. All access management must be in accordance with NYSDOT design standards.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

8. Projected number of seating or employees, if needed, to determine the number of parking spaces.
9. Any wetlands and/or floodable area included in the one-hundred-year floodplain.
10. A topographic survey extending 50 feet beyond the property line may be required.
11. A storm drainage and grading plan showing the collection and disposal of stormwaters, or, if applicable, a stormwater pollution prevention plan consistent with the requirements of LL # 07-2007 - Stormwater Management and Erosion & Sediment Control.
12. A plan showing proposed utilities and, if required, easements. If a private sewerage system is used, plans for the system shall bear the stamped approval of the Broome County Department of Health.
13. A prepared landscaping plan including existing major vegetation (trees and shrubs) and proposed landscaping treatment, including species, location, and planting size and full-growth size.
14. Drawings or sketches which illustrate the height, bulk, and design characteristics of the proposed building, and indicate major materials to be used.
15. Location and type of exterior lighting, and location and dimension of exterior signs, including ground and wall signs.
16. Any other information required by the Planning Department to explain the proposal.
17. Application form, project narrative form, SEQR documentation.
18. Whenever possible, applicant shall submit electronic copy of and all documentation relating to the application.
19. Developer's clause:
  - (a) On behalf of \_\_\_\_\_ (Developer-Applicant), we hereby certify and agree that the submitted plans meet all the requirements and specifications described in Section 502 (Site Plan Review), and any other applicable sections of the Town of Kirkwood. Notwithstanding any notes, provisions or specifications in the plans, we agree on behalf of the Developer-Applicant that Town of Kirkwood specifications shall take precedence over any such notes, provisions or specifications which may be inconsistent with and/or not in conformance with the Town of Kirkwood Code specifications. We further agree that in the event of any inconsistency or ambiguity between the notes, provisions or specifications on the final plans and the Town of Kirkwood Code, that in all cases the Town of Kirkwood Code specifications shall be controlling with respect to the work, materials or other requirements.  
Signature of Developer  
Signature of Developer's Engineer or Design Professional

Any of the above requirements may be waived by the Planning Board if conditions warrant.

**D. Referrals.**

1. To County Planning and any other involved agencies. Upon receipt of the complete application and before taking final action on certain applications for site plan approval (review), such applications shall be referred to the Broome County Planning Department

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

and any other involved agencies for review and report in accordance with the provisions of §§ 239-l, 239-m and 239-nn of the General Municipal Law.

- E. Relevant comments. In reviewing site plans it shall be the responsibility of the Planning Board to obtain comments or approvals in writing from any relevant Town before a decision on approval is made.
- F. Environmental assessment. The environmental assessment shall be in accordance with the State Environmental Quality Review Act (SEQR).
- G. Issuance of building permit. When an application for site plan review has been approved, a building permit shall be issued by the Code Enforcement Officer if there is compliance with all other pertinent code requirements. All required modifications established as a result of the site plan review procedure shall be conditions of the building permit.
- H. Filing. The decision of the Planning Board shall immediately be filed in the Town of Kirkwood Office and Office of the Code Enforcement Officer within five business days and a copy thereof given or mailed to the applicant.

**SECTION 502.2      Site Plan Action**

- A. The Town Planning Board shall review said site plan and additional information and shall approve, approve with modifications or disapprove said site plan with regard to achieving without limitations there to the following objectives:
  - 1. A harmonious relationship between such uses and uses located in adjacent districts as reflected in the Comprehensive Plan.
  - 2. The maximum safety of vehicular access and egress from the site to existing and prospective streets and highways.
  - 3. The maximum adequacy of interior circulation and parking facilities with particular attention to vehicular and pedestrian safety.
  - 4. The adequacy of transitional landscaping and setbacks in regards to achieving maximum compatibility and protection to adjacent property.
  - 5. Appropriate drainage plan and stormwater management plan.
- B. Any approval of site plan review by the Planning Board pursuant to this article shall be valid only for so long as the premises which are the subject of site plan approval are used for the specific use and purposes stated in that application; therefore, if at any future time the applicant or a successor in interest, assignee or lessee shall wish to dedicate the premises to any other use, he shall make a new application for site plan review in accordance with the provisions of this section.
- C. Should any previously approved site plan activity be discontinued for a period of more than 180 consecutive days (except for businesses that typically close on a seasonal basis), such prior site plan approval shall lapse, and an application shall be made for re-issuance of said approval prior to the reopening of said activity.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

**SECTION 502.3      Building Permit**

Applicable building permits shall be issued by the Enforcement Officer after receipt of approval from the Planning Board. The Planning Board shall transmit the application with its written findings to the Enforcement Officer within 75 days. A failure to act within 75 days of the receipt of the application will permit the Enforcement Officer to act without the Planning Board's recommendation.

- A. Changes - An applicant wishing to make any changes in a duly reviewed site plan shall make application for a new building permit.
- B. In the event that an applicant fails to obtain a building permit within one year of site plan approval, the site plan approval of the Planning Board shall be null and void.

**SECTION 502.4      Standards**

The Town Planning Board shall apply the standards listed for each applicable District and objectives of Section 502.2 to determine that the requirements of this section are met.

**SECTION 503          Special Permits**

(Amended December 3, 2002 by LL No. 6-2002. Original section deleted in its entirety and new language substituted.) (Amended May 4, 2004 by LL No. 11-2004. Originally Section 504.17)

- A. The Zoning Board of Appeals is empowered by the Town Board to issue special use permits for allowed uses as set forth in this Local Law or the regulations thereunder. After due notice and a public hearing, the Zoning Board of Appeals may issue a special use permit for uses which meet the following criteria:
  - 1. The applicable provisions prescribed for each special use permit use have been met.
  - 2. The land use or activity conforms with all applicable regulations governing the zoning district where it is to be located, and all other applicable provisions for the district for which the said use is permitted have been met.
  - 3. The land use or activity is designed, located and operated so as to protect the public health, safety and welfare.
  - 4. The land use or activity will encourage and promote a suitable and safe environment for the surrounding neighborhood and will not cause substantial injury to the value of other property in the neighborhood.
  - 5. The land use or activity will be compatible with existing adjoining development and will not adversely change the established character or appearance of the neighborhood.
- B. If site plan review is not required by the Planning Board, the Zoning Board of Appeals shall also determine that:
  - 1. Effective landscaping and buffering is provided.
  - 2. Adequate off-street parking and loading are provided.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

3. Ingress and egress to parking and loading areas are so designed as to minimize the number of curb cuts and not unduly interfere with traffic or abutting streets.
  4. Site development shall be such as to minimize erosion and not produce increased surface water runoff onto abutting properties.
  5. Existing streets and utilities servicing the project are adequate.
  6. Significant existing vegetation is preserved to the extent practicable.
  7. Adequate lighting of the site and parking areas is provided and exterior lighting sources are designed and located so as to produce minimal glare on adjacent streets and properties.
  8. Grading drainage plan, pertinent soil characteristics and watercourses, or, if applicable, a Stormwater Pollution Prevention Plan consistent with the requirement of Articles 1 and 2 of the Town of Kirkwood Stormwater Management and Erosion & Sediment Control Local Law (Local Law No. 7 of 2007). The approved site plan shall be consistent with the requirements of Articles 1 and 2 of the Town of Kirkwood Stormwater Management and Erosion & Sediment Control Local Law (Local Law no. 7 of 2007).
- C. The Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit use.

**SECTION 503.1 Professional Offices**

Professional Office may be permitted in Residential Districts provided:

- A. The Professional Office staff consists of no more than three (3) people in addition to the professional. Staff may include employees or associates.
- B. One vehicle parking space, with a minimum dimension of 9’6” x 19’ with necessary ingress and egress to said parking space and not on any public right-of-way shall be provided for each one hundred (100) square feet of gross floor area of the professional office.
- C. The Professional office shall be an integral part of the full time residence of the Professional and shall contain no more than 33 percent of the combined living-office floor space.
- D. Appropriate landscaping shall be provided in conformity with the district in which such office is located.
- E. The Zoning Board of Appeals shall review the site and make a determination that the use will not constitute a traffic hazard. The Zoning Board of Appeals may place conditions on use to alleviate such hazard.
- F. A Professional, within the meaning of this section, shall include the following:
  1. Accountant
  2. Architect
  3. Dentist

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

4. Doctor
5. Engineer
6. Insurance Broker
7. Lawyer
8. Real Estate Broker
9. Surveyor
10. Photographer
11. Artist
12. Others as determined by the Zoning Board of Appeals.

