

**ZONING LOCAL LAW
TOWN OF KIRKWOOD**

**ARTICLE II
DEFINITIONS
(Amended September 6, 2022, LL #6-2022)**

SECTION 201. Definitions.

- A. Word usage and interpretation.
- B. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future tense, and the plural includes the singular, unless the natural construction of the term indicates otherwise.
 - 1. The term "person" includes a firm, association, organization, partnership, trust, company, corporation, individual, or any other entity.
 - 2. The term "shall" is mandatory and directory.
 - 3. The term "may" is permissive.
 - 4. The term "used" includes the terms "designated, intended or arranged to be used."
 - 5. The term "lot" includes the words "plot" and "parcel."
 - 6. The term "buildings" includes the word "structure."
- C. Definitions.

For the purpose of this chapter, the following words and terms shall be defined as:

303(D) LIST — A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

ACCESSORY BUILDING, STRUCTURE OR USE — A building or use which is customarily incidental and subordinate to the principal building or use in extent, area, and purpose and located on the same lot with the principal building or use.

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.

ADULT CARE — The provision of temporary or long-term residential care and services to adults who, though not requiring continual medical or nursing care as provided by facilities licensed or operated pursuant to Article 28 of the Public Health Law or Articles 19, 23, 29 and 31 of the Mental Hygiene Law, are, by reason of physical or other limitations associated with age, physical or mental disabilities or other factors, unable or substantially unable to live independently.

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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.

ADULT CARE FACILITY — A facility, other than a family-type home, which provides adult care. For the purposes of this chapter, an adult-care facility shall include the following: adult home, enriched housing program, residence for adults, shelter for adults, public home and private proprietary adult-care facility, as defined by New York State Department of Social Services Chapter II, Subchapter D, Part 485.

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.

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.

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.

AESTHETICALLY OBJECTIONABLE FACILITY — One in which substances are present, which if introduced into the public water supply system could be a nuisance to other water customers, but would not adversely affect human health. Typical examples of such substances are: food-grade dyes, hot water, stagnant water from fire lines in which no chemical additives are used, etc.

AIR GAP SEPARATION — The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. The differential distance shall be at least double the diameter (D) of the supply pipe. In no case shall the air gap be less than 1 inch.

AGRICULTURAL ACTIVITY — See FARM OPERATION.

AGRICULTURAL ASSOCIATED ANIMAL WASTE — Manure obtained from a farm.

ALTER — to make different without changing into something else.

ALTERATION(S) — the result of changing or altering something.

ANIMAL HOSPITAL — A facility that provides medical care to animals which is run by a Doctor of Veterinary Medicine (DVM). Animals may be kept in the facility during the recovery period or while under medical treatment. Animal hospitals may include boarding of animals.

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ANIMAL HUSBANDRY — The use of land and such accessory uses incidental to the raising of domestic animals. Domestic animals include but are not limited to: cattle, horses, rabbits, goats, sheep, swine and poultry.

ANIMAL SHELTER — A dog kennel, stable and similar uses oriented to the care of animals, whether commercial, nonprofit or private, not including agricultural uses such as dairy or beef cattle farms.

ANTENNA(S) — A system of electrical conductors that transmit or receive frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, digital and/or data communications, personal wireless communications services (PWS) and microwave communications. This definition excludes short wave or ham radio equipment used for personal communication.

ANTENNA, COLLOCATED/EXISTING STRUCTURE — An antenna that is attached to an existing communications tower, smokestack, water tower or other existing structure and that is less than 15 feet higher than the existing structure on which it is mounted.

ANTENNA, NON-COLLOCATED/NEW STRUCTURE — An antenna that is not mounted on an existing structure or is located 15 feet higher than the existing structure on which it is mounted.

APPEAL — A request for a review of the Local Administrator’s interpretation of any provision of a Local Law or a request for a variance.

APPLICANT — Any person, firm, or corporation submitting an application to the Town of Kirkwood for a site plan review for a land development activity.

APPLICATION — The form approved by the Town Board, together with all necessary and appropriate documentation that an Applicant submits in order to receive a Tower Special Use Permit for Wireless Telecommunications Facilities.

APPROVED REDUCED PRESSURE PRINCIPLE BACK FLOW PREVENTION DEVICE — A device incorporating two or more check valves and an automatically operating differential relief valve located between the two checks, two shutoff valves, and equipped with necessary appurtenances for testing. The device shall operate to maintain the pressure in zone between the two check valves, less than the pressure on the public water supply side of the device. This device must also be approved as a complete assembly and must be acceptable to the New York State Department of Health and listed as acceptable in the most recently promulgated transmittal letter of the Environmental Health Manual as the same is published from time to time hereafter.

APPROVED WATER SUPPLY — Any water supply approved by the New York State Department of Health.

APPROVED BACK-FLOW PREVENTION DEVICE — An acceptable air gap, reduced pressure zone device or double check valve assembly as used to contain potential contamination within a facility.

APPROVED CHECK VALVE — A check valve that seats readily and completely. It must be carefully machined to have free moving parts and assured water tightness. The face of the closure element and valve seat must be bronze, composition, or other non-corrodible material which will seat tightly under all

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prevailing conditions of field use. Pins and bushings shall be of bronze or other non-corrodible, non-sticking material, machined for easy, dependable operation. The closure element, e.g. clapper, shall be internally weighted or otherwise internally equipped to promote rapid and positive closure in all sizes where this feature is obtainable.

APPROVED DOUBLE CHECK VALVE ASSEMBLY — Two single independently acting check valves, including tightly closing shut off valves located at each end of the assembly and suitable connections for testing the water tightness of each check valve.

AQUIFER — The water-saturated subsurface geologic formations which can yield amounts of water to wells or springs and which, now or may subsequently be developed for use as public water supply source.

AQUIFER PROTECTION DISTRICT — That portion of the Town of Kirkwood designated by the Town Board of the Town of Kirkwood and delineated upon the Aquifer Map, a copy of which is attached hereto and made a part hereof.

AQUIFER RECHARGE AND WATERSHED PROTECTION ZONE — The Aquifer Protection Map shall be an overlay on the Zoning Map and the rules and regulations of the Wellhead, Aquifer Recharge and Watershed Protection Zone shall apply in addition to the requirements of this chapter.

AREA OF SHALLOW FLOODING — A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, A1-A30, A99, V, VO, VE, or VI-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.

ARTERIAL STREETS — are those streets or highways which are designed and constructed primarily to carry large volumes of traffic through and between communities.

ASSISTED-LIVING FACILITY — A residential facility providing supervision, monitoring, or assistance with the daily activities for more than 25 elderly or disabled persons in a residential setting. Such facilities may include a congregate dining room. Group homes and boardinghouses are not included in this definition.

ASSOCIATED ANIMAL WASTE — manure obtained from agricultural industries.

AUTO — A passenger automobile, truck, tractor-truck, trailer, bus, motorcycle or other vehicle, however propelled, as well as tractors, and bulldozers, and related machinery and equipment.

AUTOMATED TELLER MACHINE (ATM) — A mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether outside or in an access-controlled facility. ATMs located within a building shall be considered accessory to the principal use unless the ATM is likely to be an independent traffic generator.

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AUTOMATIC METER READING (“AMR”) TECHNOLOGY — The technology of automatically collecting, consumption, diagnostic, and status data from water meter devices and transferring that data to a central database for billing, troubleshooting, and analyzing. All reference to “water meters” or “meters” shall apply equally where AMR technology has been or will be installed.

AUTOMOBILE (Motor Vehicle) — Every vehicle operated or intended to be operated or formerly operated upon a public highway which is propelled by any power other than muscular power, but excluding farm type tractors and all terrain type vehicles used exclusively for agricultural purposes.

AUTOMOBILE REPAIR — Any building, structure or land used for the repair and/or maintenance of passenger vehicles, motorcycles, trucks, trailers, or similar vehicles used for noncommercial purposes.

AUTOMOTIVE SALES — The sales or leasing of new or used automobiles, motorcycles, trucks, and recreational vehicles, which includes storage and any incidental maintenance.

AUTOMOTIVE SERVICE STATION —

- A. Establishments used or intended for use of one or any combination of the following activities:
- B. Retail dispensing of motor vehicle fuels.
- C. Retail selling and installing of liquids, coolants, or lubricants where substantial disassembly is not required.
- D. Engine tune-ups, body work, frame straightening, painting, electrical work, transmission repair, or any other repair services not specifically listed.
- E. Vehicle dismantling for the resale of salvaged parts, including tires, is not included in this definition. (See "junkyard.")

AUXILIARY SUPPLY — Any water supply on or available to the premises other than the approved public water supply.

BACK FLOW — A flow condition, induced by a differential in pressure, that causes the flow of water or other liquids and/or gases into the distribution pipes of a public water supply from any source other than its intended source.

BACK PRESSURE — The resulting back flow of contamination, polluted, or otherwise unacceptable quality water from a plumbing fixture or other customer source(s) into a public water supply system due to a greater pressure within the customer’s water system.

BACK SIPHONAGE — The back flow of contaminated or polluted water, or water of questionable quality from a plumbing fixture or other customer source(s), into a public water supply system main due to a temporary negative or sub atmospheric pressure within the public water supply system.

BAR — Establishments licensed to sell alcoholic beverages for on-premises consumption.

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BAROMETRIC LOOP — A loop of pipe rising approximately thirty-five feet, at its topmost point, above the highest fixture it supplies.

BASE FLOOD — The flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT — A story, partly below ground level but having at least 1/2 of its height above ground level.

BATCHING PLANT — A plant for the manufacture or mixing of concrete, cement, and concrete and cement products, including any apparatus and uses incident to such manufacturing and mixing.

BED-AND-BREAKFAST ESTABLISHMENT — A residential dwelling used for providing overnight accommodations and a morning meal to not more than 10 transient lodgers and containing not more than five bedrooms for such lodgers (Ref: NYS Uniform Code).

BEST MANAGEMENT PRACTICES — (1) Those methods and practices which are developed and adopted by the Town of Kirkwood, the NYS Department of Environmental Conservation, NYS Department of Transportation, and the NYS Department of Health; (2) Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BERM — A man-made earthen mound (usually from two to six feet in height) designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes.

BILLBOARD — A sign which directs attention to a business, industry, profession, commodity, service, organization, activity, institution, product, or entertainment neither sold, located nor offered upon the property where the sign is situated.

BLANKET PERMIT — A permit that covers more than one vehicle or truck, which would be subject to the permitting process. Vehicles or trucks that are owned, used, rented, leased, hired (including independent contractors) or in any way utilized for a specific project, site or work location shall be considered related vehicles and should be the subject of a blanket permit.

BLIGHT — Unsightly condition of a structure or lot, including, but not limited to, broken windows, peeling paint, the accumulation of debris, litter, rubbish, or rubble; fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting; landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or damaged; and any other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighborhood.

BLOCK — The length of a street between two intersections.

BOARDING/ROOMING HOUSE — A dwelling occupied by one nuclear family with four or more boarders, lodgers or roomers, who are lodged with or without meals, and in which there are provided such services as are incidental to its use as a temporary residence for some of the occupants. A "rooming house" is a "boarding house."

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BOD (Biochemical Oxygen Demand) — The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 200C, expressed in milligrams per liter.

BOND — A commercial bond to ensure that the condition of the Town roads and/or property impacted by High Frequency Truck Traffic is left in a good or better condition at the completion of the project as they were at the start of the project.

BRANCH LINE — Any pipe connecting to a lateral.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BROOME COUNTY SOIL AND WATER CONSERVATION SERVICE — The United States Department of Agriculture, Soil Conservation Service.

BROWNFIELD — Abandoned, idled, or underused industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

BUILDING — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or property.

BUILDING AREA — The total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

BUILDING AND CONSTRUCTION MATERIALS STORES — Establishments which specialize in the retail sale of new building and construction materials and related supplies; general home repair and improvement materials and supplies are excluded. Establishments in this category may have display equipment designed to handle lumber and related products and supplies that may be kept either indoors or outdoors in approved areas (Ref: 2002 NAICS United States Census).

BUILDING COVERAGE — The percentage of the lot area covered by the combined area of the primary and accessory buildings. This definition excludes driveways, swimming pools, decks, parking areas and parking lots and other impermeable surfaces on such lot, excluding patios, terraces and pedestrian walkways.

BUILDING, DETACHED — A building surrounded by open space on the same lot.

BUILDING FRONT LINE — The line of that face of the building nearest the street line, or if there are street lines on two or more sides of the building, it is the line of that face of the building frontage on that street line where the principal entrance is located. This face includes covered porches, whether enclosed or unenclosed, but does not include steps.

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BUILDING HEIGHT — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat or mansard roofs and to the average height of pitched, gable, hip and gambrel roofs.

BUILDING INSPECTOR — The Building Inspector of the Town of Kirkwood or such other person appointed by the town board to enforce the provisions of local laws.

BUILDING OFFICIAL — The duly designated Building Official of the Town of Kirkwood.

BUILDING PERMIT — A permit issued by the Code Enforcement Officer or other Building Official to enable the construction or alteration of a building to begin. The permit shall only be issued after the proper documentation and information have been submitted and necessary approvals have been granted.

BUILDING, PRINCIPAL — A building in which is conducted the principal or primary use of the lot on which it is situated.

BULK — The size and shape of buildings and non-building uses and the physical relationship of their exterior walls to lot lines and other buildings or walls and all open spaces required in connection with a building. Bulk requirements include lot area, lot area per dwelling unit, lot frontage, lot width, setbacks, yards, building heights, spacing between buildings on a single lot, density and the number of buildings in a row.

BULK SALES OR RENTAL — Includes furniture stores, major home appliance stores, carpet and flooring stores, equipment rental, auction houses and similar uses. It does not include vehicle sales or rental businesses.

