

ZONING LOCAL LAW
TOWN OF KIRKWOOD

ARTICLE XIII
CONSTRUCTION EQUIPMENT

SECTION 1301. Purpose and Intent

The purpose and intent of the Construction Equipment Overlay District of the Town of Kirkwood, New York, is to guide the future development of the Town in regard to the establishment and location of sales, repairs and auctions of construction equipment in Business Two (B-2) Districts, Business Two Entertainment (B-2-E) Districts, Industrial Development (ID) Districts, Industrial Development – Recycling (ID-R) Districts and Industrial Development Power Plant Facility (ID-PPF) Districts of the Town so as to:

- A. Safeguard the character of the surrounding area;
- B. Protect the health, safety and welfare of the neighborhood; and
- C. Provide pertinent regulations to insure the compatibility of sales, repairs, and auctions of construction equipment with the surrounding uses.

Overlay zoning districts are established through rezoning and only in conjunction with base-zoning districts. The CE overlay designation shall be combined with the B-2 District designation in which the CE overlay district is established. Except as modified by the overlay zoning district, the provisions of the applicable base-zoning (B-2) district shall apply to all development within the boundary of the designated area. If there are conflicting regulations, the applicable overlay zoning district regulations shall prevail.

SECTION 1302. Scope and Authority

A Construction Equipment (CE) District shall be considered as overlaying any portion of a Business Two (B-2) District so designated by the Kirkwood Town Board as provided hereafter.

SECTION 1303. Designation of District Area

Sales, repairs and auctions of construction equipment shall be allowed in areas of the Business Two (B-2) District at any location deemed appropriate and so designated as a CE District by the Town Board, provided, however, that the Town Board shall consider the factors specified in Section 1305 in determining whether to create a CE District.

SECTION 1304. Permitted Uses and Other Regulations

- A. Principal Use:
 - Sales, repairs and auctions of Construction Equipment
- B. Accessory Uses:
 - Accessory buildings and uses related to the principal use of the property

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- C. Maximum Density Permitted:
More than one (1) principal building may be permitted after Site Plan Review.
- D. Minimum Lot Required:
Area: 1 acre
Width: 150 feet
- E. Minimum Yard Required for Principal Use:
Front: 30 feet
Each side: 10 feet
Rear: 10% of lot depth
- F. Minimum Yard Required for Accessory Use:
Not permitted in front yard
Each side: 10 feet
Rear: 10 feet
- G. Maximum Lot Coverage by Buildings:
40%
- H. Maximum Building Height:
Principal: 35'
Accessory: Not to exceed principal structure
- I. Required (off street) Parking:
Same as B-2 District
- J. Required (off street) Loading:
Same as B-2 District
- K. Signs:
Same as B-2 District
- L. Lighting:
Same as B-2 District
- M. Display of Vehicles:
Same as B-2 District
- N. Maintenance and Repair Facilities: (Amended 2-2-10 by LL #5-2010)
All waste fluids must be collected and disposed of according to best management practices. A spill prevention plan shall be required.

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O. Parking and Display Areas:

These areas must be hard gravel.

P. Site Plan Review:

The Town Planning Board shall review site plan and such additional information as necessary in accordance with Section 502 of the Town of Kirkwood Zoning Local Law and shall ascertain that all the provisions of state laws are complied with, incident to which the Planning Board shall determine the maximum area on which construction equipment may be displayed on a lot at any time using the following formula:

Square footage of lot less square footage of all structures, less required parking area for customers and employees, less areas of ingress and egress, fire lanes, less required landscaping, and any area devoted to other permitted uses.

The parking areas, fire lanes and driving lanes shall be identified by marking and striping to be approved by the Town Code Enforcement Officer prior to site plan review.

SECTION 1305. Procedure for Obtaining a Change in Zone

The procedure for obtaining a change in zone to permit development as a CE District shall be as follows:

- A. The owner (or agent thereof, hereinafter referred to as “owner”) of the land shall apply in writing and shall submit four (4) copies of a preliminary development plan and application for change of zone as described in Section 1305B to the Town Board, which shall refer the same to the Planning Board to prepare recommendations with regard to the preliminary development plan and the proposed change of zone.
- B. Such preliminary development plan shall include at least the following information:
 - 1. Survey of the property, showing existing features of the property, including contours, buildings, structures, trees over four inches in trunk diameter, streets, utility easements, right-of-way and adjacent land use.
 - 2. Proposed site plan, showing building locations occupancy and land use construction equipment display areas.
 - 3. Proposed traffic circulation and landscaping.
 - 4. The applicant shall submit a vicinity map delineating zoning and land use, residences, surface waters, access roads, and other existing and proposed features within the proposed district and within one-half mile of the proposed district.

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- C. The Planning Board, after determining that the requirements of the Zoning Local Law dealing with District have been met, shall recommend the approval, approval with modifications, or disapproval of the zone change to the Town Board. The Planning Board shall enter its reasons for such action in its record, and transmit its findings by resolution to the Town Board within seventy-five (75) days of receipt of the application. Failure to act within seventy-five (75) days of receipt of the application will permit the Town Board to act without the Planning Board's recommendation. The Planning Board may recommend the establishment of a CE District provided that it finds the facts submitted with the preliminary development plan establish that:
1. The uses proposed will not be detrimental to present and potential surrounding uses.
 2. The proposed change to a CE District is in conformance with the general intent of the Comprehensive Plan of the Town of Kirkwood.
 3. Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed district and in the vicinity of the proposed district.
 4. Existing utility services are adequate for the proposed development.
 5. The proposed development, as it is proposed to be completed, contains the required parking spaces, landscape and land use, construction equipment display areas necessary for creating and sustaining a desirable and stable environment.
- D. After receipt of the Planning Board's written recommendations, public notice shall be given and public hearing held by the Town Board.
- E. After the public hearing, the Town Board may amend the Zoning Local Law so as to define the boundaries of the CE District, but such action shall have the effect only of granting permission for development of the approved preliminary development plan proposal, in accordance with the Zoning Local Law within the area so designated. If the zone change is approved by the Town Board, appropriate notation to that effect will be made on the face to four (4) copies of the preliminary development plan. One (1) copy will be retained by the Town Clerk, one (1) copy will be given to the Planning Board, one (1) copy will be returned to the owner, and one (1) copy given to the Town Building Inspector.
- F. The resolution by the Town Board amending the Zoning Local Law for Construction Equipment sales, repairs and auctions shall specify the time period for completion of the development planned and shall indicate that the appropriate action will be taken to revert the zoning if the development deadline is not met.