**SECTION 503.2      Electrical Distribution Substations and Other Public Utility Structures**

Electrical Distribution Substations and other public utility structures may be permitted in any district provided.

- A. A facility, when not housed in a completely enclosed structure, shall be enclosed with a fence set back from property lines in accordance with the yard requirements as set forth for principal structures for the district in which said facility is located.
- B. Appropriate landscaping shall be provided, in conformity with the district in which such facility is located.
- C. The facility shall not involve business offices, storage areas, or structures requiring trucking or traffic movements.
- D. At no point at the boundary of said public utility site shall the sound pressure levels exceed tolerable levels in accordance with accepted standards as determined by the then current New York State Law and applicable Town standards.

**SECTION 503.3      Nursing Homes, Hospitals or Medical Offices**

Nursing Homes, Hospitals or Medical Offices not including homes for persons with mental disorders may be permitted in “RM” Residence Districts provided:

- A. No principal building shall be located closer than fifty (50) feet to any lot line which is not a street line.
- B. The location shall be such as to offer reasonable protection to the neighborhood against possible detrimental effects, taking into consideration the physical relationships to surrounding properties and access to the site over any nearby residential streets. The Zoning Board of Appeals shall determine appropriate safeguards after review of the site plans.
- C. Off-street parking shall be provided as set forth in Section 505.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

**SECTION 503.4        Non-Conforming Signs**

A Special Permit to exceed the requirements as set forth for permitted signs may be granted if the use for which such permits is sought will meet the requirements of Section 504.8 Nonconforming Signs of this Article.

**SECTION 503.5        Family**

Refer to definition of family in Article II - Definitions.

**SECTION 503.6        Home Occupations**

A home occupation, as defined in this section, may be permitted in a Residence (R) District, Residence (R-1) District, Agricultural/Rural Residence (A/R-R) District, a Residential-Multi (R-M) District, or a single-family residence in an R-M District subject to site plan approval by the Planning Board. Such use shall conform to the following standards:

- A. No more than one (1) occupation shall be allowed per dwelling unit.
- B. The home occupation must be performed by either an owner-occupant or tenant-occupant of the property and a maximum of one non-resident employee.
- C. No more than fifteen percent (15%) of the gross living area of the dwelling unit may be used for such use. Any variance from this requirement must be obtained from the New York State Department of State. The aforementioned 15% or five hundred (500) square feet, whichever is the least, is the maximum that may be used for home occupations.
- D. The use shall be carried on wholly within the enclosed walls of the dwelling unit or an accessory building.
- E. External structural alterations which are not customary to a residential building shall not be allowed.
- F. There shall be no external evidence of such use except for one (1) sign not to exceed two square feet in area, indicating the name, location or identification of a home occupation, with a minimum street setback of 10 feet.
- G. Stock, merchandise, equipment or displays of any kind shall not be visible outside the dwelling unit.
- H. The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.
- I. Two (2) off-street parking spaces in the driveway, side yard or rear yard of the dwelling unit shall be provided for the home occupation. Two (2) additional off-street parking spaces are required for the dwelling unit occupants (See 505A5).
- J. Such uses shall also be subject to any other conditions the Planning Board deems necessary on site plan review to meet the intent of these requirements.
- K. The following uses and other uses similar in character do not meet the intent of this section:

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

1. Vehicle or boat engine repair.
2. Vehicle or boat body work or painting.
3. Construction equipment or materials storage.
4. Veterinary hospital.
5. Kennel.
6. Bar and/or restaurant.
7. Equipment or vehicle rental.
8. Furniture sales.
9. Funeral director, mortuary, or undertaker.
10. Glazier's or painter's shop.
11. Any use that is not permitted in a Type 5 (wood frame) building construction under the New York State Uniform Fire Prevention and Building Code 208-205, General Requirements, Restrictions.
12. Use of property as a drop-off point for merchandise not produced by such home occupation, selling of merchandise not produced by such home occupation, wholesaling, and storage of automobiles.

**SECTION 503.7      Special Permit Requirements for Temporary Storage of New In-Transit Modular Homes and Mobile Homes (collectively hereafter the “Homes”) in a B-2 District.**

- A. Such Homes may not be occupied.
- B. Such Homes may not be sold from the premises on which they are being temporarily stored.
- C. Site Plan Review by the Town Planning Board is required prior to commencing such use.
- D. The number of Homes being stored at any one time shall not exceed the number so established by the Site Plan Review of the Town Planning Board.
- E. Homes shall be parked neatly in such a manner as to allow fire lanes running from the front to the rear of the property of at least 12 feet in width and not more than 100 feet apart, and which must be kept open at all times.
- F. No such Home shall be stored closer than 25 feet to the highway right-of-way.
- G. No such Home shall be stored on the same premises for more than thirty (30) days.

**SECTION 503.8      Machine Shop**

Machine shops, as defined in Section 201 of this Local Law, may be permitted in a Business-Two (B-2) District subject to site plan approval by the Planning Board. Such use shall conform to the following standards:

- A. At no point on the boundary of the property shall levels of noise, odor, dust and dirt, vibration, toxic emissions, glare, emission of radio-active materials, open/outdoor storage,

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

smoke, pollution of water, or incineration exceed those set forth in Article V (Supplementary Standards) of this Local Law.

- B. Appropriate landscaping shall be provided.
- C. Ingress and egress shall be provided that will not constitute a traffic hazard.
- D. There are adequate municipal services to supply the proposed use.
- E. Such use will not be prejudicial to adjoining and neighboring properties already developed, including among other things diminution of values in the surrounding neighborhood.
- F. All other applicable provisions of the B-2 District unless such provisions are waived by the Zoning Board of Appeals.

**SECTION 503.9      Special Permit Requirements For Indoor Flea Markets/Farmer’s Market (hereafter the “Flea Markets”)**

- A. Flea Markets may be allowed in an I-D district only after obtaining a special use permit from the Zoning Board of Appeals, which permit shall be valid for a two (2) year period and must be renewed.
- B. All other applicable provisions of the I-D District shall be complied with except that:
  - 1. One off street parking space shall be provided for each 100 square feet of the premises being devoted to Flea Market use.
  - 2. No accessory buildings and uses shall be allowed.

**SECTION 503.10      Wind Turbines – Special Permit. (Added 9-1-09 by LL #6-2009)**

Wind turbines, as defined in Section 201 of this local law, may be permitted in a Residence (R), Residence (R-1), or Agricultural/Rural Residence (A/R-R) District subject to a special use permit and site plan approval by the Planning Board. The provisions of the Town of Kirkwood governing special use permits and site plan approval shall apply. Such use shall conform to the following standards:

- A. Number Allowed. Only one wind turbine will be allowed per tax map parcel.
- B. Maximum Height. Wind turbines shall have a maximum height of thirty (30) feet measured from the ground to the top of the highest blade or to the tallest point on the structure.
- C. Noise. Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of special use permit applications.
- D. Setbacks and location.
  - 1. A wind turbine shall be located in rear yards of residences and to the rear of farm structures.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

2. The minimum distance between any wind turbine tower and any structure shall be calculated at 1 ½ times the height of the tower including the rotor blades. The side and rear property line setbacks shall be calculated at 1 ½ times the height of the tower including the rotor blades.
3. Safety.
  - a. The site plan shall detail the means of access and all security and safety fencing proposed.
  - b. Wind turbine towers shall not have any climbing pegs lower than fifteen (15) feet above the ground.
  - c. All access doors to wind turbine towers and electrical equipment shall have locks.
  - d. Warning signage as approved by the Town Code Enforcement Officer shall be placed on wind turbine towers and electrical equipment.
  - e. The minimum distance between the ground and any part of the rotor blade system shall be at least fourteen (14) feet.
  - f. The turbine must be in compliance with the specifications provided by the manufacturer and, if suggested by the manufacturer specifications, must be equipped with an automatic braking system to prevent over-speeding of the blades during periods of high wind speeds.
  - g. Guy wires and/or anchors shall be marked with high visibility orange or yellow sleeves.
- E. Town Engineer. All plans and specifications for any wind turbines must be approved by the Town Engineer and all permits issued in accordance with this local law shall contain conditions that the applicant comply with and adhere to any recommendations or requirements suggested by the Town Engineer, as the same may change from time to time.
- F. Telecommunications Prohibited. No radio, television or other communication device or antenna may be affixed or otherwise made a part of a wind turbine without the issuance of a separate special use permit as allowed or pursuant to Article 9 of the Zoning Local Law.
- G. Abandonment. Any wind energy turbine which is not operational for twelve (12) successive months shall be deemed abandoned. Such abandoned turbine shall be kept structurally sound, shall be tied up and contain no moving parts. In the event that it is determined by the Town of Kirkwood Code Enforcement Officer that the turbine is in disrepair, is unsafe, has been improperly maintained or poses a hazard, the turbine shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of a special use permit hereunder shall constitute grounds for the revocation of the permit by the Town.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

H. Maintenance. Wind turbine structures must be maintained to the same standards as required by the Property Maintenance Code of the New York State Uniform Fire Prevention and Building Code, which is incorporated herein by reference.