BUSINESS INCUBATOR — A facility dedicated to the start-up and growth of small businesses, accomplished through management and facility support systems. For purposes of this definition, management support systems include access to professional advice, information on small business regulations, management, advertising, promotion, marketing, sales, inventory, employees, labor relations, and financial counseling. Facility support systems include clerical and reception staff, cleaning and building security, and access to copy and facsimile machines, computers, faxes, and other electronic equipment.

BUSINESS PARK(S) — An area of land in which a collection of more than one nonindustrial business is located.

CALIPER — A horticultural method of measuring the diameter of nursery stock. For trees less than four inches in diameter, the measurement should be taken at six inches above ground level. For trees greater than four inches in diameter up to and including 12 inches, the caliper measurement must be taken at 12 inches above the ground level. For trees greater than 12 inches in diameter, the trunk is measured at breast height (diameter at breast height or DBH), which is 4.5 feet above the ground.

CAMP — Any one or more of the following:

- A. **TYPE 1** — Any area of land or water on which are located two or more cabins, tents, trailers, recreational vehicles, shelters, or other accommodations of a design or character suitable for

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seasonal or temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally. This excludes mobile homes, manufactured homes, mobile home parks, and manufactured home communities.

- B. TYPE 2 — Any land, including any building thereon, used for any assembly of persons for what is commonly known as "day camp" purposes, whether or not conducted for profit and whether occupied by adults or by children, either as individuals, families or groups.
- C. Hospitals, places of detention or schools offering general instruction are excluded from this definition.

CAMPSITE — The lot or space in any camp which may be assigned to, or used and occupied by any one cabin, tent, trailer, recreational vehicle, shelter, or other accommodation for transient or temporary living purposes for overnight, weekend or seasonal camping.

CARPORT — An open-sided roofed automobile shelter, either freestanding or formed by extension of a roof from the side of a building, in which case it shall be deemed part of the structure to which it is attached. In either case, a carport shall not be deemed a garage.

CAR WASH — Any building or premises, or portion thereof, the use of which is devoted to the business of washing automobiles for a fee, whether by automated cleaning devices or otherwise.

CAMOUFLAGED TOWER — Any Tower or supporting structure that, due to design, location, or appearance, partially or completely hides, obscures, conceals, or otherwise disguises the presence of the Tower and one or more Antennas or Antenna arrays affixed thereto.

CATCH BASIN — (drain inlet) a structure which allows the entry of surface runoff into a storm sewer by connection to the storm sewer.

CELLAR — Is an enclosed space having more than 1/2 of its height below ground level.

CEMETERY — Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, crematorium, and columbaria.

CERTIFICATE OF COMPLIANCE — A statement, signed by the Code Enforcement Officer or Building Official, setting forth that a building, structure, or use complies with all of the requirements of this chapter only and such adjustment thereto granted by the Zoning Board of Appeals and/or the Planning Board.

CERTIFICATE OF OCCUPANCY — A document issued by the Code Enforcement Officer or Building Official allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal codes and ordinances.

CERTIFICATE OF OCCUPANCY, TEMPORARY — A certificate issued by the Code Enforcement Officer or Building Official upon the meeting of all requirements of this chapter, except those elements of

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the site plan for which a performance bond has been accepted by the Town Board. The temporary certificate of occupancy shall not be issued for a period exceeding one year.

CERTIFIED BACK FLOW PREVENTION DEVICE TESTER — A person who has received a “general tester” certification providing satisfactory completion of a training course for testers of back-flow and prevention devices which have been approved by the New York State Health Department.

CHANNEL — a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CHICKEN — the term chicken shall refer exclusively to domestic hens and shall intentionally exclude roosters.

CHLORIDE SALT — the solid compounds or solutions of potassium chloride (commonly used as fertilizer), calcium chloride (commonly used for winter-road maintenance) or sodium chloride (commonly used for water-softener regenerations).

CHURCH, COMMUNITY-SCALE — Facility intended as a gathering place for organized religious worship and related activities.

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 V.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CLEAN WOOD — Wood that has not been painted, stained, or treated with any other coatings, glues or preservatives, including, but not limited to, chromated copper arsenate, creosote, alkaline copper quaternary, copper azole or pentachlorophenol.

CLEARING — any activity that removes the vegetative surface cover.

CLOSURE — The owner or operator of any active or inactive solid waste management facility, including recyclables handling and recovery facilities, must, upon termination of use, properly close that facility and must monitor and maintain such closure so as to minimize the need for further maintenance; and to prevent adverse environmental or health impacts such as, but not limited to, contravention of surface water and groundwater quality standards, gas migration, odors, and vectors. Termination of use includes those situations where a facility has not received solid waste for more than one year, unless otherwise provided by permit, or the permit has expired. Termination of use also results from permit denial or order of the Commissioner of Department of Environmental Conservation or of a court.

CLUBHOUSE, MEMBERSHIP — Includes YMCA, YWCA, YMHA, fraternity, sorority, lodge, religious and similar membership clubs which may have dormitory accommodation on the premises.

CLUB, PRIVATE — A building or use catering exclusively to private club members and their guests for recreational or athletic purposes, and not operated primarily for gain or profit.

CLUSTER DEVELOPMENT — A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features. The design divides land into not more than the

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number of lots permissible in a conventional subdivision of the same property in the same zone, but where the size of individual lots may be reduced in order to gain common open space.

COASTAL HIGH HAZARD AREA — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1-V30, VE, VO or V.

CODE ENFORCEMENT OFFICER — The person officially designated by the Town Board of Kirkwood that is responsible for the administration and enforcement of the Zoning Local Law and/or to issue Building Permits.

CODE ENFORCEMENT PERSONNEL — Include the Code Enforcement Officer and all Inspectors.

COLD WAR VETERAN — means a person, male or female, who served on active duty in the United States armed forces for a period of more than three hundred sixty-five days, during the time period from September second, nineteen hundred forty-five to December twenty-sixth, nineteen hundred ninety-one, was discharged or released therefrom under honorable conditions and has been awarded the Cold War recognition certificate as authorized under Public Law 105-85, the 1998 National Defense Authorization Act.

CO-LOCATION — The use of a Tower or structure to support Antennae for the provision of wireless services without increasing the height of the Tower or structure.

COLLECTOR STREETS — are those streets or roads which are designed and constructed primarily to carry traffic from the service streets to the major arterial and highway system and the principal entrance street to a residential development and the streets used for principal internal circulation within such development.

COMMERCIAL COMPOSTING FACILITY — A solid waste management facility used to provide aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

COMMERCIAL EQUINE OPERATION — means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars of more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing, notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

COMMERCIAL HORSE BOARDING OPERATION — means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding

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and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

COMMERCIAL SERVICE — Provision of water to premises where the customer is engaged in trade or business.

COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE — The inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercial impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.

COMMON OPEN SPACE/RECREATION AREA — An area unobstructed by buildings, but may include walks, paths, landscaping or other site features in public or common ownership. Recreation buildings may be included as part of common open space.

COMMISSIONER OF PUBLIC WORKS — The commissioner of public works of the Town of Kirkwood, Broome County, New York.

COMMUNITY CENTER — A meeting hall or place of assembly intended for use as a gathering place by diverse members of the community.

COMMUNITY GARDENS — A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

COMMUNITY RECREATIONAL FACILITY — A place, area, structure, or other facility owned or operated by a governmental entity or certified nonprofit organization used by persons in the community to carry out recreational activities including outdoor and indoor facilities such as tennis courts, swimming pools, soccer fields, etc.

COMMUNITY RESIDENCE — A supervised community home, operated in compliance with the New York State Mental Hygiene Law, which houses not more than 14 individuals and provides client supervision on a twenty-four-hour basis. For the purposes of this chapter, an approved community residence as defined herein is considered a one-family dwelling.

COMPATIBLE —

- A. Having a pleasing or congruent arrangement of elements in the design and/or appearance between two or more attributes of a structure;
- B. Having a pleasing or congruent arrangement of elements in the design and/or appearance between two or more structures;

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- C. Having a pleasing or congruent arrangement of elements in the design and/or appearance between two or more attributes of a neighborhood; or
- D. Having a pleasing or congruent arrangement of elements in the use or function between two or more attributes of a neighborhood or area.

COMPLETED APPLICATION — An Application that contains all information and/or data necessary to enable the Board to evaluate the merits of the Applications, and to make an informed decision with respect to the effect and impact of the Wireless Telecommunications Facilities on the town in the context of the permitted land use for the particular location requested.

COMPOST — Means to heap or pile matter capable of decay, including but not limited to grass cuttings, leaves, brush, decaying foods, or paper products for use as fertilizer.

COMPOST, MULCH OR OTHER ORGANIC BIOMASS CROPS — means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation’s agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, “compost” shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

CONDOMINIUM OWNERSHIP — The ownership interest in dwelling units and other facilities pursuant to Article 9-B of the Real Property Law of New York State.

CONGREGATE CARE FACILITY, ELDERLY — A building or group of buildings providing a continuity of residential occupancy and health care for elderly persons. Such facility typically includes dwelling units for independent living, assisted living facilities, plus a skilled nursing care facility of a suitable size to provide treatment or care of elderly residents (55 years or older). It may include ancillary facilities for service or care of residents.

CONIFEROUS — A plant with foliage that persists and remains green year-round. Also known as "evergreen."

CONSTRUCTION — Any physical modification to the site at which a potential or proposed facility is to be located, including, but not limited to, site preparation (e.g., clearing and grading, excavation of borrow material for daily cover, etc.).

CONSTRUCTION ACTIVITY — Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities

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include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

CONSTRUCTION AND DEMOLITION DEBRIS — Any matter which is defined as construction and demolition debris in 6 NYCRR Part 360.

CONSTRUCTION AND DEMOLITION DUMP — a site used for the deposit of wastes resulting from construction, remodeling, repair and demolition of structures, road building and land clearing. Such wastes include but are not limited to bricks, concrete, and other masonry materials, soil, rock and lumber, road spoils, paving material and tree and brush stumps.

CONSTRUCTION EQUIPMENT YARD — A lot on which vehicles, tools and equipment used by construction contractors are parked or stored, including contractor's offices and storage buildings located on premises.

CONSUMER — The owner or owners of the premises to which water is furnished as provided in this chapter.

CONTAINMENT — Cross-connection control which isolates the customer's entire facility from the public water system so as to provide the WATER MAINS 6306 protection necessary to prevent contamination of the public water supply in the event of backflow from the customer's facility.

CONTAMINATION — The presence in water of a substance that tends to degrade its quality.

CONVALESCENT HOME, NURSING HOME or EXTENDED CARE FACILITY — See "hospital."

COOLING WATER — The water discharged from any system of condensation, air conditioning, cooling, refrigeration, or other sources. It shall contain no polluting substances which would produce BOD, or Suspended Solids each in excess of ten (10) milligrams per liter.

COOPERATIVE OWNERSHIP — The ownership interest in dwelling units and other facilities by a corporation organized pursuant to the Cooperative Corporation Law of New York State.

COPY SHOP — A business engaging in the reproduction of photographic impressions through mimeograph, electrostatic, or thermal copy process, whether wet or dry.

COUNTY — Broome County, New York.

COURT — An unoccupied open space other than a yard. An "outer court" is one which extends to the front, side or rear yards; an "inner court" is any other court.

CRAWL SPACE — An enclosed area beneath the lowest elevated floor, eighteen (18) inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

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CROPS, LIVESTOCK AND LIVESTOCK PRODUCTS — shall include but not be limited to the following:

- a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- b. Fruits, including apples, peaches, grapes, cherries and berries.
- c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.
- f. Maple sap.
- g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
- h. Aquaculture products, including fish, fish products, water plants and shellfish.
- i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.
- j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, “nucs” shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.

CROSS-CONNECTION — A physical connection through which a water supply could be contaminated.

CURB — A stone or concrete boundary usually marking the edge of a roadway or paved area.

CURB CUT — The length of the opening along the road curb providing vehicular ingress and/or egress between property and an abutting public street.

CUSTODIAL CARE FACILITY — A facility providing custodial care and treatment in a protective living environment for persons residing voluntarily or by court placement, including, without limitation, correctional and post-correctional facilities, juvenile detention facilities, and temporary detention facilities.

CUSTOMER — The owner or agent of record receiving water service from the water department.

DANCE, ART, OR MUSIC STUDIO — Establishments or work space dedicated to artists, artisans, musicians, dancers, or other individuals practicing one of the fine or performing arts or skilled in an applied art or craft. Incidental retail sales of work produced on the premises or related to the studio may be included in the business's permitted function. This definition excludes all adult-oriented uses.

DATE OF PRESENTATION — The date upon which a bill or notice is mailed or delivered personally to the customer.

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DAY-CARE, ADULT — The provision of care to individuals over the age of 18 for periods less than 24 consecutive hours, but not including schools, provided that such day care conforms to all applicable licensing and/or registration requirements of New York State.

DAY-CARE, YOUTH — Any program or facility caring for children for more than three hours per day per child in which child day-care is provided by a licensed child day-care provider except those programs operating as a group family day-care home, a family day-care home, and a school-age child care program as defined by § 390.1 of the Social Services Law of the State of New York (Ref: New York State Social Services Law).

DEBRIS — Dirt, soil, mud, stones, timber, timber debris, (including limbs, bark and leaves), and building materials.

DEC — New York State Department of Environmental Conservation.

DECIBEL — A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure intensity of sound are calibrated in decibels.

DECIDUOUS — A plant with foliage that is shed annually.

DEPARTMENT OF PUBLIC WORKS — The department of public works of the Town of Kirkwood, Broome County, New York.

DEPUTY COMMISSIONER OF PUBLIC WORKS — The deputy commissioner of public works of the Town of Kirkwood, Broome County, New York.

DESIGN MANUAL — the New York State Stormwater Design Manual, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

DESIGN PROFESSIONAL — New York State licensed professional engineer or licensed architect.

DESIGN REVIEW/DESIGN CONTROL — The comprehensive evaluation of a development and its impact on neighboring properties and the community as a whole, from the standpoint of site and landscape design, architecture, materials, colors, lighting, and signs, in accordance with a set of adopted criteria and standards.