**SECTION 503.11 Temporary Portable Storage Containers (Added Sept. 7, 2010 by LL #14-2010)**

- A. Temporary portable storage containers shall be permitted upon the issuance of a special permit by the Enforcement Officer for a period of up to six (6) months or six (6) additional months upon the renewal of a permit not to exceed twelve (12) months. No fee shall be charged for the issuance of said special permit. Where a special permit has expired, all such containers must be immediately removed. The yard or lot must thereafter remain free of any temporary portable storage containers for a continuous period of at least ninety (90) days. However, in cases where a dwelling unit has been damaged by casualty, a temporary portable storage container may be allowed for longer time periods than indicated above upon the issuance of a special permit by the Enforcement Officer as set forth in paragraph F hereafter.
- B. Temporary portable storage container(s) shall not exceed a cumulative gross floor area of 400 square feet.
- C. Temporary portable storage container(s) shall not exceed eight and one-half (8 ½) feet in height.
- D. Temporary portable storage containers shall not be located in any required open space, set back, landscaped area, on any street, sidewalk or trail, or in any location that blocks or interferes with any vehicular and/or pedestrian circulation, and shall be located in accordance with all applicable building and fire code regulations for the purpose of ensuring safe ingress and egress to dwellings, access to utility shut-off valves, and for fire protection.
- E. Signs on temporary portable storage containers shall provide contact information and shall not include the advertisement of any other product or service.
- F. A temporary special permit may be issued by the Enforcement Officer for a period longer than set forth in paragraph A but only where a dwelling has been destroyed or damaged by casualty when such dwelling is to be rebuilt or repaired. All of the conditions set forth in paragraphs B through E shall be required for such temporary special permit.

**SECTION 503.12 Issuance of Scrap Metal Processing Special Use Permit (Added Sept. 6, 2011 by LL #5-2011)**

- A. The Town Board hereby authorizes the Zoning Board of Appeals to issue Scrap Metal Processing Special Use Permits in accordance with the provisions of the Zoning Local Law. No person shall do, conduct, perform, or engage in or operate a scrap metal processing facility within the Town, except within an Industrial Development (ID-R) District and except

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

pursuant to a Special Use Permit issued by the Zoning Board of Appeals in accordance with the procedures set forth in this subsection.

- B. Applicants for a Special Use Permit shall submit to the Zoning Board of Appeals a copy of the application submitted by such person to the Town Planning Board for site plan review of said project.
- C. The Zoning Board of Appeals shall consider the application for a Special Use Permit at its next regular meeting following ten (10) days after receipt of the application. The Zoning Board of Appeals, in conjunction with the applicant, shall establish its own procedure and timetable for the determination of the application, subject to the requirements of Section 274-b of the Town Law.
- D. When the applicant has submitted a complete application, the Zoning Board of Appeals shall grant and approve a Special Use Permit which meets the criteria and any conditions established by the Town Board and Planning Boards. In addition thereto, the following shall be considered, among other things, in establishing conditions of said Special Use Permit:
  - 1. As to Facility operation:
    - a. Days and hours
    - b. Lighting
    - c. Daily traffic flow including a traffic study if deemed necessary by the Town Board of Appeals
    - d. Product flow in the facility
    - e. Procedure for unloading and loading material
    - f. Plan to assure that scrap metals being collected and processed are either free and clear of oils, fluids, gasses,
    - g. degreaser and other contaminants, and if necessary, will be collected and contained in a leachate collection system
    - h. Whether the applicant intends to collect and process scrap or parts from automobile demolition, in which case what additional provisions are being made to safeguard the environment from pollutants
    - i. The types of metal items that the applicant intends to salvage, collect or process, including batteries, turnings, barrels, etc.
  - 2. Monitoring, sampling and analysis plan to be submitted by a professional engineer or other appropriate environmental professional:
    - a. Pre-production analysis of soil and ground water quality, noise, air emissions and odors and such other matters as the Zoning Board of Appeals deems necessary.
    - b. Monitoring during production
    - c. Monitoring “temporary storage” to be less than six months
  - 3. Require environmental testing of the land on which the facility will be located as a baseline prior to the commencement of operations, including a Phase I, Phase II and

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

expanded Phase II Environmental Assessment as deemed necessary by the Zoning Board of Appeals.

4. Require a scale map of the property showing the location of buildings (present or to be constructed); water, sewer and/or gas mains in the location; drainage patterns; parking areas for customers and employees, location of fire lane at least 12 feet wide for use by fire trucks and equipment if necessary; location of streams, lakes, wetlands, flood plains and other water bodies, including those available for fire protection purposes; topography of the site and any plans for grading of the site to be shown at a contour interval of not more than five feet; locations of all wells and sanitary facilities on the property or within 100 feet of the boundary of the property; depth to the water table; fences and hedges; existing and proposed open/outdoor storage areas; existing aquifers; and soil type.
  5. Describe the storage operation, including the method of storage of various types of materials relating to combustibility.
  6. The number and placement of fire extinguishers, including the type(s) of extinguisher needed off and onsite for the type of material being stored.
  7. Prohibition of any burning on the premises.
  8. Consideration of the need for prehistoric archaeological research to determine whether the site may have some sacred significance to Indian nations.
  9. Consideration of application of Flood Damage Prevention Local Law.
  10. Methods of screening, buffering and enclosures, including but not limited to fencing, hedges and walls, specifying the material, for example, whether solid, opaque, masonry, concrete or other materials, and the minimum height and setback requirements to provide substantial perimeter buffers and effective screening of the premises from adjacent uses and public roads.
  11. Proof of licensing, as applicable.
  12. Consideration of any potential impact to groundwater supplies and/or public water supplies; the availability of municipal fire protection and the adequacy of the water supply for fire protection purposes; the nature and development of surrounding property; and the effect of the proposed scrap metal processing operation on the aesthetics of the environment.
- E. The following shall be mandatory conditions of said Special Use Permit:
1. All materials located within any buildings or scrap metal yards shall be arranged so that reasonable inspection or access to all parts of the premises can be had at any time by the proper health, police, fire and building authorities as well as the Town Commissioner of Public Works, Town Supervisor, Town Building and Code Inspector, Town Engineer (or designated Town Consultant). The Applicant shall grant all such authorities and Town officers and employees a license to enter upon the Site with reasonable prior notice to Applicant to determine that these conditions are being fulfilled and complied with and to

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

report such determination to the Town Board. The Town Board may devise a schedule for the orderly and systematic inspection of each scrap metal processing operation. The Applicant shall reimburse the Town for the cost of such inspections in accord with charges usually made for such services in the Broome County, New York region or pursuant to an existing contractual arrangement between the Town and the person(s) making such inspections. If such inspection is made by a Town employee, such charge shall be in accord with the hourly rates upon which the Town employee's salary is based and fringe benefits and reasonable overhead.

2. The Town Commissioner of Public Works, Town Supervisor, or Town Building and Code Inspector shall have the authority to issue a written notice of violation where he or she determines that the Special Use Permit conditions are being violated; upon such written notice, the applicant shall have a reasonable amount of time, at least one (1) week, to cure such violations; if the violations persist and are found to be significant, the Board shall have the authority to revoke the Special Use Permit for good cause; the Applicant shall the right to a hearing prior to any such Special Use Permit enforcement action.
- F. Term of the Special Use Permit. The term of the Special Use Permit shall be three (3) years.
- G. Renewals. The applicant shall, upon the expiration of each Special Use Permit period, obtain a renewal for a like term by filing an application therefore with the Code Enforcement Officer on a form prescribed by the Code Enforcement Officer. In entertaining said renewal application, the Code Enforcement Officer shall consider, to the extent appropriate and applicable, the same factors considered by the Officer for an initial application, together with the performance of the renewal applicant under previous permits.
- H. At least thirty (30) days prior to the anniversary of the granting of a Special Use Permit, each operator shall submit a report, certified by the applicant, showing graphically and by narrative the extent of the operations carried on over the previous year, including any variance from the permit. If the Code Enforcement Officer finds the report or applicant's compliance with the Special Use Permit to be defective or deficient in any way, it may be reimbursed for its expenses of discovering or remedying any such defect in the manner set forth in paragraph 1 of Section E of this Section 503.12.
- I. Violations. The Zoning Board of Appeals or the Town Building and Code Inspector shall report, in writing, any violations of the Special Use Permit, any violation of this section of the Zoning Local Law, or any apparent violations to the Town Board and to the Town Attorney, who shall take whatever steps are available under the Zoning Local Law or any other law to remedy such violations.

For a violation of any provision, term or condition of a Special Use Permit issued pursuant to this section, the provisions of Section 1406 of the Zoning Local Law shall be applicable. Nothing

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

herein shall prevent the Town from pursuing and enforcing remedies and sanctions pursuant to law.

**SECTION 503.13      Harboring of Domestic Chickens Regulation**

- A. The primary purpose of these domestic chicken regulations in the Town of Kirkwood is to identify the location or occupant for a parcel of land while protecting public health, safety, and general welfare.
- B. Definition:
  - 1. CHICKEN: the term chicken shall, for purposes of this section, refer exclusively to domestic hens and shall intentionally exclude roosters.
- C. The keeping of domestic chickens in the Town of Kirkwood shall be permitted only under the following conditions:
  - 1. No more than six (6) chickens may be kept on the property at any time. No roosters shall be permitted.
  - 2. All chickens must be kept in a secure pen or enclosure, constructed and maintained to prevent the chickens from running at large. Only one pen or enclosure shall be permitted on any residential property. All pens or enclosures must be located at least twenty (20) feet from the side and rear lot lines, and at least thirty (30) feet from any neighboring residence. No pen or enclosure shall be permitted in a front yard, meaning that all pens or enclosures must be located to the rear of the rear wall of the primary structure.
  - 3. All pens or enclosures must be resistant to rodents and predators, and provide chickens with adequate protection from inclement weather. The pen or enclosure must be constructed of materials that are reasonably complementary to existing structures within the view of the pen or enclosure. The pen or enclosure must be regularly cleaned so as to keep it sanitary and odor free. All feed for chickens must be kept within a building in rodent-proof containers, and may not be kept outside. The storage of chicken manure shall not be allowed.
  - 4. It shall be unlawful to allow or permit chickens to engage in habitual or unrestrained noise which creates an unreasonable disturbance or nuisance to neighboring properties.
  - 5. The keeping of chickens shall be authorized only upon obtaining a permit from the Code Enforcement Officer. Said permit shall be made upon an application form to be promulgated by the Town Board and upon satisfactory inspection(s) by the Code Enforcement Office to verify compliance with the requirements of this section. The permit fee may be fixed by resolution of the Town Board. Permit applicants shall agree to allow the Code Enforcement Officer to enter the premises of the applicant upon reasonable notice during daylight hours to inspect the pen or enclosure to verify compliance with this section.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

**SECTION 503.14      Seasonal Businesses**

A seasonal business, as defined in this section, may be permitted in a Residence (R) District, Residence (R-1) District, Agricultural/Rural Residence (A/R-R) District, a Residential-Multi (R-M) District, or a single family residence in an R-M District subject to site plan approval by the Planning Board. Such use shall conform to the following standards:

- A. The seasonal business must be performed by the owner-occupant or tenant-occupant of the property.
- B. No more than fifteen percent (15%) of the gross living area of the dwelling unit may be used for such use. Any variance from this requirement must be obtained from the New York State Department of State. The aforementioned 15% or five hundred (500) square feet, whichever is the least, is the maximum that may be used for home occupations.
- C. Stock, merchandise, equipment or displays of any kind shall not be visible outside the dwelling unit or accessory building.
- D. External structural alterations which are not customary to a residential building shall not be allowed.
- E. The use shall not result in or cause vehicular traffic or parking that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.
- F. Such uses shall also be subject to any other reasonable conditions the Planning Board deems necessary on site plan review to meet the intent of these requirements.
- G. The following uses and other uses similar in character are considered seasonal businesses:
  - 1. Lawn Maintenance and Landscaping
  - 2. Snow Plowing

**SECTION 504              Sign Regulations**

**SECTION 504.1.        Purpose.**

The primary purpose of these sign regulations in the Town of Kirkwood is to identify the location or occupant for a parcel of land while protecting public health, safety and general welfare. These regulations also serve to:

- A. Ensure right to free speech as protected under the Constitution;
- B. Protect property values, create a more attractive economic and business climate and protect the physical appearance of the community;
- C. Provide businesses with effective means of identification while reducing visual clutter through the prevention of excessive and confusing sign displays;
- D. Reduce traffic conflicts or hazards by minimizing visual distractions or obstacles in or visible from the public rights-of-way;
- E. Minimize the adverse erection of signs on nearby public and private property;
- F. Avoid personal injury and property damage from unsafe or confusing signs; and

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

G. Establish a clear and impartial process for those seeking to install signs.

**SECTION 504.2. General requirements.**

The following apply to all signs in the Town of Kirkwood which are erected or installed after the effective date of this Article:

- A. Signs cannot be located on a public right-of-way or public property and must be located on the property on which the business is located unless it is a legally established billboard;
- B. No sign shall obstruct the view at the intersection of any streets or be confused with traffic management signs or signals;
- C. If the property/structure contains walls facing more than one property line, the number of signs and the sign areas will be computed separately for each face of the building facing a different frontage;
- D. Any sign that no longer advertises the use of the property must be removed within 30 days after written notification from the Code Enforcement Officer; and
- E. Temporary signs:
  - 1. No temporary sign can be erected without a permit. A permit can be obtained at the Kirkwood Code Office and requires a fee that is refunded when the temporary sign is taken down. See Article XV1, Section 1605 - Miscellaneous Permit Fees for current fee information.
  - 2. No temporary sign is allowed for more than 30 days with no more than one thirty-day extension.
  - 3. Size of temporary signs is regulated by the provisions in these regulations, but shall not be in excess of the size permitted for any permanent sign of similar type or configuration within specific zones.
  - 4. Any sign requiring electricity must conform to requirements for permanent signs requiring electricity under this chapter.

**SECTION 504.3. Signs authorized without permit.**

The following types of signs may be erected in the Town of Kirkwood without obtaining a permit. Although permits are not required for these signs, the signs shall conform to the height, setback and size requirements detailed in this chapter.

- A. Official sign, public notice sign, or warning sign supported by federal, state or local law (Example: New York State inspection station or authorized repair shop identification.);
- B. Any sign within a building not legible from the street or adjacent lots;
- C. Any sign within an enclosed outdoor space, such as athletic field, where the sign is not legible beyond the property lines;
- D. Works of art not displaying a commercial message;

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

- E. Holiday decorations not displaying a commercial message;
- F. Construction signs: one sign per construction project, not exceeding 32 square feet in area in residential districts or 64 square feet in all other districts, provided that such signs shall be removed five days after the completion of construction or the placement of a permanent sign. The signs shall be confined to the construction site.
- G. Directional signs: signs which provide direction and are located entirely on the property to which they pertain and do not advertise a business and do not exceed four square feet in area. Directional signs include signs identifying public restrooms, public telephones, walkways or signs providing direction, such as parking lot entrance and exit signs, and those of a similar nature. Such directional signs shall be allowed within the street setbacks and side and rear yards.
- H. Drive-in facilities.
  - 1. Businesses with drive-in facilities may have one sign, not exceeding 24 square feet for each drive-in lane. The sign shall be located adjacent to the drive-in lane and shall be easily visible to motorists using the lane. If the drive-in lane or facility is removed or not operating for a period exceeding 60 days, the sign must be removed.
  - 2. Such signs shall only provide information which will assist the motorist in using the facility. Such signs may include but shall not be limited to menus, banking instructions, manual car wash instructions and other signs of a similar character. Advertising is not permitted on these signs.
- J. Flags: the flags, emblems or insignia of any nation, political subdivision or corporation flag. Flagpoles shall be subject to the height restrictions imposed by each respective zoning district. Corporate flags shall be limited to one per lot and shall count against calculation of permitted wall signage.
- K. Gasoline service station price signs: signs not exceeding three square feet advertising the price of gasoline and indicating self- service or full-service, when attached to a gasoline pump or pump service island.
- L. Government signs: signs erected and maintained pursuant to and in discharge of any government function. There are no bulk requirements for government signs.
- M. Home occupation signs: one sign for each dwelling unit, not to exceed two square feet in area, indicating the name, location or identification of a home occupation, with a minimum street setback of 10 feet.
- N. House numbers and nameplates: house numbers and nameplates, not exceeding two square feet in area for each dwelling unit.
- O. Memorial signs: memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other similar noncombustible material; historical markers erected by any

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

government body or with a government permit. There are no bulk requirements for memorial signs.