DESIGN STANDARDS — A set of guidelines regarding the architectural appearance of a building, or improvement, that governs the alteration, construction, demolition, or relocation of a building, or improvement.

DETENTION AREA — An area that is designed to capture specific quantities of stormwater and to gradually release the stormwater at a sufficiently slow rate to avert flooding.

DEVELOPMENT — Any man-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance of farm roads.

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DEVELOPER — a person who undertakes land development activities.

DEVELOPMENT PLAN, FINAL — The required plans submitted to the Planning Board, provided that approvals have been granted for preliminary plans and the change of zone (which constitute the first two phases for a Planned Unit Development or Mobile Home Park District).

DEVELOPMENT PLAN, PRELIMINARY — A preliminary development plan shall include the following information:

- A. A proposed site plan showing building locations and land use areas; traffic circulation, parking areas and pedestrian walks; and landscaping layout.
- B. A proposed construction sequence for buildings, parking spaces and landscaped areas.

DEVELOPMENT PLAN, SITE — A plan for the improvement and development of single-family attached residential, multifamily, commercial, office, industrial, institutional, Planned Unit Development District and Mobile Home Park District properties. The plan shall be submitted to and approval obtained from the Planning Board prior to the issuance of a building permit.

DIRECT-TO HOME SATELLITE SERVICES or **DIRECT BROADCAST SERVICE** or **DBS** — Only programming transmitted or broadcast by satellite directly to subscribers' premises without the use of ground receiving equipment, other than such equipment at the subscribers' premises or in the uplink process to the satellite. M. EPA: The United States Environmental Protection Agency, or its duly designated and authorized successor agency.

DISABILITY — Any "physical or mental impairment that substantially limits one or more of the major life activities" of an individual ("Major life activities" include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working) pursuant to 28 CFR § 35.108. (Added June 4, 1996 by LL No. 6-1996)

DISPENSING UNIT — (1) to divide and share out according to a plan; (2) to deal out in portions.

DISTRIBUTION — the marketing or merchandising of commodities.

DOMESTIC SERVICE — Provision of water for household residential purposes, including water for sprinkling lawns, gardens and shrubbery; watering livestock; washing vehicles; and other similar and customary purposes.

DORMITORY USE — Includes fraternity, sorority, nurses' home and dormitory.

DOWNZONING — A change in the zoning classification of land to a classification permitting development that is less intensive or dense, such as from multifamily to single-family or from commercial to industrial to residential. A change in the opposite direction is called "upzoning."

DRINKING WATER — Water provided for human consumption, food preparation, or for lavatory, culinary, bathing or laundry purposes.

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DRIVE-IN BUSINESS — An establishment, including outdoor theaters and restaurants, where a patron generally does not enter the building but is served or entertained in a motor vehicle.

DRIVE-THROUGH FACILITIES — A building or use, from which, by design of physical facilities, a product is sold to or a service performed for customers while they are in or near their motor vehicles, including but not limited to fast-food restaurants, drive-up bank tellers, film-processing service booths, etc.

DRIVEWAY — Land used as access to and situated on the property or lot by vehicular traffic.

DRY-CLEANING OUTLETS — Facilities which provide drop off and pickup of garments and other textile items for dry-cleaning services off-site. (Actual dry cleaning services are not performed on site.) Dry cleaning outlets do not include any coin-operated facilities.

DRY-CLEANING FACILITIES — Facilities which provide on-site specialty cleaning services for specific garments and textile items, except carpets and upholstery.

DWELLING — A detached building designed or used exclusively as living quarters for one or more persons or families; the term shall not be deemed to include motel, hotel, boarding or rooming house, recreation vehicle, tourist home or tent.

DWELLING, MULTIFAMILY — A building designed or used as living quarters by three or more families living independently of each other; may include apartment buildings, townhouses, or row houses.

DWELLING, ONE-FAMILY — A building designed or used as living quarters by one family.

DWELLING, ONE-FAMILY ATTACHED (commonly called "townhouse" or "row house") — A row of two or more adjoining dwelling units each on its own lot and separated from each other by one or more party walls.

DWELLING, ONE-FAMILY DETACHED (commonly called "single-family house") — A building separated from lot lines and other buildings by open space on all sides.

DWELLING, TWO-FAMILY — A building designed and used exclusively for occupancy for two families living independently of each other and which is separated from lot lines or other buildings by open space on all sides.

DWELLING UNIT — One room, or a group of rooms joined to each other and not regularly locked in the interior, located in a dwelling, designed and maintained as a unified living quarter, occupied by an individual or a family, containing integrated facilities used for living, sleeping, cooking, eating and sanitation.

EASEMENT — Any authorization by a property owner for the use by another, for a specified purpose, of any designated portion of a lot.

EAVE — The projecting lower edges of a roof overhanging the wall of a building.

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EDUCATIONAL INSTITUTION — Any public or private school or other organization conducting a regularly scheduled curriculum of study and operated under the Education Law of New York State.

ELEEMOSYNARY INSTITUTION — Any building or group of buildings devoted to and supported by charity.

ELECTRICAL DISTRIBUTION SUBSTATION — An assembly of equipment designed to receive energy from a high-voltage distribution supply system, to convert it to a form suitable for local distribution and to distribute the energy to feeders through switching equipment designed to protect the service from the effects of faults.

ELEVATED BUILDING — A non-basement building: 1) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of an elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and, 2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, “elevated building” also includes a building elevated by means official or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-V30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building”, even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

ELEVATIONS, BASE FLOOD — Elevations above mean sea level of the flood levels which have a one-percent chance of being equaled or exceeded in any given year, as defined on the Flood Insurance Rate Map.

ENERGY CODE — The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

ENFORCEMENT OFFICER — See Code Enforcement Officer.

ENVIRONMENTAL ASSESSMENT FORM or EAF — The official form used by an agency, in compliance with SEQRA, to assist it in determining the environmental significance or non-significance of actions. An EAF may consist of the short or full EAF as detailed in § 617.6 of the Environmental Conservation Law.

ENVIRONMENTAL IMPACT STATEMENT — As defined in 6 NYCRR part 617: a written evaluation prepared by a permit applicant which provides a description of a proposed project or development and a detailed analysis of its environmental effects.

EPA — The United States Environmental Protection Agency.

EROSION CONTROL MANUAL — the most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book".

ESCORT AGENCY — A person or business association who or which furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

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ESCROW — Money put into the custody of a third party for delivery to a grantee only after the fulfillment of the conditions specified.

ESTABLISHED PLACE OF BUSINESS — Any building, store or depository in which or where the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits.

EVERGREEN — A tree, shrub, or plant having foliage that persists and remains green throughout the year.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

EXOTIC ANIMALS — Reptiles, ferrets, snakes, tropical birds, turtles, and any species of animal whose natural or usual habitat within the State of New York is either in the wild or in a zoo but which is being housed or sustained by a person.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads).

FAA — The Federal Aviation Administration, or its duly designated and authorized successor agency.

FABRICATION — to construct from diverse and usually standardized parts

FAMILY — Any number of individuals related by blood, marriage, operation of law, or adoption, or any number of individuals not related by blood, marriage or adoption living together and who meet the indicia for a functional and factual family equivalent.

FAMILY DAY-CARE HOME — As defined in § 390(1)(e) of the Social Services Law (SSL) as a program where day care is provided for three to six children for more than three hours per day in a family home occupied as a residence. The home may care for an additional one or two school-age children if those children receive care primarily before or after school.

FARM — See FARM OPERATION.

FARM OPERATION — The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation, a timber operation, compost, mulch or other biomass crops, and commercial equine operation. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other. Dog kennels are excluded from a farm operation.

FARMER'S MARKET — The seasonal selling or offering for sale at retail of farm products, occurring in a pre-designated area, where the vendors are generally individuals who have raised the farm products or have taken the same on consignment for retail sale.

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FCC — The Federal Communications Commission, or its duly designated and authorized successor agency.

FEDERAL ACT — The 1972 Federal Water Pollution Control Act Amendments, Public Law 92-500, and the 1977 Clean Water Act, Public Law 95-217, and any amendments thereto; as well as any guidelines, limitations, and standards promulgated by the U.S. Environmental Protection Agency pursuant to the Act.

FEDERAL EMERGENCY MANAGEMENT AGENCY — The Federal Agency that administers the National Flood Insurance Program.

FERTILIZERS — any commercially produced mixture generally containing phosphorus, nitrogen, and potassium which is applied to the ground to increase nutrients to plants.

FILL — Any material that is not hazardous as defined in the Solid Waste Disposal Act or the regulations of the New York State Department of Environmental Conservation Parts 370 through 374 and 376, such as earth, clay, sand, gravel, and concrete that is placed, stored, or dumped upon the surface of the ground resulting in an increase in the natural surface elevation. "Fill" shall not include solid waste as defined in Parts 360 and 364 of the New York State Department of Environmental Conservation Law, garbage (putrescible animal, vegetable waste), refuse (putrescible and nonputrescible liquid or solid waste), rubbish or debris (household or commercial trash), recyclable materials, junk or junk vehicles, parts, explosives, pathological waste, or biological waste.

FILLING — The depositing of fill on land, whether submerged or not, including nonhazardous earth, clay, sand, or gravel.

FIRE LINE — (1) A water line making a connection to the water district system for the purpose of supplying water to fire hydrants on private property around the exterior of buildings situated thereon; or (2) a water line making a connection to the water district system for the purpose of extending the said line into buildings situated on private property for the purpose of supplying sprinkler heads or hose reels.

FIRE PROTECTION SERVICE — Provision of water to premises for automatic fire prevention.

FIRE WALL — A wall of non-combustible construction, with qualities of fire resistance and structural stability which resists the spread of fire.

FLEA MARKET — A location where new, old or used articles are sold.

FLOOR AREA — The sum of the horizontal area of the floors of a building and its accessory buildings on the same lot, excluding unfinished basement or cellar floor areas not devoted to habitable use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between interior faces of walls.

FLOOD OR FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters; 2) the unusual and rapid accumulation or runoff of surface waters from any source. "Flood" or "Flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by

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an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in 1) above.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the Community published by the Federal Emergency Management Agency as part of a riverline Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

FLOOD ELEVATION STUDY — An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevation are provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See "FLOOD ELEVATION STUDY".

FLOODPLAIN OR FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source (see definition of "FLOODING").

FLOOD PROOFING — Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — Has the same meaning as "REGULATORY FLOODWAY".

FLOOR AREA, HABITABLE — The floor area of rooms in a dwelling unit used for bedrooms, living rooms, dining rooms and kitchens.

FLOW RATE — The quantity of waste or liquid that flows in a certain period of time.

FOOD CHAIN CROP — Crops grown for human consumption and crops grown for feed for animals whose products are consumed by humans. (f) "E.C.L" means Chapter 43-B of the Consolidated Laws of the State of New York, entitled the Environmental Conservation Law.

FOOD PROCESSING AND PACKING PLANTS — Facilities which transform and process livestock and agricultural products into products for eventual consumption and package the processed goods for distribution to wholesalers or retailers.

FOREST — A biological community dominated by trees and other woody plants covering a land area of one acre or more. This also includes forests that have been cut but not cleared. In other areas, a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forest includes:

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- A. Areas that have at least 100 trees per acre with at least 50% of those trees having a two-inch or greater diameter at 4.5 feet above the ground and larger; and
- B. Forest areas that have been cut but not cleared.

FORESTRY OPERATIONS — The use of land for the raising and harvesting of timber, pulp woods, and other forestry products for commercial purposes, including the temporary operation of a sawmill and/or chipper to process the timber cut from that parcel or contiguous parcels. Excluded from this definition shall be the cutting of timber associated with land development approved by the Town, which shall be considered accessory to the development of the property.

FREE STANDING TOWER — A Tower that is not supported by guy wires and ground anchors or other means of attached or external support.

FRONTAGE — The extent of a building or a lot along one public street as defined herein.

FROST LINE — Forty-two inches below the final grade surface of the ground.

FULL EAF — The Full Environmental Assessment Form approved by the New York Department of Environmental Conservation.

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

FUNCTIONAL AND FACTUAL FAMILY EQUIVALENT — A group of unrelated individuals living together and functioning together as a traditional family. In determining whether or not a group of unrelated individuals comprise a functional and factual family equivalent, the Zoning Board of Appeals may consider the following factors:

- A. Whether the occupants share the entire dwelling unit or act as separate roomers.
- B. Whether the household has stability akin to a permanent family structure. The criteria used to determine this test may include the following:
 - 1. Length of stay together among the occupants in the current dwelling unit or other dwelling units.
 - 2. The presence of minor dependent children regularly residing in the household.
 - 3. The presence of one individual acting as head of the household.
 - 4. Proof of sharing expenses for food, rent or ownership costs, utilities and other household expenses.
 - 5. Common ownership of furniture and appliances among the members of the household.
 - 6. Whether the household is a temporary living arrangement or a framework for transient living.

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7. Whether the composition of the household changes from year to year.
8. Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a family.

FUNERAL HOME — A building used for the preparation of the deceased for cremation or burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GAME ROOM — a building or place containing five or more amusement games as defined herein. (See "amusement.")

GARAGE, ATTACHED — A garage having a common wall or a portion thereof with a principal residential building and used for the storage of motor vehicles, boats or trailers and in which no home occupation, business or service for profit is maintained.

GARAGE, PRIVATE — An enclosed space for the storage of motor vehicles, provided that no business, occupation or service is conducted for profit therein.

GARAGE, PRIVATE DETACHED — A building used as an accessory use to a principal residential building for the storage of motor vehicles, boats or trailers and in which no home occupation, business or service for profit is maintained.

GARAGE, PUBLIC — Any building, other than a private garage, which is available to the public, operated for gain and used for storage of automobiles.

GARAGE SALE — A sale of used household or personal articles (as furniture, tools, or clothing) held on the seller's own premises.