- P. "No Trespassing" and "No Dumping" signs: "No Trespassing" and "No Dumping" signs not to exceed two square feet in area per sign. Such signs shall be permitted within the street setback and side and rear yards.
- Q. Multifamily retail and subdivision sales signs. One sign shall be permitted; its purpose is to advertise the availability of rental units, subdivision lots and houses. The sign may contain information on rent levels, numbers of bedrooms, housing prices, financing, descriptive matter and the like. The sign shall be limited to 32 square feet in size. The sign may be located on any lot within the subdivision or multifamily project area, but shall not be located upon a public right-of-way. The sign shall be subject to the restrictions and regulations of the zoning district in which it is located.
- R. Notice bulletin boards: notice bulletin boards not over 24 square feet in area for public, charitable or religious institutions where the same is located on the premises of the institution.
- S. Political and campaign signs: political and campaign signs on behalf of candidates for public office or measures on election ballots, provided that the signs are subject to the following regulations:
1. Political and campaign signs are permitted in all zoning districts.
  2. The signs shall not be erected earlier than 30 days prior to a primary or special election and 60 days prior to a general election. All signs shall be removed within five days following said election.
  3. The number of signs on any one parcel of land is not restricted, but the total combined size of the signs shall not exceed 32 square feet in area and shall not exceed five feet in height from the surrounding grade. In addition, in residential zoning districts, no individual sign shall exceed 16 square feet in size. Signs shall not be erected in such a manner as to constitute a roof sign. Notwithstanding the provisions of this chapter, a sign may be placed upon any legally existing off-premises sign structure, but not so as to cover an already existing sign.
  4. No signs shall be located within or over a public right-of-way. All signs shall comply with the provisions of Section 501.13, Visibility at intersections.
  5. This section in no way prohibits the display or use of bumper stickers, car top signs and signs inside the window of a building.
- T. Portable signs. Portable signs shall be permitted in the following situations:
1. New businesses awaiting the erection of a permanent sign, not to exceed a period of 30 days.
  2. A business which has lost the use of an existing sign by reason of fire or other catastrophe, not to exceed a period of 30 days.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

- U. Real estate signs: one real estate sign on any lot or parcel, provided that such sign is located entirely within the property to which the sign applies, is not directly illuminated, does not exceed six square feet in area in a residential district and 16 square feet in area for business/industrial property in a business/industrial zoning district and is removed within seven days after the sale, closing, rental or leasing.
- V. Sandwich board signs. One sandwich board sign is permitted for each business. Said sign cannot exceed six square feet in area. Said sign must be removed at the close of each business day. Said sign must comply with applicable provisions in Section 504.7 of this article. Said sign shall not require a sign permit.
1. Said sign cannot be located on a public right-of-way or public property and must be located on the property on which the business is located.
  2. Businesses located within the Business Zoning District, which under normal circumstances would be prohibited from erecting a sandwich board due to the lack of ownership of sufficient frontage, may place a sandwich board sign within the public walkway between May 1 and October 31 of each year during business hours. Said sign cannot be wider than 1/3 the width of the sidewalk in front of the business and shall be erected in such a place and in such a fashion as to make it as unobtrusive as possible for pedestrian traffic. The Town of Kirkwood shall retain the right to request movement of the sign if it determines that the sign was not erected in such a fashion and that a different placement would provide less obstruction to pedestrian traffic. The business must file with the Town of Kirkwood Town Clerk a certificate of insurance, annually, naming the Town of Kirkwood as an additional insured, certifying that the applicant has obtained, from a responsible and reputable company, a policy of public liability insurance with limits of \$1,000,000 per occurrence/\$2,000,000 annual aggregate, for personal injury and property damage combined, covering any claim, demand or action for damages, either to person(s) or property, which may arise out of the placement of the sign within the right-of-way.
- W. Limited signs.
1. Signs and notices advertising an open house, garage sale or similar event may be placed no more than five days prior to the event and must be removed within three days of the conclusion of the event. These signs must be placed on the property where the open house, garage sale or similar event is being held.
  2. Signs or notices advertising events or activities of churches or other not-for-profit organizations may be placed no more than 15 days prior to the event and must be removed within three days of the conclusion of the event. These signs must be placed on the property where the event or activity is being held or on a business zoned property.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

**SECTION 504.4. Permitted signs.**

The Table of Sign Regulations, located in Table 504.4 - 1, lists the requirements for different types of permitted signs that might be proposed for installation in the Town of Kirkwood. The table addresses each type of sign by zoning category, listing whether each sign type is permitted in each zone, the number of signs permitted per site, and the information on sign size, setbacks, and lighting requirements.

**Table 504.4 - 1  
Table of Sign Regulations**

Type of Sign	Zone		
	Residential (R, R-1, A/R-R, R-M)	Business (B-1, B-2, B-2-E)	Industrial (ID, ID-R, ID-PPF)
<b>Freestanding sign: monument</b>	<b>Any sign not affixed to a building constructed at grade level with continuous foundation</b>		
Permitted in zone	P	P	P
Maximum number permitted	1 per lot	1 per lot	1 per 400 feet of street frontage
Maximum area (square feet)	12	40	80
Maximum height (feet)	5	8	12
Setback (feet)	16	8	10
Internal lighting	NP	NP	P
External lighting	P	P	P
<b>Freestanding sign: pylon</b>	<b>Any sign not affixed to a building permanently affixed to the ground by one or more supports (includes polo signs).</b>		
Permitted in zone	NP	NP	P
Maximum number permitted	n/a	n/a	1 per 300 feet of street frontage
Maximum area (square feet)	n/a	n/a	80
Maximum height (feet)	n/a	n/a	30
Setback (feet)	n/a	n/a	10
Internal lighting	n/a	n/a	P
External lighting	n/a	n/a	P

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

Type of Sign	Zone		
	Residential (R, R-1, A/R-R, R-M)	Business (B-1, B-2, B-2-E)	Industrial (ID, ID-R, ID-PPF)
<b>Wall sign</b>	<b>Any sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign. The sign will not project more than 18 inches from the building or structure.</b>		
Permitted in zone	P	P	P
Maximum number permitted	1 per structure	1 per use	1 per use
Size allocation (maximum percentage of wall area or maximum area (square feet))	24 square feet	25% not to exceed 48 square feet	25% not to exceed 80 square feet
Internal lighting	NP	P	P
External lighting	P	P	P
<b>Projecting sign</b>	<b>A sign wholly or partly dependent upon a building for support and which projects more than 18 inches from the building.</b>		
Permitted in zone	NP	P	P
Maximum number permitted	n/a	1 per structure if no freestanding sign	1 per structure if no freestanding sign
Size allocation (maximum square feet)	n/a	6	20
Internal lighting	n/a	NP	P
External lighting	n/a	P	P
<b>Suspended sign</b>	<b>A sign attached to and supported by the underside of a horizontal plane.</b>		
Permitted in zone	P	P	P
Maximum number permitted	1 per structure	1 per structure	1 per use
Size allocation (maximum square feet)	3.5	3.5	3.5
Vertical clearance	9	9	9
Internal lighting	NP	NP	P

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

Type of Sign	Zone		
	Residential (R, R-1, A/R-R, R-M)	Business (B-1, B-2, B-2-E)	Industrial (ID, ID-R, ID-PPF)
External lighting	P	P	P
<b>Awning and canopy sign</b>	<b>Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.</b>		
Permitted in zone	NP	P	P
Maximum number permitted	n/a	1 per use	1 per use
Size allocation – maximum percentage of canopy surface area	n/a	15%	20%
Internal lighting	n/a	NP	P
External lighting	n/a	P	P
<b>Window and door sign</b>	<b>A non-electric sign applied or attached to the interior of a window or door or within 3 feet of the interior which can be seen from the exterior.</b>		
Permitted in zone	P	P	P
Maximum number permitted	n/a	n/a	n/a
Size allocation – maximum percentage of window area	15%	25%	25%
Internal lighting	n/a	n/a	n/a
External lighting	n/a	n/a	n/a
<b>Temporary sign</b>	<b>Any sign that is used only for a short, specifically limited time and that is not permanently mounted.</b>		
Permit requirement guidelines for specific sign types apply as defined above			
Maximum number permitted: 1 per lot			
Maximum area: Refer to above guidelines for specific sign type			
Maximum height: Refer to above guidelines for specific sign type			
Setback: Refer to above guidelines for specific sign type			
Internal lighting: Not permitted			
External lighting: Refer to above guidelines for each sign type			

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

**SECTION 504.5. Prohibited signs.**

The following types of signs are prohibited:

- A. Any sign for which no permit was issued or for which a permit has been revoked;
- B. Any sign that has been abandoned/obsolete or is not properly maintained, considered structurally unsound, hazardous or otherwise unsafe;
- C. Any sign that contains words or pictures of an obscene or pornographic nature;
- D. Any sign that emits audible sounds, odor, or visible matter;
- E. Any sign that may be confused with a traffic control sign, signal or device or the light of an emergency or road equipment vehicle or bears the words "stop" "go slow," "caution," "danger," "warning" or other similar words or hides from view any traffic or street sign, signal or device;
- F. Signs that interfere with official traffic lights or traffic control devices;
- G. Flashing, rotating, revolving signs/lights, except barber poles or holiday decorations; which do not violate Subsection C, D or E above;
- H. Any sign with unshielded lighting devices or reflectors placed to outline or provide the background of a sign;
- I. Animated signs;
- J. Signs with mirrors;
- K. Permanent banner, pennant, windblown or inflated signs;
  - 1. Except to communicate the opening of a new business for a total of 10 days;
- L. Any portable sign attached to or placed on an unregistered vehicle parked on private property for the primary purpose of being viewed by motorists within the right-of-way;
- M. Pennants, not affixed to the face of a building; and
- N. Any sign placed on a curb, sidewalk, hydrant, utility pole, trees or other objects located on or over any street unless otherwise permitted.
- O. Full motion or video signs.
- P. Off premise signs and billboards.

**SECTION 504.6. Specific provisions by zoning category. (See Table of Sign Regulations, for sign allowances.)**

- A. Residential districts.
  - 1. Signs advertising for public, quasi-public, nonprofit, church, schools, hospital or other similar uses shall be located on the same premises as the use.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

2. Project identification signs for large, multi-unit developments shall be permitted for a period not to exceed five years or whenever all the lots have been sold, whichever occurs first.
- B. Nonresidential districts.
1. Two signs per use are permitted for a single business or industry. Where contiguous businesses or industries are located on a single lot, such as, but not limited to, industrial centers, or business parks, each business or industry shall be permitted two signs and the lot may be permitted one sign.
  2. Malls or plazas. Where groups of two or more contiguous stores are located together, one sign per use shall be permitted in addition to a single freestanding sign for the mall or plaza, subject to the Table of Sign Regulations (Table 504.4 - 1).

**SECTION 504.7. Construction and design standards.**

- A. Design considerations.
1. Location.
    - a. All signs must be located on private property and comply with the dimension and setback requirements contained in the Table of Sign Regulations (Table 504.4 - 1)
    - b. No sign shall be erected, relocated, or maintained so as to prevent ingress to or egress from any door, window, or fire escape.
    - c. Signs projecting over walkways or sidewalks must have a minimum clearance between the bottom of the sign and the ground of nine feet. Signs projecting over a traffic area, such as a driveway or parking lot aisle must have a minimum clearance between the bottom of the sign and the ground of 15 feet.
  2. Sign area.
    - a. The area of a sign will include all lettering, wording, and accompanying designs and symbols with the background area, but will not include any supports, framework, or bracing.
    - b. The area of a sign applied to a building will include all lettering, wording and designs/symbols with the background area.
    - c. When a sign consists of individual letters or symbols attached to or painted on a surface, the area will be considered to be the smallest rectangle that encompasses all letters/symbols.
    - d. When computing the area of a double-face sign, both sides are considered to be a single sign.
  3. Signs shall be constructed from weather-resistant and durable materials (i.e., metal, lumber/wood, plastic, etc.)

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

4. Wind pressure and load requirements. All signs and other advertising structures shall be designated and constructed to withstand a wind pressure of not less than 30 pounds per square foot.
  5. Lettering:
    - a. Shall be permanently affixed to the sign; or
    - b. Changeable copy shall be enclosed and locked.
    - c. Digital messages:
      - 1) Digital messages or graphics are only permitted on monument style signs in the Business Zoning District. Digital messages are prohibited on all other sign types and in all other zoning districts.
      - 2) The message shall change no more than once per day and shall consist of a single color.
      - 3) Digital message signs shall not be located within 500 feet of a residentially zoned property as measured along the street line on which the sign is located.
      - 4) The illumination from a digital message sign shall be controlled not to be visible from or cast light or shadows onto adjacent properties or cause unwanted glare.
      - 5) The use of any digital messages on a site shall result in an overall reduction in the allotted sign area of 25%.
- B. Construction specifications.
1. Compliance with the NYS Uniform Code and other applicable codes and regulations;
  2. Light fixtures and related wiring will comply with the National Electric Code, and all electrified signs shall bear an approved testing laboratory label and all electrical connections shall be approved by an approved inspection agency;
  3. Transformers, wires, and similar items shall be concealed;
  4. All wiring to freestanding signs will be underground;
  5. All signs and related items will be kept in good repair and safe condition;
  6. A sign may not obstruct a fire escape;
  7. All signs requiring a permit will display the name and operating telephone number of the person/organization responsible for the sign; and
  8. No sign shall be located within six feet of an electrical conductor, light pole, streetlamp, traffic light, or other utility pole.
- C. Illumination.
1. Light sources shall be shielded to avoid glare/light pollution beyond property lines and to prevent disturbance to motorists;
  2. No illuminated sign located on a lot adjacent to or across the street from any residential district, zone or use shall be illuminated between the hours of 11:00 p.m. and 7:00 a.m., unless the use to which the sign pertains is open for business during those hours;
  3. No flashing, rotating, intermittent or moving light sources are permitted; and

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

4. Messages that display the time and temperature can be displayed for not less than four seconds.
- D. Landscaping.
1. The area surrounding any freestanding sign will be landscaped with plant materials to integrate the sign with the development on the parcel; and
  2. The area surrounding any freestanding sign will be free from weeds, rubbish, and flammable material.
- E. Maintenance and removal of signs.
1. Maintenance and repair. Every sign shall be maintained in a safe, presentable and good structural condition at all times by the replacement of defective parts, painting, repainting and other acts required for the maintenance of the sign.
  2. Abandoned signs. Any sign which is located on a property which becomes vacant for a period of three months or more shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change in ownership or management of the business shall not be deemed abandoned unless the property remains vacant for a period of one year. An abandoned sign is prohibited, and the sign, including all structural support to grade level, shall be removed by the owner of the premises upon which the sign is located.
  3. Dangerous or defective sign. No person shall maintain or permit to be maintained on any premises one owns any sign which is dangerous or in a defective condition. Any such sign shall be removed or repaired by the owner of the premises.
  4. Removal of signs.
    - a. The Code Enforcement Officer shall cause to be removed any sign, including all structural support to grade level, that endangers the public safety, such as abandoned, dangerous or defective signs, signs for which no permit has been issued and is required or a sign posted on the public right-of-way or on public property. The Code Enforcement Officer shall prepare a notice which shall describe the sign and specify the violation(s) involved, and which will state, if the sign is not removed or the violation not corrected in a set period of time, the sign shall be removed by the Town of Kirkwood. All notices shall be either personally served or mailed by certified mail.
    - b. For all other signs, the notice shall be mailed to the owner of the property on which the sign is located.
    - c. Notwithstanding the above, in cases of emergency, the Code Enforcement Officer may cause the immediate removal of a dangerous sign without notice. For any sign removed by the Code Enforcement Officer, the cost of the sign removal by the Town of Kirkwood shall be considered a debt owed to the Town of Kirkwood by the owner of the property and may be recovered by an assessment against the property.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

**SECTION 504.8. Nonconforming signs.**

- A. Any sign erected prior to the adoption of this chapter which does not conform to the provisions of this article is permitted to remain as a nonconforming sign, provided that the sign:
  - 1. Was erected under an approved sign permit prior to the adoption of this chapter; and
  - 2. Advertises an existing business still in operation.
- B. Loss of nonconforming status. A sign characterized as a nonconforming sign shall lose its nonconforming status if:
  - 1. The sign is altered in any way in structure or size (except for normal maintenance). See Section 504.9 of this article; or
  - 2. The sign is relocated; or
  - 3. The sign is replaced.
- C. Any sign which does not conform to provisions of this Article may seek a Special Permit under Section 503.4 of this Article.