GARBAGE — Includes but is not limited to: 1) Food waste of all kinds, whether for human or animal consumption, 2) Used food containers or parts thereof, whether fabricated of metal, paper, wood, glass, plastic or synthetics 3) Paper materials used in food packaging, 4) Dead animals or parts thereof, or 5) Any other matter which shall be capable of fermentation or decay, except Lumber as defined herein, and Composted garbage used as fertilizer upon farms or gardens. Any matter capable or incapable of fermentation or decay.

GOLF COURSE — A public or private recreation establishment having no fewer than nine holes; each improved with tees, greens, fairways, and hazards for playing the game of golf. Miniature golf and driving ranges are excluded.

GO-KART — Every device in, upon or by which a person or property is or may be transported or drawn, powered by one or more two or four cycle internal combustion engines, each producing 15 horsepower or less; excluding, however, tractors, agricultural machinery, devices used for the care and maintenance of real property, when so used, and vehicles licensed for operation on the public highways of the State of New York.

GO-KART TRACK OPERATOR — Any person who charges for the use of real property by go-karts in the Town of Kirkwood.

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GRADE, FINISHED — The completed surface of grounds, lawns, walks, paved areas and roads brought to grade as shown on plans and designed related thereto in existence at the time the certificate of occupancy is issued.

GRADING — excavation or fill of material, including the resulting conditions thereof.

GREENHOUSE — An enclosed structure, typically constructed of glass or plastic, in which agricultural or horticultural stock is grown in climate-controlled conditions and protected from outside elements.

GROSS FLOOR AREA — Shall be the total area of all floors within the exterior walls of the building, excluding basements, cellars, garages, open or screened porches, patios or awning overhangs.

GROUNDWATER — any water beneath the land surface in the saturated zone that is under atmospheric or artesian pressure and that enters wells and springs.

GROUP-CARE FACILITY — A building used to house people with health problems. Such facility shall be under the direction and supervision of trained medical or mental health professionals.

GROUP FAMILY DAY-CARE HOME — As defined in § 390(1) (d) of the Social Services Law (SSL) as a program in which day care is provided in a family home occupied as a residence for seven to 10 children, including not more than four children under two years of age, or up to 12 children where all of the children in care are over two years of age. Care may also be provided for up to two additional school-age children outside of school hours.

GROUP HOME — a residence for persons requiring care or supervision.

HALFWAY HOUSE, PENAL — A facility where one or more residents are:

- A. On probation;
- B. On parole; or
- C. Participating in a penal institution's pre-release program.

HANDICAPPED VIEWING AREAS — Designated area in park to be used by individual(s) with disabilities to provide proximity to athletic fields for the purpose of attending and/or viewing recreational events held in the park.

HARASSMENT, SEXUAL — 1) Sexual advances that are not welcome, requests for sexual favors, and other verbal or physical conduct of with sexual overtones constitute sexual harassment when: a) submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; or b) submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions such as promotion, transfer, or termination, affecting such individual; or c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; 2) Sexual harassment refers to behavior that an individual does not welcome; that is personally offensive; that fails to respect the rights

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of others; that lowers morale and that, therefore, interferes with an individual's work performance and effectiveness; or that creates an intimidating, hostile, or offensive working environment.

HARASSMENT, VERBAL — Abusive verbal language related to a person's sex, including sexual innuendos; slurs; suggestive, derogatory, or insulting comments or sounds; whistling; jokes of a sexual nature; sexual propositions; and threats. Included would be any sexual advance that is unwelcome or any demand for sexual favors.

HARASSMENT, NON-VERBAL — Abusive written language, showing or displaying pornographic or sexually explicit objects or pictures, graphic commentaries, leering or obscene gestures in the workplace such that it unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

HARASSMENT, PHYSICAL — Any physical contact which is not welcome, including touching, petting, pinching, coerced sexual intercourse, assault, or persistent brushing up against a person's body.

HAULAGE WAY — All roads utilized for mining purposes, together with that area of land over which material is transported, that are located within the permitted area.

HAWKER AND PEDDLER — Except as herein expressly provided, any person, principal or agent who, in any public street or highway or public place, or by going from house to house or place of business to place of business, on foot or from any vehicle standing in a street or highway, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except as hereinafter exempted.

HAZARDOUS FACILITY — One in which substances may be present which if introduced into the public water system would or may endanger or have an adverse effect on the health of other water customers. Typical examples: laboratories, sewage treatment plants, chemical plants, hospitals, mortuaries.

HAZARDOUS MATERIALS — Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial, present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HEALTH CLUB — An establishment in which members use health and fitness facilities and equipment, and includes any outdoor equipment or facilities owned by the establishment.

HEAVY RIGGING OPERATIONS — The actual movement of a customer's equipment or material by means of forklift, crane or manually, using rope, snatch blocks, jacks and blocks, chain falls, or ramps including the use of tractor trailers, straight trucks, forklifts, cranes, utility trucks, and pick-up trucks. Such operation consists of:

- A. inbound rigging operations: receiving equipment, un-crating, reloading and transportation to customer's facility for offload and rigging into place,

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

HEIGHT — When referring to a Tower or structure, the distance measured from the preexisting grade level to the highest point on the Tower or structure, even if said highest point is an Antenna.

HELIPORT — An area of land used exclusively for the takeoff and landing of helicopters. A helicopter is an aircraft whose support in the air is chiefly derived from the aerodynamic forces acting upon one or more rotors turning on vertical axis.

HERBICIDE — Any substance used to destroy plants or inhibit their growth.

HIGH FREQUENCY TRUCK TRAFFIC — A vehicle or related vehicles that have 3 or more axles and which traverses/travels over 50 miles or more of Town roads or other Town property during any 5 consecutive days. When calculating whether a vehicle or related vehicles meets the definition of high Frequency Traffic, 100 miles and 5 consecutive work days shall be used for both individual permits and Blanket Permits.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC DISTRICT OVERLAY — Includes areas duly designated within definable geographic boundaries as an Historic District by the Historic District Commission which may have within its boundaries properties or structures that, while not of such specific historic and/or architectural significance, nevertheless contribute to the overall visual characteristics of the Historic District. The Historic District shall be an overlay on the Zoning Map and the rules and regulations of the Historic District shall apply in addition to the requirements of this chapter.

HISTORIC STRUCTURE — Any structure that is: 1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register, 2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district, 3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or 4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: a) by an approved state program as determined by the Secretary of the Interior, or b) directly by the Secretary of the Interior in states without approved programs.

HOLDING TANK WASTE — Any sanitary waste from holding tanks such as marine vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

HOME OCCUPATION — An occupation or profession of a service character conducted within a dwelling by a member of the residing family, which is clearly secondary to the dwelling use for living

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purposes and does not change the character thereof or have any exterior evidence of such secondary use with exception of signage.

HOMEOWNERS' ASSOCIATION OWNERSHIP — The ownership of dwelling units, common elements and other facilities by an association organized pursuant to the laws of New York State.

HORTICULTURAL USES — Any land or structures, including greenhouses, used for the commercial production, sale, or research of vegetative products.

HOSPITAL — Any facility, structure or place for diagnosis and treatment of human illnesses, injuries or ailments. This includes a sanitarium, clinic, rest home, nursing home, convalescent home, home for the aged.

HOTEL — A building containing rooms which are used, rented or hired out to be occupied for sleeping purposes and where a general kitchen and dining room may be provided within the building or in an accessory building.

HOUSEHOLD — Any number of persons living together who meet the indicia for a functional equivalent of a traditional family.

HOUSEHOLD PETS — Small, domesticated animals or fish kept for pleasure and not for utility or commercial purposes. Pets include animals such as, but not limited to, dogs, cats, hamsters, nonvenomous snakes, fish and non-fowl birds (not raised for meat or eggs).

HOUSING FOR THE ELDERLY — A residential complex containing multifamily units which is designed for the needs of the elderly and which is subject to the management or other legal restrictions that require that the project shall be occupied by households wherein at least one person is 55 years or over. Such facilities may include a congregate dining room.

HOTEL — A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a single kitchen and dining room are provided within the buildings or in an accessory building. (See “lodging.”)

HUD — United States Department of Housing and Urban Development.

HUMAN EXCRETA — human feces and urine.

HUNTING — Pursuing, shooting, killing or capturing wildlife, and includes all lesser acts such as disturbing, harrying or worrying, whether they result in taking or not, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife.

HYDROGEOLOGY CHARACTERISTICS — The characteristics that describe the hydrology and the geology at a given site. This includes but is not limited by the: type, permeability, capability and origin of the surface and subsurface soil material; depth, rate of recharge, direction of flow and yield of ground water; and depth to bedrock.

ILLCIT CONNECTIONS — Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to: 1. Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash

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water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or 2. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE — Any direct or indirect non-stormwater discharge to the Municipal Separate Storm Sewer System (MS4).

IMPERVIOUS COVER — those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).**INDIVIDUAL**

INDUSTRIAL AGRICULTURAL ENTERPRISE — A large-scale business activity that specializes in a specific aspect of agriculture or farming and uses specialized equipment or buildings to process farm products for their delivery to market. The raising of livestock or processing of agricultural products grown on the premises may be subordinate to such use.

INDUSTRIAL PARK — A collection of sites for the location of various industries which may or may not be related to one another.

INDUSTRIAL SERVICE — Provision of water to a customer for use in manufacturing or processing activities.

INDUSTRIAL STORMWATER PERMIT — a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INDUSTRIAL USER — Any non-residential user of the Town's sanitary sewer system which User is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

Division A — Agriculture, Forestry and Fishing

Division B — Mining

Division D — Manufacturing

Division E — Transportation, Communications, Electrical, Gas and Sanitary Services Division I - Services

INDUSTRIAL WASTE — Any discarded material including any liquid, gaseous or solid substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business or from development or recovery of natural resources. The term shall not include garbage.

INFILTRATION — the process of percolating water into the subsoil.

INFLUENT — Wastewater raw or partly treated, flowing into any sewage treatment device or sewage treatment facilities.

INSPECTOR — The person or persons designated by the Kirkwood Town Board to inspect lateral lines and connections.

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INSTITUTION — A facility that provides a public service and is operated by a federal, state, or local government, public or private utility, school, church or similarly recognized and legally established sect, public agency, tax exempt organization, or quasi-public organization.

INTERCONNECTION — A joining of two independently operated public water supply.

INTERFERENCE — The inhibition or disruption of the treatment plant processes or operations or its sludge processes, use or disposal. The term includes any action which contributes to a violation of any requirement of the Joint Sewage Board's SPDES Permitter which results in the prevention of sewage sludge reuse, reclamation, or disposal by the treatment plant in accordance with §405 of the Act (33 USC 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, or any more stringent State criteria applicable to the method of disposal or use employed by the treatment plant.

IRRIGATION SERVICE — Provision of water for commercial, agricultural, floricultural or horticultural use.

JOINT SEWAGE BOARD — The Binghamton-Johnson City Joint Sewage Board, established under the agreement between the City of Binghamton and the Village of Johnson City for the operation of a joint wastewater treatment facility. The term includes any duly authorized designee, agent or representative of the Board.

JOINT SEWAGE TREATMENT PLANT OR TREATMENT PLANT — The Binghamton-Johnson City Joint Sewage Treatment Plant. The term includes all devices or systems used in the storage, treatment, cycling or reclamation of municipal sewage or industrial wastes of a liquid nature by the Binghamton-Johnson City Joint Sewage Treatment Plant.

JUNK — Old, discarded or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, waste or junked, scrapped, ruined, dismantled or wrecked motor vehicles or parts thereof, iron, steel and other old, discarded or scrap ferrous or nonferrous material, tires, lumber, pallets and other wood debris.

JUNKYARD — A lot, land or structure or part thereof used for the collecting, storage or sale of wastepaper, rags, scrap metal or discarded material, or for collecting, wrecking, dismantling, storage, salvaging or sale of machinery parts or vehicles not in running condition.

JURISDICTIONAL WETLAND — an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

KENNEL, COMMERCIAL — An establishment for boarding, breeding, grooming, training for a fee, or selling household pets, domestic animals or exotic animals other than personal pets of the property owner or lessee.

KENNEL, PRIVATE — The raising or keeping of five or more household pets.

KEY LOCK BOX — An approved Knox Box device, or other key lock box device approved by the Fire Chief, designed to hold entry devices, including keys, access cards, plans, lists, or other items which

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allow access to a building or structure and all parts thereof, which is mounted in an approved position on the premises.

LAND DEVELOPMENT ACTIVITY — construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LAND OWNER — the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

LANDFILL — A disposal facility or part of one at which solid waste, or its residue after treatment, is intentionally placed in or on land, at which solid waste will remain after closure, and which is not a land spreading facility, a surface impoundment, or an injection well.

LANDSCAPE WASTE — All accumulations of grass or shrubbery cuttings, leaves, tree limbs, and other materials accumulated as the result of the care of lawns, shrubbery, vines, and trees.

LATERAL CONNECTION — The pipe, valves and other facilities by means of which water is conducted from the curb or shutoff valve to the customer's premises.

LATERAL SANITARY SEWER — The conduit pipe conveying sewage from house or building to trunk line in street.

LATERAL SANITARY SEWER CONNECTION — The connection of the lateral sanitary sewer to the "Y", in the trunk line.

LATEST CLASS RATIO — means the latest final class ratio established by the state board pursuant to title one of article twelve of the Real Property Tax Law of the State of New York for use in a special assessing unit as defined in section eighteen hundred one thereof.