**SECTION 504.9. Permit Exceptions.**

The following operations shall not be considered as creating a sign insofar as requiring the issuance of a permit, but the signs shall be in conformance with all other ordinances and regulations of the Town of Kirkwood:

- A. Changing the advertising copy or message of an existing approved painted or printed sign, manually changeable copy sign or similar approved sign, whether illuminated or non illuminated painted message which are all specifically designed for the use of manually replaceable copy.
- B. Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural changes. Replacement of the plastic face will be included as an exempt operation, provided that it is due to a change caused by breakage and/or deterioration of the face, but not for the substitution of a new or different advertiser.

**SECTION 504.10. Required permit information.**

All applicants for sign permits shall submit the following:

- A. Name, address and telephone number of the applicant.
- B. Location of building or lot to which or upon which the sign is to be attached or erected.
- C. Name of the person, corporation or association erecting the sign.
- D. Two blueprints or ink drawings of the plans and specifications and methods of construction and attachment to the building or the ground. Whenever possible, applicant shall submit an electronic copy of any and all documentation relating to the application.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

- E. For signs 150 square feet or more, one copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure.
- F. If the sign is to be illuminated, the lumens.
- G. Such other information as the Building Official shall require to show full compliance with this chapter and any other ordinance of the Town of Kirkwood.

**SECTION 504.11. Expiration of permits.**

If the work authorized under a sign permit has not been completed within 90 days of issuance, the permit shall become null and void, unless otherwise extended in writing by the Code Enforcement Officer, prior to the original expiration date, for a single ninety-day period.

**SECTION 504.12. Permit fees.**

The fee for a building permit for any sign requiring a permit is listed in the adopted Article XVI - Building Code and Miscellaneous Fee Schedules, Section 1605 for the Town of Kirkwood.

**SECTION 504.13. Notice of violations; time for compliance.**

If the Code Enforcement Officer or other designated official shall find that any sign is unsafe or insecure or constitutes a menace to the public or has been constructed or erected or is being maintained in violation of this article or applicable ordinances, he or she shall have the owner of said sign cited in violation by written notice. From the date of such written notice or from such date as may be designated, said person in violation shall have 10 days to comply with the requirements of this article or any ordinance.

**SECTION 505 Off-Street Parking and Loading Requirements**

**A. Off-Street Parking Requirements**

For every building hereafter erected, altered, extended or changed in use, there shall be provided off-street parking spaces according to the design criteria set forth below.

1. A required parking space shall be at least 9’6” wide by 19’ long and shall be reached by an access driveway at least 20’ clear in width.
2. Any parking lot or parking area that will contain more than 100 cars shall be effectively divided by planted divider strips or curbing fixed in place so as to effectively divide each parking area of 100 cars from other driveways and parking areas for the purpose of insuring safety of vehicles moving within the entire parking area and to control speed.
3. Points ingress and egress to parking areas in commercial and industrial developments shall be no closer to one another than 150 feet along street and access to individual uses and parking area shall be from a service road. All access management must be in accordance with NYSDOT design standards.
4. Lighting of any interior roadway or driveway shall conform to “American Standard Practice for Roadway Lighting,” ASAD 12.1-1963 sponsored by the Illuminating

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

Engineering Society and published by the United States American Standards Institute. Lighting of any parking area or of any loading and unloading area shall conform to the strictest standards described in “Recommended Practice for Outdoor Parking Area Lighting” published by the Illuminating Engineering Society, with spacing and type of luminaire such that spill light shall be kept at a minimum objectionable glare to any point beyond the lot line. Parking and loading and unloading areas that are in use after dark shall be so situated as to provide maximum shielding and concealment of lighting from adjoining properties.

5. Any parking lot, area, or space shall be in compliance with all requirements of Americans with Disabilities Act of 1990 (42 U.S.C. § 12101) and Code of Federal Regulations (CFR) at 28 CFR parts 35 (title II) and 36 (title III) and the New York State Uniform Fire Prevention and Building Code
6. The following table specifies minimum parking for zoning uses:

<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
Residential	
Single-family dwelling	2 per dwelling unit
Two-family dwelling	2 per dwelling unit
Multifamily, studio to 1-bedroom	1.5 per dwelling unit
Multifamily, 2-to-3-bedroom units	2 per dwelling unit
Senior housing	1.3 per dwelling unit
Boardinghouses	1.0 per rooming unit
Government/Cultural/Educational	
Schools, elementary and intermediate	1 per employee, plus 2 per classroom
Schools, secondary	1 per 10 students, plus 2 per classroom plus 1 per
School, occupational/skill training	1 per instructor, plus 1 per 3 students
Place of worship	1 per 3 seats
Community center	6 per 1,000 square feet
Library	2 per 1,000 square feet
Auditorium	1 per 4 seats
Private club	8 per 1,000 square feet
Recreational:	
Bowling alley	2 per lane
Skating rink	1 per 5 persons (based on capacity)

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

Swimming pool	1 per 4 persons (based on capacity)
Tennis club	3 per court
Day care or nursery	1 per 6 enrolled, plus 1 per employee
Hospital	1 per bed, plus 1.5 per employee (during maximum
Medical clinic, medical office	5 per 1,000 square feet
Nursing home	1 per 2 beds, plus 1.5 per employee (during
<b>Commercial/Retail</b>	
General retail	4 per 1,000 square feet
Food store	5 per 1,000 square feet
Convenience store	5 per 1,000 square feet
Home occupations	Maximum of 2
<b>Service</b>	
Bank	2 per 1,000 square feet
Bar/tavern/nightclub	1.5 per seat
Bed-and-breakfast lodging	1 per guest bedroom, plus 1 per owner
Barbershop/beauty salon	1.5 per chair
Dry cleaning/laundromat	2 per 1,000 square feet
Hotel/motel	1 per room, plus 1 for every employee on a single
Funeral homes	10 per 1,000 square feet
Office, professional or business	5 per 1,000 square feet
Restaurant, carry-out	2 per 1,000 square feet
Restaurant, with drive-through	1 per employee, plus 4 per 1,000 square feet
Restaurant, sit-down	0.5 per seat, plus 1 per employee
<b>Vehicle related</b>	
Vehicle repair/service or gas station	2 per bay, plus 1 per employee on a single shift
Vehicle sales	2 per employee
Vehicle rental	1 per 1,000 square feet floor area
Car wash	1 per employee
<b>Industrial/manufacturing</b>	

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

All uses	1 per employee on a single shift; plus 2 additional spaces
----------	--

**B. Off-Street Loading Space Requirements**

1. For every building hereafter erected, altered, extended or changed in use for the purpose of business trade or industry there shall be provided reasonable off-street space for loading and unloading of vehicles, as determined by the Planning Board on site plan review.
2. Off-Street loading space (or spaces) located within 50’ of a residential property shall be shielded by wall, fencing, or other suitable material which shall serve to screen noise and fumes that originate in said loading zone.

**SECTION 506**                    **Repealed April 7, 1987 by LL No. 2-1987. (See Flood Damage Prevention Local Law – Page 2301)**

**SECTION 507**                    **BUSINESS TWO—ENTERTAINMENT (B2-E) (Adopted October 4, 1983 by LL No. 6-1983)**

**SECTION 507.1**                **Preamble and Purpose**

Whereas, the Town of Kirkwood desires to promote commerce as well as the free and open exchange of speech, thought and ideas within the setting of its predominantly rural residential community, and

Whereas, by effective zoning and land use regulation it is the desire of the Town Board of the Town of Kirkwood to promote harmony between commercial enterprise and the quality of residential life within the Town, and

Whereas, the Town of Kirkwood by zoning regulation regularly enacts land use regulations and restrictions to effectively promote this harmonious balance and control the increasing encroachment of commerce and urbanization upon the quality of life enjoyed by its residents, and

Whereas, the unrestricted presence of adult entertainment establishments in the Town of Kirkwood would tend to attract an undesirable quantity and quality of transients, increase traffic congestion, adversely affect property values, cause an increase in crime, (especially prostitution), encourage residents and businesses to move elsewhere and will lead to a blighting deterioration of the character, peace, and well-being of the community as a whole, and

Whereas, the Town Board of the Town of Kirkwood does not intend herein to impose any limitation upon the content or availability of adult entertainment nor does it intend to restrict in any significant way the viewing of adult entertainment by those who so desire,

Now, therefore, this provision is adopted:

- A. To prevent deteriorating property values, higher crime rates, traffic congestion, and depressed neighborhood conditions in the Town of Kirkwood,

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

- B. To promote the health, safety, general welfare, and good order of the community by setting forth a community standard regulating the concentration of adult uses in the Town of Kirkwood; and
- C. To restrict adult uses in the Town to the Business-Two Entertainment (B-2-E) District exclusively subject to the additional restrictions and regulations contained herein.