LATEST STATE EQUALIZATION RATE — means the latest final equalization rate or special equalization rate established by the state board pursuant to article twelve of the Real Property Tax Law. The state board shall establish a special equalization rate if it finds there has been a material change in the level of assessment since the establishment of the latest state equalization rate, but in no event shall such special equalization rate exceed one hundred. In the event the state equalization rate exceeds one hundred, then the state equalization rate shall be one hundred for the purpose of this local law. When a special equalization rate is established for purposes of this section, the assessor is directed and authorized to re-compute the Cold War veterans exemption on the assessment roll by applying the special equalization rate instead of the latest state equalization rate applied to the previous year and to make the appropriate corrections on the assessment roll, notwithstanding the fact that such assessor may receive the special equalization rate after the completion, verification and filing of such final assessment roll. In the event that the assessor does not have custody of the roll when such Re-computation is accomplished, the assessor shall certify such re-computation to the local officers having custody and control of such roll, and such local officers are hereby directed and authorized to enter the recommended Cold War veterans exemption certified by the assessor on such roll.

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LAUNDROMAT — A business premises equipped with individual clothes-washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

LEED CERTIFIED — A building or site that is classified as meeting certain building and construction standards set forth by the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED).

LINEAR DISTANCE — the shortest horizontal distance from the nearest point of the structure or object to the extension of the centerline of the wells.

LITTER — Any matter capable or incapable of fermentation or decay.

LIVESTOCK — Any domestic animal, such as cattle, horses, donkeys, mules, burros, sheep, hogs or goats of greater than three months' age.

LOADING AREA — An off-street space not less than 12 feet wide and 35 feet long with an overhead clearance of at least 15 feet, exclusive of passageways, driveways, ramps, columns and other areas, and which is used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

LOCAL ADMINISTRATOR — The person appointed by the community to administer and implement this Local Law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Ordinance Administrator, Building and Code Inspector or employee of an engineering department.

LOCAL DELIVERY — Delivery or pickup of merchandise or other property along the Town Roads by High Frequency Truck Traffic.

LODGING — A single building or group of buildings containing guest rooms or apartments, with parking space for such rooms or apartments, which is primarily designed for the accommodation of transient travelers and does not contain individual cooking facilities. Lodging facilities may also provide additional services to guests, such as food and beverages, limited recreational facilities, conference rooms, and laundry. Hotels and motels are considered lodging.

LOT — Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated and having frontage on a street or other means of access as may be determined by the Planning Board to be adequate as a condition of the issuance of a building permit for a building on such land.

LOT AREA — The total horizontal area within the property lines, excluding any part lying within the boundaries of a public street or proposed public street.

LOT, AVERAGE SIZE — In the performance standard bulk requirements, the average size of all lots of the same use in the same development.

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LOT, CORNER —

- A. A lot located at the junction of and fronting on two or more intersecting streets.
- B. A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.

LOT COVERAGE — That portion of or the total plot or lot area covered or occupied by buildings.

LOT DEPTH — The mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the building front line in the general direction of the side lines of the lot.

LOT FRONTAGE — The distance measured across the width of the lot at the building front line or the proposed building front line.

LOT LINE, FRONT — In the case of a lot abutting upon only one street, the line separating the lot from the street right-of-way; in the case of a lot abutting more than one street, each street line shall be considered a front lot line.

LOT LINE, REAR — The lot line which is generally opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.

LOT LINES — The property lines bounding a lot.

LOT LINE, SIDE — The property line or lines extending from the front lot line to the rear lot line.

LOT OF RECORD — Any lot which has been established as such by plat, survey or deed prior to the date of adoption of the ordinance from which this chapter is derived and as shown on the records of the County Clerk.

LOT SIZE — The total area within the property lines, excluding any portion lying within the boundaries of a public street or future street right-of-way.

LOT WIDTH — The mean horizontal distance between the side lot lines, measured at right angles to the lot depth.

LOWEST FLOOR — Lowest floor of the lowest enclosed area (including basement or cellar). . An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

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LUMBER — Includes but is not limited to: 1) Wood of growing trees sawed or split into boards or planks, 2) Wood pallets, 3) Wood used in packing and/or shipping. The term lumber does not include untreated wood products formerly used in construction or packing and/or shipping.

MACHINE SHOP — A workplace in which metal and other substances are cut, shaped, etc. by machine tools.

MAIN EXTENSIONS — Extension of distribution pipelines, exclusive of service connections, beyond existing facilities.

MAINS — Distribution pipelines located in streets, highways or public ways which are used to serve the general public.

MAINTENANCE AGREEMENT — a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

MANUFACTURED HOME — A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards, 24 CFR Part 3208, 4-1-1993, transportable in one or more sections, which in traveling mode, is eight feet or more in width or 40 feet or more in length, or when erected on site, is 320 square feet minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, cooling, and electrical systems therein. The term "manufactured home" shall not include any self-propelled recreational vehicle. Manufactured homes shall also include single-wide manufactured homes as a part of this definition.

MANUFACTURED HOME, DOUBLE-WIDE — A manufactured home consisting of two sections, combined at the site, with a combined width of no less than 20 feet, while still retaining their individual chassis for possible future movement and complying with the federal requirements specified in the "manufactured home" definition. This definition does not include modular homes.

MANUFACTURED HOME COMMUNITY — Any lot, piece, or parcel of ground whereon more than two mobile/manufactured homes are placed, or are designed for such placement, and whether a charge is or is not made for such use (may also be referred to as a "mobile home park").

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURING — Any factory, shop, yard warehouse, mill or other nonresidential premises utilized in whole or in part for the processing, preparation, production, containerizing, storage or distribution of goods, wares, commodities, parts, materials, electricity and the like. The processing, preparation and production activities customarily deal with man-made or raw materials and other manufactured items which are altered, restored or improved by the utilization of biological, chemical or physical actions, tools, instruments, machines or other such similar natural, scientific or technological means. "Manufacturing" shall not include the handling of any waste products and materials. Manufacturing processes and treatments include but are not limited to such operations as mixing, crushing, cutting, grinding and polishing; casting, molding and stamping; alloying and refining; assaying, cleaning, coating and printing; and assembling and finishing.

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MANURE — animal feces and urine.

MARQUEE — Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building generally designed and constructed to provide protection from the weather.

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.

MASS GATHERING — A gathering which is likely to attract 3,000 people or more.

MASTER PLAN — shall mean a comprehensive plan prepared by the Planning Board pursuant to Section 272a of the Town Law which shows general locations desirable for the various functional classes of public works, places and structures, and other general physical developments of the Town and includes any unit or part of such plan separately adopted and any amendments to such plan or parts thereof.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MEDICAL OFFICE — Includes medical, dental and clinical outpatient offices for the diagnosis and treatment of human ailments.

MERCHANDISING — Refers to the selling, bartering or trading, or offering to sell, barter or trade, of any goods, wares, commodities or services.

METER RATE SERVICE — Provision of water in measured quantities.

MINE — Any excavation from which a mineral is to be produced for sale or exchange, or for commercial, industrial or municipal use; all haulage ways and all equipment above, on or below the

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surface of the ground used in connection with such excavation, and all lands included in the life of the mine review by the New York State Department of Environmental Conservation.

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

MINING — The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. "Mining" shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

MINING PLAN — A description of the applicant's mining operation which shall include maps, plans, written materials and other documents required by the New York State Department of Environmental Conservation.

MIXED USE — A development or redevelopment that allows for more dense development in a single building or on a single lot and includes a mixture of uses including, but not limited to, two or more of the following: residential, commercial and industrial.

MOBILE HOME — A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI, or a specific state standard, transportable in one or more sections, which in the traveling mode, is eight feet or more in width or 40 feet or more in length, or when erected on site, is 320 square feet minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, HVAC, and electrical systems therein. The term "mobile home" shall not include travel trailers or any self-propelled recreational vehicle.

MOBILE HOME LOT — A mobile home lot is a designated site of specific total land area which is located within a mobile home park for the accommodation of one mobile home and its occupants.

MOBILE HOME PARK — A parcel of land which has been planned and improved for the placement of mobile or manufactured homes for non-transient use or a group of individually owned lots that were developed as a single development project.

MOBILE HOME PARK UNIT — The lot or space in any manufactured home community or mobile home park which shall be assigned to, or used and occupied by any one mobile/manufactured home.

MOBILE HOME SUBDIVISION — A parcel of land under single ownership in which a single lot or lots are developed and eventually sold by the landowner to persons for the placement of a mobile home.

MODIFICATION or MODIFY — The addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible

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components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

MODULAR HOME — A factory-manufactured dwelling unit, conforming to applicable provisions of the NYS Uniform Code and bearing insignia of approval issued by the State Fire Prevention and Code Council, which is constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in a manufacturing facility, intended or designed for permanent installation, or assembly and permanent installation.

MONOPOLE — A single, self-supporting pole-type structure, tapering from base to top and supporting a fixture designed to hold one or more antennas.

MOTEL — A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room may be provided within the building or in an accessory building. (See also "lodging.")

MOTOR VEHICLE — Any device in, upon or by which any person or property is or may be transported upon a public street or highway except such as are operated exclusively by human power.

MOTOR VEHICLE FUELING STATION — also known as filling station, gas station or petrol station is a facility which sells fuel and lubricants for motor vehicles. The most common fuels sold are gasoline (petrol) or diesel fuel. Some stations carry specialty fuels such as liquefied petroleum gas (LPG), natural gas, hydrogen, biodiesel, kerosene, or electricity, etc.

MOTOR VEHICLE PARKING LOT — An open parking facility which is not accessory to a building or use on the same or another lot.

MOTOR VEHICLE REPAIR SHOP OR GARAGE — Any building or structure used for repair and servicing of motor vehicles for profit or as part of a commercial operation.

MS4 — Municipal Separate Storm Sewer System.

MS4 SPECIAL CONDITIONS — 1. Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards. 2. 303(d) Listed Waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water. 3. Total Maximum Daily Load (TMDL) Strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL

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stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved. 4. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

MUFFLER — Any device consisting of more than one chamber or more than three baffle plates, or the equivalent, for the purpose of receiving exhaust gases from an internal combustion engine, which is effective in reducing noise. As used herein, the muffler shall not include any device meeting the preceding specifications which is equipped with a cut-out, bypass or similar device.

MUNICIPAL OR PUBLIC USE — Provision of water to a municipality, district or other public body.

MUNICIPAL SEPARATE STORM SEWER SYSTEM — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): 1. Owned or operated by the Town of Kirkwood; 2. Designed or used for collecting or conveying stormwater; 3. Which is not a combined sewer; and 4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2.

MUNICIPAL USES — Administrative, clerical, or public offices or buildings of a government agency (local, county, state, or federal), including postal facilities, together with incidental storage or accessory uses/buildings.

MUNICIPALITY — The Town of Kirkwood.

MULTIFAMILY — See DWELLING, TWO-FAMILY.

NEW CONSTRUCTION — Structures for which the “START OF CONSTRUCTION” commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

NEW MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (included at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete on or after the effective date of floodplain management regulations adopted by a community.

NIER — Non-Ionizing Electromagnetic Radiation.

NONAGRICULTURAL ASSOCIATED ANIMAL WASTE — manure obtained from nonagricultural industries.

NONCONFORMING BULK — Any building, land or part thereof, existing at the effective date of this chapter, which does not meet the bulk requirements for the use and for the district in which it is located.

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NONCONFORMING STRUCTURE — A building or structure that does not conform to the regulations of the district in which it is located upon the effective date of this chapter.

NONCONFORMING USE — An established use of a building or structure or of land existing at the effective date of this chapter which does not conform to the use requirements of the district in which it is located.

NONRESIDENTIAL LAND USE — All uses of land and buildings except one-family dwellings, two-family dwellings and multiple-family dwellings.

NON POINT SOURCE POLLUTION — pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

NORMAL SEWAGE — Sewage, industrial wastes or other wastes having pollutant concentrations which do not exceed 240 mg/l of BOD5, 300 mg/l of TSS or 50 mg/l of Oil and Grease and which is otherwise acceptable for discharge into the treatment plant under the terms of this Law. The numbers and values of characteristics are subject to revision by the Joint Sewage Board when, in the opinion of the Joint Sewage Board, a revision is necessary in order to (a) maintain the physical integrity of the treatment plant; or (b) maintain the treatment plant's capability of providing treatment in compliance with Federal, State and local standards.

NON-STORMWATER DISCHARGE — Any discharge to the MS4 that is not composed entirely of stormwater.

NUDE MODEL STUDIO — Any place in which the primary purpose is to allow a person who appears in a state of nudity or who displays specified anatomical areas to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studios shall be distinguished from model studios where nude modeling is an incidental function.

NURSERY — An enterprise that conducts the retail and/or wholesale sale of plants that may have been grown on the premises, as well as prepackaged accessory items (but not power equipment, such as gas or electric lawn mowers and farm implements) directly related to their care and maintenance.

NURSING HOME or SKILLED LIVING FACILITY — A residential facility established for profit or nonprofit, which provides nursing care and related medical services on a twenty-four-hours-per-day basis to individuals due to illness, disease or physical or mental infirmity. This does not include hospitals, clinics, or facilities providing surgical or emergency medical services, drug addiction, alcoholism, or mental health services.

NYS UNIFORM CODE(S) — The New York State Uniform Fire Prevention and Building Code, which shall include all subunits (Residential Code, Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Fire Code, Energy Code, and Property Maintenance Code) as currently in effect and as hereafter amended from time to time. The Uniform Code shall also be referred to as the "NYS Uniform Code."

OFFICE — Firms or organizations providing professional, executive, management, or administrative services, such as those listed in the "professional services" definition.

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OFFICIAL MAP — The map adopted by the Town Board, showing the streets, highways and parks laid out and additions resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such plats.

ONE HUNDRED YEAR FLOOD or 100-YEAR FLOOD — Has the same meaning as “BASE FLOOD”.

OPEN SPACE — That portion of a lot which is open, unobstructed and unoccupied from the ground upward and includes permeable walkways not used by vehicles, landscaping, uncovered patios, and uncovered recreation facilities.

OPERATION — Operation of the facility after initial receipt of raw materials.

OPERATING PERMIT — A permit issued pursuant to section 10 of this local law. The term Operating Permit shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this local law.

OTHER TOWN PROPERTY — Any real property (including any improvements therein, thereon or thereunder) or personal property owned by, or leased to, the Town.

OUTDOOR STORAGE — The storage of items, merchandise, materials, or vehicles outside of an enclosed structure for more than four consecutive days that are not being displayed for sale.

OUTDOOR WOOD BOILER — A fuel burning device that (a) is designed to burn wood or other fuels; (b) is specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans; and (c) is used to heat building space and/or water via the distribution, typically through pipes, of a gas or liquid (e.g., water or water/antifreeze mixture) heated in the device.

OVERBURDEN — All of the earth, vegetation and other materials which lie above or alongside a mineral deposit.

OWNER — An individual, firm, association, organization, partnership, trust, corporation, or company holding title to the property.

PARAPET WALL — That portion of a building wall that rises above the level of the roof.

PARKS — The grounds, buildings therein, water therein and any other property necessary for the operation thereof, and constituting a part thereof, which is now or may hereafter be maintained operated and controlled by the Town of Kirkwood for public park purposes.

PARKING AREA — An off-street area containing one or more parking spaces, with passageways and driveways appurtenant thereto.

PARKING FACILITY — Includes all required off-street parking spaces, loading areas, stacking spaces, aisles, driveways and landscaping as required in this chapter.

PARKING SPACE — An off-street space used for the temporary location of one licensed motor vehicle, not including access driveway, having direct access to a street or alley.

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PARKING, VALET — Parking services provided by a business for patrons of the facility, whereby automobiles are driven to and from the parking facility by an employee of the business.

PAVING — Ground surface covered with cobblestones, clay-fired bricks, concrete precast paver units (including, but not limited to) poured concrete with or without decorative surface materials, blacktop, or other asphaltic or rubber mixture which may include sand or gravel as an ingredient and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with loose gravel is not considered a paved surface.

PERFORMANCE BOND — A bond, letter of credit, cash or securities posted by the developer and accepted by the Board of Trustees, to guarantee that the developer will construct, or cause to be constructed, within one year all required improvements set by the Planning Board as conditions under site plan approval.

PERIMETER STRIP — Land not less than 10 feet in width located adjacent to a street, side, and rear lot lines designed for visual separation between uses or activities, excluding required driveways. Landscaping of the strip may include trees, shrubs, lawn, or planted ground cover that must be permanently maintained to present an attractive, well-kept appearance. Landscaped areas shall not be surfaced in part or whole with concrete, asphalt, or other surface material, but shall contain earth, and may contain organic mulch, inorganic fillers such as wood shavings, bark, volcanic rock or other similar mulch material.

PERMIT DEPARTMENT — The Permit Department of the Town of Kirkwood.

PERMIT HOLDER — The Person to whom a Building Permit has been issued.

PERMIT-ISSUING OFFICIAL — The Town Clerk of the Town of Kirkwood.

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

PERSONAL SERVICE ESTABLISHMENTS — Places primarily providing services oriented to personal needs, such as barber and beauty shops, shoe repair shops, household appliance repair shops, dry cleaning and laundry pickups, shoe shine parlors, and other similar establishments. Retail sales shall be allowed as incidental uses in personal service establishments.

PERSONAL WIRELESS FACILITY — See definition for ‘ Wireless Telecommunications Facilities’.

PERSONAL WIRELESS SERVICES or PWS or PERSONAL TELECOMMUNICATIONS SERVICE or PCS — These terms shall have the same meaning given to those terms or used in the Telecommunications Act of 1996.

PESTICIDE — any substance used to destroy or inhibit pests such a rodents and insects.

PHASING — developing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the development of the next.

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PLANNING BOARD — The officially designated Planning Board for the Town of Kirkwood, as established by the Town Board in accordance with New York State Town Law.

POLLUTANT — dredge, spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, chemical waste, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial and municipal waste and agricultural and nonagricultural associated animal waste.

POLLUTANT OF CONCERN — sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

POLLUTANTS — Defined now or hereafter by appropriate local, State or Federal authorities or by the Board, substances which may be present in wastewater, whether gaseous, liquid or solid, the amount of which may contain soluble or insoluble solids of organic or inorganic nature which may deplete the dissolved oxygen content of natural waters, contribute solids, contain oil, grease, or floating solids which may cause unsightly appearance on the surface of such waters, or contain materials detrimental to aquatic life.

POWER PLANT FACILITY OR POWER GENERATING FACILITY — A facility whose primary purpose is for the generation of electric power, in excess of one mega-watt, powered by fossil fuel (including natural gas, oil, coal or any other fossil fuel), or by any other means whatsoever, or any portion of or supporting facility relating to such plant including land areas forming the boundary of the actual facility and supporting facilities and all other land areas incorporated by said plant, including, but not limited to, buffer zones. The term “power plant” shall include a “co-generation facility” as that term is defined in Article 1, Section 2, Public Service Law of the State of New York.

PRELIMINARY LAYOUT — shall mean the preliminary drawings and accompanying information of the subdivider’s plan of subdivision.

PREMISES — Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

PRIMARY FRONTAL DUNE — : A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

PRINCIPALLY ABOVE GROUND — At least fifty one (51%) percent of the actual cash value of the structure, excluding land value, is above ground.

PRINCIPAL BUILDING/USE — The primary use of the building or land requiring the greater setback, larger area or greater yard shall be deemed the principal building/use.

PRIVATE SEWER — A sewer which is not owned or controlled by a public agency.

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PROCESSING FACILITY — A building or an enclosed space used for the collection and processing of materials. "Processing" means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

PROFESSIONAL ENGINEER — A registered professional engineer (PE) authorized to practice engineering as defined by New York State laws.

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

PROFESSIONAL SERVICES — Individuals or organizations that provide specialized services, including, but not limited to, medical practitioners, attorneys, architects, engineers, photographers, brokers, and other similar services. This classification excludes hospitals, banks, and savings and loan associations.

PROJECT — land development activity.

PROPERTY LINE — A line bounding a lot. Also known as a "lot line."

PROTECTIVE FENCING – fencing of a decorative nature that does not impact boundaries or sight lines (i.e. garden fencing)

PUBLIC ASSEMBLY USE — Includes auditorium, theater, public hall, school hall, meeting hall, church, temple and synagogue.

PUBLIC SEWER — A sewer which is owned or controlled by a governmental agency. This term includes any devices or systems used by the governmental agency in the storage, transmission, treatment or reclamation of municipal sewage or industrial wastes.

PUBLIC UTILITIES — A building or lot used in connection with the transmission or distribution of water, sewage, gas, electricity, telephone or other public services.

PUBLIC UTILITY BUILDING AND FACILITY — A building or lot used for or in connection with the transmission, distribution or regulation of water, sewage, gas, electricity, telephone, cable television, telecommunications or other public utility service by a municipal corporation or by a corporation subject to regulation by a state and/or federal regulatory agency. It does not include the administrative offices of the utility.

PUBLIC WALKWAY — A passage or path designated for pedestrian activity or walking.

PUBLICLY OWNED BUILDING/LOT — A building or lot used and/or owned by a government agency, school district or fire company.

PUTRESCIBLE — The tendency of organic matter to decompose with the formation of malodorous by-products.

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QUALIFIED OWNER — means a Cold War veteran, the spouse of a Cold War veteran, or the un-remarried surviving spouse of a deceased Cold War veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the un-remarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.

QUALIFIED RESIDENTIAL REAL PROPERTY — means property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation, and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this section. Such property shall be the primary residence of the Cold War veteran or the un-remarried surviving spouse of a Cold War veteran; unless the Cold War veteran or un-remarried surviving spouse is absent from the property due to medical reasons or institutionalization for up to five years.

QUARRY, SAND PIT, GRAVEL PIT or TOPSOIL STRIPPING — A lot of land or part thereof used for the purpose of extracting stone, sand, gravel or other minerals, or topsoil for sale, as an individual operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made in conformance with the NYS Uniform Code.

RACETRACK — Any ground, area or track upon which races, contests or demonstrations of skill or stunts are conducted for the enjoyment of entertainment of the public for the gratification of the contestants.

RADIATION — ionizing radiation, that is, any alpha particle, beta particle, gamma ray, x-ray, neutron, high-speed proton, and any other atomic particle producing ionization, but shall not mean any sound or radio wave, or visible infrared, or ultraviolet light.

RADIOACTIVE MATERIAL — any material in any form that emits radiation spontaneously.

RECHARGE — the replenishment of underground water reserves.

RECLAMATION — the conditioning of the affected land to make it suitable for any uses or purposes consistent with the provisions of the Environmental Conservation Law.

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

RECREATION AND ENTERTAINMENT VENUE, OUTDOOR — Predominately spectator uses conducted in the open or in tents. Typical uses include sports fields, golf driving ranges, miniature golf course, art shows, food shows, craft fairs, concerts, car shows and religious revivals. This definition shall exclude automobile, motorized cart and motorcycle tracks. Accessory uses, including user supplies, food service and sales, service and storage of recreation equipment and accessories, are permitted.

RECREATION, INDOOR — Includes a bowling alley, theater, pool hall, skating rink, gymnasium, health spa, video machine arcade, swimming pool and similar places of indoor commercial recreation,

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both public and private, as well as accessory uses, including user supplies, food service and sales, service and storage of recreation equipment and accessories.

RECREATION, OUTDOOR — Includes a privately or publicly owned marina, golf course and clubhouse, trap, skeet and archery ranges, swimming pool, skating rink, park, beach, tennis court, racquetball court, camping area, picnic area and similar places of outdoor recreation, as well as accessory uses, including user supplies, food service and sales, service and storage of recreation equipment and accessories.

RECREATION VEHICLE — A trailer or self-propelled motor vehicle structure without permanent foundation, which can be towed, hauled or driven, and is primarily designed as temporary living accommodation for recreation, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

RECREATIONAL AREAS — Any real property within the Town of Kirkwood which is owned by the Town of Kirkwood and which is used for recreational purposes by the public including, but not limited to, parks or playgrounds.

RECYCLING CENTERS — Facilities used for the receiving, temporary storage, or transfer of materials for recycling or reuse. Junkyards are excluded from this definition. Recycling centers may also include ancillary sales of recycled materials.

RECYCLABLES HANDLING AND RECOVERY FACILITY — A solid waste management facility, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream, or at which previously separated recyclables are collected.

RECYCLABLE MATERIAL — Solid waste that exhibits the potential to be used repeatedly in place of a virgin material.

REDUCED PRESSURE ZONE (RPZ) DEVICE, ACCEPTABLE — A minimum of two independently acting check valves, together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow the pressure between these two checks shall be less than the upstream (supply pressure). In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shut off valves located at each end of the device, and each device shall be fitted with properly located test cocks.

REFUSE — All putrescible and non-putrescible solid waste, including garbage, rubbish, ashes, incinerator residue, street cleanup, dead animals, offal and solid commercial waste.

REFUSE DISPOSAL AREA — land used for the depositing of refuse except that it shall not include the land used for the depositing of refuse from a single family, a member of which is the owner, occupant or lessee of said land, or any party of a farm on which only agricultural associated animal wastes resulting from the operation of such farm are deposited.

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REGULATORY FLOODWAY — the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4.2 of this Local law.

RELATED BY ADOPTION — Persons who are parent/grandparent and child/ grandchild to each other and persons who are brother and sister to each other and persons who are aunt or uncle or niece or nephew to each other by reasons of a legal adoption.

RELATED BY BLOOD — Persons who are parent and/or grandparent and child and/ or grandchild to each other; persons who are brother or sister to each other, including brother or sister of the half-blood; persons who are aunt or uncle and niece or nephew to each other.

RELATED BY MARRIAGE — Persons who are husband and wife to each other; persons who are mother- or father-in-law and son- or daughter-in-law to each other; persons who are brother- or sister-in-law to each other; persons who are stepparent and stepchild to each other.

RELATED VEHICLES — More than one vehicle, including those that are owned, used, rented, leased, hired (including independent contractors) or in any way utilized for a specific project, site or work location. When calculating if related vehicles meet the definition of high Frequency Truck Traffic, the number of axles shall be counted on each vehicle separately; however, the number of miles shall be the combination of all vehicles with 3 or more axles.

RELIGIOUS INSTITUTION — Includes church, temple, synagogue, mosque, parish house, convent, seminary and retreat house.

RESEARCH, DEVELOPMENT, EXPERIMENTAL OR TESTING LABORATORY — A building or groups of buildings in which are located facilities for scientific research, investigation, materials testing, or experimentation, but not facilities for the manufacture or sale of products.

RESIDENTIAL USE — Includes one-family dwelling, two-family dwelling, and multiple-family dwellings.

RESIDENTIAL LOT OR RESIDENTIAL BUILDING PLOT — shall mean any parcel of land any point on the boundary line of which is less than one-half mile from any point on the boundary line of another such lot in the same tract, unless any such lot may not legally be used for residential purposes. Without limiting the generality of the foregoing, the term “residential” shall include temporary, seasonal and permanent residential use. (Amended 6-11- 90 - Kirkwood Planning Board)

RESTAURANT — An establishment for the sale and on-premises consumption of food and beverages, including alcoholic beverages.

RESTAURANT, FAST-FOOD — A business for the quick counter service of food in a packaged form where the patron has the option to consume the packaged food on or off the premises.

RETAIL OR PERSONAL SERVICE STORES AND SHOPS — An establishment for the sale of goods, articles or consumer services individually or in small quantities directly to the consumer. Retail store or

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service shall not be interpreted to include the following: drive-up service, gasoline station, motor vehicle repair service, new or used car sales and service, and trailer or mobile home sales and service.

REZONING PETITION — A formal request to the Town Board to have the Zoning Map amended.

RIGHT-OF-WAY — The boundary of a road, street, highway, or expressway owned and maintained by any federal, state, or local municipal entity.

RINGELMANN CHART — One which is described in the United States Bureau of Mines Information Circular 6888 and on which are illustrated graduated shades of gray for use in estimating the light-obscuring capacity of smoke.

RINGELMANN NUMBER — The number of the Ringelmann Chart that coincides most nearly with the visual density of smoke emission.