**SECTION 507.2      Definitions**

For the purposes of this Section 507 only, the following terms or words shall be interpreted or defined as follows:

- A. **ADULT USES:** A business or commercial establishment having as its predominant commercial purpose the operation of an adult bookstore, an adult mini-motion-picture theater, an adult motion-picture theater, an adult entertainment cabaret, or any combination of the above.
- B. **ADULT BOOKSTORE:** An establishment having as a substantial portion of its stock-in-trade sexual devices, books, magazines, films for sale or viewing on the premises, by use of motion-picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a section devoted to the sale or display of such material, which excludes minors by virtue of age.
- C. **ADULT MINI-MOTION-PICTURE THEATER:** An enclosed building with a capacity of less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein, when such establishment is customarily not open to the public generally, but only to one (1) or more classes of the public, excluding any minor by reason of age.
- D. **ADULT MOTION-PICTURE THEATER:** An enclosed building with a capacity of fifty (50) or more persons used regularly and routinely for presenting films or material having as a dominant theme, material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein, when such establishment excludes any minor by reason of age.
- E. **ADULT ENTERTAINMENT CABARET:** A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dances and/or bottomless dances, strippers, male or female impersonators or similar entertainers, or employees appearing in a bottomless and/or topless manner of dress.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

- F. **MASSAGE ESTABLISHMENT:** Any establishment having a fixed place of business where any person, firm, association, or corporation, engages in, carries on, or permits to be engaged in or carried on, any of the activities referred to in subparagraph (1) below.
1. The activities referred to herein are any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in the practice of massage.
  2. This Section 507 shall not apply to licensed hospitals, licensed nursing homes, or clinics or persons holding an unrevoked certificate to practice any of the healing arts under the law of the State of New York, or persons working under the direct supervision and in the presence of any such persons or in any such establishments nor shall this Article apply to barbers or cosmetologists lawfully carrying out their particular profession of business and holding a valid unrevoked license or certificate of registration issued by the State of New York.
- G. **PERSON:** Any person, firm, partnership, corporation, association or legal representative, acting individually or jointly.
- H. **SPECIFIED ANATOMICAL AREAS:**
1. Less than completely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- I. **SPECIFIED SEXUAL ACTIVITIES:**
1. Human genitals in a state of sexual stimulation or arousal;
  2. Acts of human masturbation, sexual intercourse or sodomy; and
  3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**SECTION 507.3      Restrictions**

- A. **LOCATION RESTRICTIONS -** Adult uses, including but not limited to adult motion-picture theaters, adult mini-motion-picture theaters and adult bookstores shall be permitted in a Business-Two Entertainment (B-2-E) District, subject to the requirements of the Zoning Local Law of the Town of Kirkwood and subject to the following restrictions and regulations:
1. No such adult use shall be located in any zoning district except a Business-Two Entertainment (B-2-E) District, and, in addition to the restrictions and regulations contained herein, shall be subject to all zoning requirements of B-2 zoning districts.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

- B. The creation, operation, establishment, causing the establishment or permitting the establishment of an adult entertainment business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses described in Section 507.2 hereof.
- C. REGULATIONS.
  - 1. There shall be no exposure of the interior of any adult use establishment to the outside and no outside displays of products, wares, books, magazines or any stock in trade of any adult use establishment.
  - 2. The legal age for admittance to any adult use establishment is eighteen (18) years of age.

**SECTION 507.4      Registration**

- A. The owner of a building or premises, his agent for the purpose of managing or controlling or collecting rents or any other person managing or controlling a building or premises, any part of which contains an adult use, shall register the following information with the Town Clerk of the Town of Kirkwood:
  - 1. The address of the premises.
  - 2. The name and address of the owner(s) of the premises and the names and addresses of the beneficial owners if the property is in a land trust.
  - 3. The name of the business or the establishment subject to the provisions of this Section 507.
  - 4. The name(s) and addresses of the owner, beneficial owner of the major stockholder(s) of the business or the establishment subject to the provisions of this Section 507.
  - 5. The date of initiation of the adult use.
  - 6. The nature of the adult use.
  - 7. If the premises or building is leased, a copy of said lease.
- B. DISPLAY OF REGISTRATION: The owner, manager or agent of a registered adult use shall display in a conspicuous place in the premises of the adult use a copy of the registration filed with the Town Clerk.
- C. VIOLATION: It is a violation of this Section 507 for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate thereon an adult use without having properly registered said adult use with the Town Clerk.

**SECTION 507.5      Special Registration Use Permit**

- A. No use as described in this Section 507 shall be established until the issuance of a special registration use permit by the Zoning Board of Appeals of the Town of Kirkwood.
  - 1. Application for such special registration use permit shall be in writing to the Planning Board and shall consist of a description of the premises for which the permit is sought, a

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

plain and concise statement of the use which is proposed, the full information required for Registration in Section 507.4 - Registration, subparagraph A herein, and such additional information as shall be required by the Planning Board in order to hold a site plan review. Upon receipt of said application the Planning Board, upon notice to the applicant, shall hold a site plan review and within 30 days of said review shall transmit its findings and recommendations to the Zoning Board of Appeals.

2. Upon receipt of the findings and recommendations of the Planning Board, the Zoning Board of Appeals shall call and conduct a public hearing pursuant to the provisions of Town Law Section 267 (5) and as the same may be amended from time to time for the purpose of considering the request for a special registration use permit.
- B. A special registration use permit issued under the provisions of this section shall not be transferable.
- C. Upon the issuance of such special registration use permit, a fee shall be paid by the licensee to defray the administrative costs thereof and the cost of inspecting the premises during the term of such permit to insure compliance with this section. Reference Article XVI - Building Code and Miscellaneous Fee Schedules, SECTION 1605, Business Two - Entertainment for the current fee amount.
- D. Approval by the Zoning Board of Appeals and registration by the Town Clerk shall be permitted only upon full compliance with the provisions of this section.

**SECTION 507.6      Renewal/Revocation of Special Registration Use Permit**

- A. Such special registration use permit shall be effective from the date of its issuance until the 31st day of December of the year of such issuance. Applications for renewal permits shall be submitted in the December preceding the year for which such renewal permit is sought and may be issued, either upon the applicant's reaffirmation of his original application and a statement showing any variations therein, or upon a new application as described in Section 507.5. Said application for renewal shall be accompanied with a fee to be paid by the applicant to defray the administrative cost of said application. Reference Article XVI - Building Code and Miscellaneous Fee Schedules, SECTION 1605, Business Two - Entertainment for the current fee amount.
- B. Such special registration use permit may be revoked, or renewal thereof denied, by the Town Board after a public hearing thereon at which the holder of said permit shall have an opportunity to be heard.
- C. Said special registration use permit shall be revoked, or renewal thereof denied, based upon:
1. Conviction of the holder of said permit for violation of any section of Article 230 and Article 235 of the Penal Law of the State of New York.
  2. Any violation of this Section 507.

**ZONING LOCAL LAW**  
TOWN OF KIRKWOOD

**ARTICLE V – SUPPLEMENTARY STANDARDS**

3. Failure to provide a certificate of proof of insurance as required by NYS or Federal Law with the renewal application, to include liability and worker’s compensation insurance.

**SECTION 507.7      Penalty**

Refer to Article XVII - Ordinance Violations and Penalties, Section 1704, for current violations and penalties.

**SECTION 508      Use of Motor Vehicles and Trailers for Storage**

The following regulations shall apply on properties within a “R”, “R-1” or “A/R-R” District and in Business 1 (B-1) and Business 2 (B-2) Districts where there are presently residential non-conforming uses.

Items whose original purpose is not intended for storage, including but not limited to motor vehicles, mobile homes, travel trailers and semi-trailers shall not be used as storage facilities. However, licensed trailers located on the site of a work project used for the temporary storage of construction materials in connection with the work project shall be allowed during the period that construction is taking place in any zoning district of the Town pursuant to a building permit in full force and effect issued by the Town Code Enforcement Officer pursuant to A Local Law Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code (Local Law 13-2006). (Amended 6-1-10 by LL #11-2010).