ROAD PRESERVATION LOCAL LAW WORKSHEET (APPENDIX A) — Worksheet to be completed by potential Permittee, summarizing the project, project location, start and completion dates, expected maximum gross vehicle weight used for the project, proposed truck routes, and any other items that the Town Board deems necessary.

ROAD PRESERVATION PERMIT — Approval of an application for a Road Preservation Permit Application. This includes Blanket Permits, which are preferred, where there are multiple related vehicles. Permittee: Shall mean the holder of a “Road Preservation Vehicle Permit” issued pursuant to this Local Law. Under a Blanket Permit, this shall include the holder’s contractors, subcontractors, employees and agents.

ROADSIDE STANDS — a location at which an individual farmer sells his/her produce directly to consumers.

ROOM, HABITABLE — In any dwelling unit, the rooms used for bedrooms, living room, dining room and kitchen.

ROOMING HOUSE — Any dwelling or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to more than three persons who are not related by blood, marriage or adoption to each other or the owner or operator.

ROOFLINE — In the case of a flat roof, the uppermost line of the roof of a building; in the case of a pitched roof, the lower edge of the eave; or in the case of an extended facade or parapet, the uppermost height of said facade or parapet, provided that the facade or parapet extends around the entire perimeter of the building at the same elevation.

RULES AND REGULATIONS OF THE JOINT SEWAGE TREATMENT BOARD — The Rules and Regulations Relating to the use of the Binghamton-Johnson City Joint Sewage Treatment Plant, promulgated by the Binghamton-Johnson City Joint Sewage Board.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

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SANITARY SEWER — A sewer intended to carry only sanitary or sanitary and industrial wastewater from residences, commercial buildings, industrial plants, and institutions.

SANITARY SEWER SYSTEM — The system of sanitary sewer installed or to be installed in any sewer district or extension thereof.

SANITARY WASTE — Wash water, culinary wastes, the liquid waste containing only human excreta and similar matter, flowing in or from a building drainage system or sewer originating in a dwelling, business building, factory of institution.

SAWMILL — A facility where logs, partially processed cants, or bark are sawn, split, shaved, stripped, chipped, ground or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

SCHOOL — Parochial, nursery, private and public school, college, university and accessory uses operated under the Education Law of the State of New York and governed by the New York State Department of Education and shall exclude commercially operated schools of beauty, culture, business, dancing, driving, music and similar establishments which are not so governed.

SCRAP METAL PROCESSOR — Any area, lot, land, parcel, building, structure or part thereof used for the temporary storage of less than six months collection, processing, purchase, sale or disposal of used machinery, scrap iron, steel or other ferrous or nonferrous metals, tools, building materials, household appliances, reclaimable material or other recyclables that have been abandoned from their original use and may be used again in its present form or in a new form. The definition of scrap metal processing shall not include whole vehicle salvage, un-dismantled engines or transmissions, or any vehicle components that have not been drained of fluids.

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

SEDIMENT — solid material, both mineral and organic, that is in suspension, is being transported, or has been removed from its site of origin by erosion.

SEDIMENT CONTROL — measures that prevent eroded sediment from leaving the site.

SELF-SERVICE STORAGE FACILITY — A building or group of buildings divided into separate units or compartments used to meet the temporary storage needs of businesses and residential users. A warehouse operated for a specific commercial or industrial establishment shall not be considered a self-service storage facility.

SENSITIVE AREAS — cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species, Critical Environmental Area designated by the Municipality.

SEQRA — New York State Environmental Quality Review Act.

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SERVICE AREA — Includes those parts of any lot which are used primarily to provide access for servicing the use on the lot, including land used for delivery of goods, storage, and collection of wastes and provisions for maintenance.

SERVICE CONNECTED — means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from, a disability incurred or aggravated, in the line of duty on active military, naval or air service.

SERVICE CONNECTION — The pipe, valves and other facilities by means of which water is conducted from distribution mains to the curb or shutoff valve.

SERVICE STATION (GAS) — Any building or land that is used for the sale of motor fuel, oil, and motor vehicle accessories and which may or may not include facilities for minor repairs of motor vehicles or an accessory food store. Includes facilities not selling gasoline but specializing in oil and other automobile fluid changes.

SERVICE STREETS — are those streets which are designed and constructed to be used primarily for access to the abutting properties.

SETBACK — The least required horizontal distance between property line, and any structure on the lot measured at the shortest point, including terraces, porches, or any covered projection thereof, but excluding steps.

SETBACK, REAR — The setback to the rear lot line.

SETBACK, SIDE — The setback to any property line other than a street or rear lot line.

SETBACK, STREET OR FRONT — The setback to the street or front lot line. On corner lots, both yards bordering the street shall be considered as street setbacks. Such street setback shall be measured from the public right-of-way. Alleys shall be considered streets for this requirement, except as noted within this chapter.

SEWER — A pipe or conduit for carrying wastewater; the term includes sanitary sewers.

SEWAGE — any liquid or solid waste matter from a domestic, commercial, private or industrial establishment which is normally carried off in sewers or waste pipes.

SEWAGE DISPOSAL SYSTEM — any system used for disposing of sewage and includes treatment works.

SEWAGE TREATMENT SYSTEM — A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the ground waters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law. 2.10 Industrial Activity. Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

SEXUAL CONDUCT — Includes the following:

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- A. The fondling or other touching of human genitals, pubic region, buttocks or female breasts.
- B. Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation and sodomy.
- C. Masturbation.

SEXUALLY ORIENTED MATERIAL — General term used herein to refer to any matter, material, device or performance, whether or not otherwise specifically enumerated herein, which depicts, describes or relates to any sexual conduct or to a specified anatomical area.

SEXUALLY ORIENTED NOVELTY STORE — Any establishment having as a substantial or significant portion of its profit or stock-in-trade, the selling, leasing, trading or renting thereof, for any form of consideration whatsoever, instruments, devices and/or paraphernalia, which depict, describe or relate to any sexual conduct or to a specified anatomical area.

SHOPPING CENTER — A group of three or more stores, shops or similar businesses offering a variety of goods and services, occupying adjoining structures, whether attached or detached, having a common interrelated parking, loading and site circulation system with consolidated access to public roads. Also known as "malls," "retail centers," and "plazas."

SHORT TITLE LOT, WIDTH — means the mean width measured at right angles to its depth.

SHREDDED GARBAGE — Garbage shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle having any dimension greater than one-half inch.

SIGN — Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any persons or business or cause when such is placed in view of the general public.

- A. **FRAME SIGN** — A portable sign with two or more steeply angled sides; also known as a "sandwich board" sign.
- B. **ANIMATED SIGN** — A sign that uses the sequential switching on and off of graphically arranged fluorescent lamps, cathode tubes, LEDs or incandescents so as to provide the illusion of movement.
- C. **AWNING or CANOPY SIGN** — Any visual message incorporated into an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area.
- D. **COPY-CHANGE SIGN** — A sign on which the visual message may be periodically changed.

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- E. **DIGITAL MESSAGE SIGN** — Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display screen composed of illuminated segments. A sign that only displays time and/or temperature shall not be considered a digital message board/center.
- F. **DIRECTIONAL SIGN** — An on-site sign that is designed and erected solely for the purposes of directing vehicular and/or pedestrian traffic within a project or site.
- G. **FREESTANDING SIGN** — Any sign not attached or part of any building but separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs, monument signs, and masonry wall-type signs.
- H. **ILLUMINATED SIGN** — Any sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, and which includes reflective and phosphorescent light.
- I. **OFF-PREMISES SIGN** — A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.
- J. **PORTABLE SIGN** — A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.
- K. **PROJECTING SIGN** — A sign which is attached to the building wall or structure and which extends horizontally more than 15 inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.
- L. **REPRESENTATIVE SIGN** — A three-dimensional sign built so as to physically represent the object advertised.
- M. **SANDWICH BOARD SIGN** — A portable sign with two or more steeply angled sides; also known as an "A-frame sign."
- N. **SUSPENDED SIGN** — A sign hung so as to allow free movement.
- O. **TEMPORARY SIGN** — A sign related to a single activity or event having a limited timeframe.
- P. **WALL SIGN** — A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall and not extending more than 15 inches from the face of such wall.
- Q. **WINDOW SIGN** — A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

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SIGN AREA — The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign shall be excluded unless the structure is designed in a way to form an integral background for the display. If the sign consists of more than one section, all areas will be totaled.

SIGN DIRECTORY — A listing of two or more business enterprises, consisting of a matrix and sign components.

SIGN STRUCTURE — The supports, uprights, bracing and framework for the sign. In the case of a sign structure consisting of two or more sides where the angle formed between any two of the sides or the projections thereof exceeds 30°, each side shall be considered a separate sign structure.

SITE — See definition for Wireless Telecommunications Facilities.

SITE PLAN — A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Code Enforcement Officer or the Planning Board.

SITE PLAN REVIEW — Authority delegated to the Planning Board by the Board of Trustees or Town Board which enables the Planning Board to approve, approve with conditions or disapprove the site development plans for all buildings or uses where site plan review is required.

SLUDGE — any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment, or air pollution control facility. Sludge does not include the treated effluent from a wastewater treatment plant.

SOLAR ACCESS — The orientation of streets and lots to the sun so as to permit individual properties to use passive and/or active solar energy resources.

SOLAR ENERGY SYSTEM, ACTIVE — A solar energy system designed to provide heating, cooling, hot water or electricity that requires external mechanical devices for operation.

SOLAR ENERGY SYSTEM, PASSIVE — A solar energy system which relies upon the design and elements of a building to enhance the use of natural forces, including solar radiation and nighttime coolness, to provide heating, cooling or hot water and which is not primarily dependent upon mechanical devices for operation.

SOLAR SKY SPACE — The space between a solar collector and the sun which must be free of obstructions for a solar energy system's effective operation.

SOLICITOR — Any person who goes from place to place or house to house, or stands in any Street or public place, taking or offering to take orders for goods, wares or merchandise, except as hereinafter exempted, or for services to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

SOLID WASTE — Any matter which is defined as solid waste in either of the following: 1) Broome County Local Law No. 9, 1991, or 2) 6 New York Code Rules and Regulations Part 360 (hereinafter 6 NYCRR Part 360). However, concrete and concrete products (including stellar fiberglass reinforcing rods

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that are embedded in the concrete), asphalt pavement, brick, soil and rock that are found to be uncontaminated after inspection by the Town Building Inspector or Town Code Enforcement Officer shall not be deemed to be Solid Waste.

SPDES — A wastewater discharge permit issued by the DEC under the State Pollutant Discharge Elimination System.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-O2-01 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-O2-02 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

SPECIAL PERMIT — A document approved by the Planning Board that allows a specifically designed use that would not be appropriate generally or without restrictions throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare.

SPECIAL USE PERMIT — The official document or permit by which an Applicant is allowed to construct and use Wireless Telecommunications Facilities as granted or issued by the Town.

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.

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.

SPOIL — Any waste material removed from its natural place in the process of mining and all waste material directly connected with the cleaning and preparation of any minerals.

STABLE — A building in which horses are kept for public or private use, remuneration, hire or sale.

STABILIZATION — the use of practices that prevent exposed soil from eroding.

STACKING SPACE — A temporary space, eight feet by 18 feet, to be used by motorists while waiting to use drive-in units, car washes, gas pumps or other similar uses.

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START OF CONSTRUCTION — Includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the “actual start” means affixing of the manufactured home to its permanent site.

STATE — The State of New York.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the Department that authorizes the discharge of pollutants to waters of the State.

STEALTH or STEALTH TECHNOLOGY — Means minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

STOP WORK ORDER — an order issued which requires that all construction activity on a site be stopped.

STORAGE OF TOXIC SUBSTANCES — The storage of any toxic substance as set forth in Subdivision (30) of this section.

STORM SEWER — A sewer intended to carry only stormwaters, surface runoff, street wash waters, and/or drainage exclusive of sanitary wastes.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT — a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT — the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY — one or a series of stormwater management practices installed, stabilized and operated for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER (SMO) — An employee, the municipal engineer or other public official (s) designated by the Town of Kirkwood to enforce this local law. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

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STORMWATER MANAGEMENT PRACTICES (SMP'S) — measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies. Stormwater Pollution Prevention Plan (SWPPP) -a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF — flow on the surface of the ground, resulting from precipitation.

STORY — Part of a building which is between one floor level and the next higher floor level or, if there is no floor above it, then the ceiling above it.

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

STREET — A public or private way which affords the principal means of access to abutting properties.

STREET CENTER LINE — A line midway between and parallel to two street frontage property lines.

STREET FRONTAGE — The lot lines which abut a public street or right-of-way of a planned street.

STREET GRADE — The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

STREET LINE — The right-of-way line of a street as dedicated by a deed or record. Where the width of the street is not established, the street line shall be considered to be 25 feet from the center of the street.

STRIPPING — any activity which removes or significantly disturbs trees, brush, grass, or any other kind of vegetation.

STRUCTURE — A combination of materials to form a construction for use, occupancy or ornamentation, including but not limited to buildings, mobile homes, towers, flagpoles, swing sets, antennas, satellite dishes, or gas or liquid storage tanks, that are principally above ground.

SUBDIVIDER — shall mean the developer or contractor who will subdivide, the owner of the land to be subdivided, or any authorized agent of the developer, contractor, or owner.

SUBDIVISION PLAT — shall mean the final map, drawings or chart on which the subdivider's plan of subdivision is presented to the Planning Board for final approval, and which if approved, will be submitted to the County Clerk for recording.

SUBDIVISION OR SUBDIVIDE — shall mean any tract of land which is divided into four or more lots, plots, sites or other divisions of land along any existing or proposed streets, highways, easements or rights-of-way for sale or rent as residential lots or residential building plots. A tract of land shall constitute a subdivision upon the sale, rental or offer for sale or lease of the fourth residential lot, residential building plots; or site therefrom within any consecutive three year period.

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SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “STATE OF CONSTRUCTION” of the improvement. The term includes structures which have incurred “SUBSTANTIAL DAMAGE”, regardless of the actual repair work performed. The term does not, however, include either: 1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or 2) any alteration of a “HISTORIC STRUCTURE”, provided that the alteration will not preclude the structure’s continued designation as a “HISTORIC STRUCTURE”.

SURFACE WATERS OF THE STATE OF NEW YORK — lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons, which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to manmade bodies of water, which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

SUSPENDED SOLIDS — The total suspended matter in water or wastewater, as determined by Standard Methods.

SWALE — a natural depression or wide shallow ditch used to route or filter runoff.

SWIMMING POOL — Any constructed body of water or structure to contain water and any accessory equipment pertaining thereto, designed to be used or intended to be used for swimming or bathing by any family or persons residing on the premises and their guests. Portable wading pools, two feet or more deep, shall be considered "swimming pools."

TAILINGS — Material of inferior quality or value resulting from the removal, preparation or processing of minerals.

TELECOMMUNICATIONS — The transmission and reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

TELECOMMUNICATION SITE — See definition for Wireless Telecommunications Facilities.

TELECOMMUNICATIONS FACILITIES — Towers and/or antennas and non-habitable accessory structures used in connection with the provision of cellular telephone service, personal communication services, digital and/or data communication services, paging services, radio and television broadcast services and similar broadcast services (also referred to as "facilities" or "equipment"). Examples of such structures include utility or transmission equipment storage sheds or cabinets.

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TELECOMMUNICATIONS STRUCTURE or TELECOMMUNICATIONS TOWER — A structure, tower or location designed, intended to be used, or used in the provision of services described in the definition of Wireless Telecommunications Facilities.

TEMPORARY — In relation to all aspects and components of this Law, something intended to, or that does, exist for fewer than ninety (90) days.

TEMPORARY CERTIFICATE — A certificate issued pursuant to subdivision (d) of section 7 of this local law.

TEMPORARY PORTABLE STORAGE CONTAINER — A purpose-built, fully enclosed, boxlike container with signage on one or more of its outer surfaces that is designed for temporary storage of household goods and/or equipment. Such containers are uniquely designed for ease of loading to and from a transport vehicle.

TEMPORARY SERVICE — A service for circuses, bazaars, fairs, construction work, irrigation of vacant property and similar uses which because of their nature, consumption or use will not be regular or permanent.

TERMINAL FACILITIES — A facility which is used for the transfer of goods or materials from one form of transportation to another (e.g., from a tractor-trailer to a home delivery truck). Such transfer of goods or materials is typically done within an enclosed structure.

THEATER — A building or part of a building devoted to the performing arts or the viewing of motion pictures.

THEATER, DRIVE-IN — Open land with its appurtenant facilities devoted primarily to the showing of moving pictures or theatrical productions to patrons seated in automobiles or on outdoor seats.

TIMBER OPERATION — means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

TOTAL MAXIMUM DAILY LOAD (TMDL) — The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

TOWER — A structure designed to support antennas. It includes, but is not limited to, freestanding towers, guyed towers, monopoles and similar structures.

TOWER SPECIAL USE PERMIT — The authorization by which an Applicant is permitted to place, construct, use, or modify Wireless Telecommunications Facilities, subject to the requirements imposed by the Law and the conditions attached to the issuance of the Tower Special Use Permit by the Town Board.

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TOWN — The Town of Kirkwood, Broome County, New York.

TOWN ATTORNEY — The Town Attorney of the Town of Kirkwood and his duly authorized agents and representatives.

TOWN BOARD — The elected legislative body, Town of Kirkwood, New York.

TOWN CODE — The local laws, ordinances, rules, certain resolutions, and regulations of the Town of Kirkwood that are collectively known as the "Code of the Town of Kirkwood," and hereafter referred to as the "Town Code."

TOWN CLERK — The Town Clerk of the Town of Kirkwood.

TOWN ENGINEER — The Town Engineer of the Town of Kirkwood and his duly authorized agents and representatives.

TOWN HOUSE — One of a series of single-family dwellings connected by common party walls and forming a continuous group of homes.

TOWN SUPERVISOR — The town supervisor of the Town of Kirkwood, Broome County, New York.

TOWN ROAD — Any Town highway, road, street, avenue, boulevard, parkway, shoulder guard rail, concourse, driveway, easement, right of way, bridge, culvert, sluice pipe, ditch, dock, tunnel, sidewalk, or any utilities or improvements therein, thereon or thereunder.

TOWN PUBLIC WORKS DEPARTMENT — The Public Works Department of the Town of Kirkwood as described in the Code of the Town of Kirkwood.

TOXIC MATERIALS — Material listed or defined as hazardous by either of the following: 1) New York State Department of Environmental Conservation, or 2) U.S. Environmental Protection Agency.

TOXIC SUBSTANCE — Any substance whether gaseous, liquid, or solid, which when discharged to the sewer system in sufficient amounts may tend to interfere with any sewage treatment process, constitutes a hazard to the receiving waters of the effluent from the sewage treatment plant, poses a hazard to sewer maintenance personnel, or constitutes a hazard to animal life or inhibits aquatic life. This definition includes, but is not limited to, EPA Priority Pollutants. Any toxic substance as so defined by subdivision two of Section 4801 of the Public Health Law.

TRACT — shall mean anybody of land, including contiguous parcels of land, under one ownership or under common control of any group of persons acting in concert as part of a common scheme or plan.

TRACTOR — A motor vehicle designed and used as the power unit in combination with a semitrailer or trailer, or two such trailers in tandem. Any such motor vehicle shall not carry cargo except that a tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit. (Ref: New York State Vehicle and Traffic Law § 151a.)

TRAILER — See mobile home.

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TRAILER — Any vehicle not propelled by its own power drawn on the public highways by a motor vehicle as defined in this section, except motor vehicle side cars, vehicles being towed by a non-rigid support and vehicles designed and primarily used for other purposes and only occasionally drawn by such a motor vehicle.

TRAILER, SEMI — A trailer without a front axle A large proportion of its weight is supported either by a load or by a detachable front axle assembly known as a dolly. A semi-trailer is normally equipped with legs, called "landing gear", which can be lowered to support it when it is uncoupled.

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

TRAILER, UTILITY — A trailer is an unpowered vehicle towed by a powered vehicle. It is commonly used for the transport of goods and materials.

TRAPPING — Taking, killing and capturing wildlife with traps, deadfalls and other devices commonly used to take wildlife, and includes all lesser acts such as placing, setting or staking such traps, deadfalls and other devices whether they result in taking or not, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, deadfalls or other devices.

TREATMENT WORKS — any treatment plant, sewer, disposal field, lagoon, pumping station, septic system, construction drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfill, or other works not specifically mentioned in this paragraph, installed for the purpose of treating, neutralizing, stabilizing, or disposing of sewage.

TRUCK, SEMI — A semi-trailer truck (more commonly semi truck or simply "semi") is the combination of a tractor unit and one or more semi-trailers to carry freight. A semi-trailer attaches to the tractor with a fifth wheel hitch, with much of its weight borne by the tractor.

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

TRUNK SEWER LINE — One of the main trunk sewers located in the public street or in easements owned by said sewer district.

TREE CUTTING — The removal, felling or destruction of 50% or more of a tree, but does not include trimming branches for tree maintenance purposes.

TREE REMOVAL — The destruction of any tree by cutting, girdling, interfering with the water supply, applying chemicals, or regrading around the base of the trunk.

TURBINE — Any tower, pole or structure that converts wind energy to mechanical work, often referred to as windmills, shall be identified as turbines in this section. Lawn ornaments that are in the shape of a windmill and are less than ten feet in height measured from the ground to the top of the blade shall be

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excluded from the definition of turbine. Any such lawn ornaments existing at the time of adoption of this local law shall be allowed to remain so long as they are kept structurally sound.

ULTIMATE RIGHT-OF-WAY (UROW) — The ultimate right-of-way as set forth in the Town of Kirkwood Official Map. The ultimate right-of-way incorporates the area for future street widening, sidewalks and future street construction. The land may or may not be in public ownership.

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

UNDERGROUND STORAGE TANK — Anyone or combination of tanks that are used to contain an accumulation of toxic substances and which are in contact with the surface of the ground at any point.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

UNPOLLUTED WATER — Water to which no constituent has been added, either intentionally or accidentally, which would render water unacceptable to the agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

UNREGISTERED MOTOR VEHICLES — A motor vehicle requiring registration pursuant to the Vehicle and Traffic Law of the State of New York for the purpose for which it was originally intended, but not so registered.

UNTREATED LUMBER — Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint, or other substance.

USE — The specific purpose for which land, a building or a structure is designed, intended, arranged, used or maintained.

USE, CHANGE OF — Any change in the type or nature of occupancy of a building or land, except the following:

- A. A change in the volume of use without any physical extension of sales and/or service area.
- B. An expansion or substitution of accessory or incidental uses in connection with the established principal use, except that in no case shall such an accessory or incidental use dominate in area or purpose the principal lawful use.
- C. A change in ownership.
- D. A change to a generically similar use.

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DEFINITIONS**

(Amended September 6, 2022, LL #6-2022)

USE, PERMITTED — Any use specifically allowed in the district, excluding illegal uses and nonconforming uses.

USER — Any person who contributes, causes or permits the contribution of wastewater into the Town’s sanitary sewer system.

VACUUM BREAKER, NON-PRESSURE TYPE — A vacuum breaker which is designed so as not to be subjected to static line pressure.

VACUUM BREAKER, PRESSURE TYPE — A vacuum breaker designed to operate under conditions of static line pressure.

VARIANCE — A grant of relief from the requirements of this Local Law which permits construction or use in a manner that would otherwise be prohibited by this Local Law.

VARIANCE, AREA — The authorization of the Zoning Board of Appeals for the use of land which is not allowed by the dimensional or physical requirements set forth in this chapter.

VARIANCE, USE — The authorization of the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or prohibited by this chapter.

VEHICLE — Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

VIDEO MACHINE ARCADE — An amusement center having coin-operated video machines for entertainment. A video machine arcade is an indoor recreation facility.

VIEW SHED — An area within range of vision in any direction from a particular site or location.

VISUAL EAF — A Visual Environmental Assessment Form.

VIOLATION — The failure to comply with or conform to the provisions of this Article.

WAREHOUSE — A building, typically enclosed, designed or used for the storage of commodities; includes warehouse, wholesale establishment, discount house, bulk storage and bulk sales outlet.

WASTEWATER — The water carried domestic, human or animal waste from residences, buildings, industrial establishments or other places, together with such ground infiltration, industrial and commercial wastes as may be present.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS — The individual chemical, physical, bacteriological parameters, including volume, flow rate, and such other parameters that serve to define, classify, or measure the contents, quality and/or strength of wastewater.

WATER STABILIZATION POND OR LAGOON — Any body of water used for the collection of stormwater runoff, waste or sewage.

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WATER AND SEWER DEPARTMENT — A division of the government of the Town of Kirkwood which is in charge of the superintendent of Public Works of the Town of Kirkwood.

WATER DISTRICT — That improvement district of the Town of Kirkwood in which the subject premises is located.

WATER SUPERINTENDENT — The Commissioner of Public Works of the Town of Kirkwood or his representative.

WATER/WASTEWATER MAINTENANCE CREW CHIEF — The consumer or a person on the premises charged with the responsibility of complete knowledge and understanding of the water supply piping within the premises and for maintaining the consumer's water system free from cross-connections and other sanitary defects, as required by regulations and laws.

WATERCOURSE — a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATER SUPPLY — the public water supply of Water District No. 4 of the Town of Kirkwood.

WATERSHED — a region or area contributing stormwater ultimately to a particular watercourse or body of water.

WATERWAY — a channel that directs surface runoff to a watercourse or to the public storm drain.

WELLS — Any well or wells now used as a source of the Town's water supply as regulated pursuant to the Watershed Rules and Regulations of Kirkwood Water District No. 4, Town of Kirkwood, New York pursuant to Public Health Law §1100 and Title 10 (Health) Parts 102 §102.3 of the Official Compilation of Codes, Rules, and Regulations of the State of New York or any additional well which may be constructed within the zones established by this section and used as a source for this water supply or other supply.

WETLANDS — Areas designated as freshwater wetlands by the New York State Department of Environmental Conservation or the Army Corps of Engineers, as prescribed by law and subject to Chapter 125, Freshwater Wetlands, of the Code of the Town of Kirkwood.

WHOLESALE BUSINESS — A business that deals with the buying or selling or arranging for sale of goods or commodities, usually in bulk, for purchasers other than individual customers, to include offices, freight distribution centers, large storage facilities and the use of delivery trucks in the routine operation of the business.

WILDLIFE REFUGE — Includes bird sanctuary, zoo, forest reserve, game reserve and botanical garden.

WIND TURBINE — See **TURBINE**.

WIRELESS TELECOMMUNICATIONS FACILITIES or TOWER or SITE or PERSONAL WIRELESS FACILITY — A structure or location designed, or intended to be used to support antennas. It includes without limit, free standing towers, guyed towers, monopoles, and similar structures that employ camouflage technology, including, but not limited to structures such as a church steeple, silo, water tower,

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sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal telecommunications services, or microwave telecommunications, but excluding those used exclusively for fire, police, municipal ambulance or other telecommunications, or exclusively for private radio or television reception or exclusively for private citizen's bands, amateur radio or other similar telecommunications.

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

YARD, FRONT — A yard between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street line.

YARD, REAR — A yard between the rear lot line and rear line of a building extended to the side lot lines of the lot. The depth of the rear yard shall be measured between the rear lot line and the rear line of the building.

YARD, SIDE — The area between the side building line and the related side lot line and between the front yard and the rear yard.

ZONING BOARD OF APPEALS — The officially established Zoning Board of Appeals of the Town of Kirkwood with the duties and responsibilities identified in Article XV; also referred to as the "Zoning Board" or "Board of Appeals."