

A LOCAL LAW PROVIDING THAT A PERMIT BE REQUIRED FOR USE OF TOWN OF KIRKWOOD ROADS BY VEHICLES WITH GROSS WEIGHT IN EXCESS OF THE LIMITATIONS ALLOWED IN SECTION 385 OF THE VEHICLES AND TRAFFIC LAW OF THE STATE OF NEW YORK

Be it enacted by the Town Board of the Town of Kirkwood as follows:

Section 1. Authority for this Local Law

This Local Law is enacted pursuant to the authority of Vehicle and Traffic Law Section 385(15) authorizing a town to authorize the issuance of a permit to operate or move a vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in section 385 on town roads or highways, similar to that issued by the State of New York relating to the state system of highways.

Section 2. Permit Issuing Authority

The Commissioner of Public Works (hereinafter the "Commissioner") of the Town of Kirkwood (hereinafter the "Town") is hereby designated as the authority to receive applications for permits to operate or move a vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in section 385 on town roads or highways (hereinafter the "Permit"). Such permit can only be issued to applicants who are holders of valid New York State Hauling or Divisible Load Permits issued pursuant to Subpart 154-2 of Title 17 (Transportation) of New York Code of Rules and Regulations.

Section 3. Application and Permit Form

The Commissioner is hereby authorized to promulgate an application form requesting a Permit and the Permit to be issued upon review and approval of said application. Said application shall be accompanied by a Short Environmental Assessment Form.

Section 4. Damage to Town Roads

With the exception of normal wear and tear, the permittee is responsible for all damages done to the roadways, ditches, curbs, sidewalks or other improvements and to public utilities in the roadway. Upon due notice being given to the permittee and at its option, the Town may request the permittee to repair all damages or the Town may arrange the necessary repairs and charge the permittee for all labor and materials at the prevailing rates. The highway shall be restored and maintained for a period of one year from the date of any repairs. Particular attention is called to the necessity of thoroughly compacting the back fill, which will be required by the Town.

Section 5. Insurance

A. The permittee shall present to the Town certificates of insurance evidencing the acquisition of liability insurance coverage naming the Town as an additional insured on a non-contributory basis with the minimum limits of coverage for bodily injury equal to \$1,000,000.00 for each person injured, \$2,000,000.00 for aggregate bodily injury resulting from each occurrence, and \$500,000.00 property damage.

B. Said insurance shall be maintained throughout the term of the permit and the aforementioned certificates shall provide for thirty (30) days' notice to the Town prior to cancellation of coverage.

C. All persons performing work under this permit are to be covered by Workmen's Compensation Insurance and Disability Benefits insurances as required by New York law.

Section 6. Maintenance bond

The permittee shall present to the Town a maintenance bond in the amount of \$100,000.00 and a bank letter of credit in the amount of \$10,000.00 in favor of the Town guarantecing compliance with the provisions of the permit. At such time, if ever, that said letter of credit is expended, the permittee shall replace the same within 5 days written notice of the Town, failing which the permit shall be subject to revocation.

Section 7. Indemnity and Save Harmless

The Permittee will be required to agree to fully indemnify, defend, save and hold harmless the Town of Kirkwood and all of its departments, bureaus, divisions, boards, officers and employees from and against any and all claims, costs, damages, expenses, charges, risks, losses, lawsuits, judgments, executions, penalties, fines, assessments or any other liability of any type arising out of, occurring in connection with, or resulting from any and all activity to be performed by permittee pursuant to this permit.

Section 8. Stop work orders

The Town Engineer or Commissioner of Public Works shall have the right and authority to issue stop work orders to those operating in violation of the terms of this permit, or contrary to the permittee's application or conditions upon which its permit was issued.

Section 9. Revocation of permit

Upon the violation of any provisions of this permit, the Commissioner may suspend any permit issued hereunder for no more than thirty (30) days, and following a public hearing at which the permittee shall have the right to appear and be heard, may revoke any permit on notice to the permittee.

Section 10. Special Conditions

A. The permit shall not be assigned or transferred without the written consent of the Commissioner.

B. The Commissioner shall be given one week's notice by said permittee of the date when it intends to begin the activity authorized by the permit, and prompt notice of its completion.

C. The permit shall remain valid only for so long as the permittee continues to hold a valid New York State Hauling or Divisible Load Permit issued pursuant to Subpart 154-2 of Title 17 (Transportation) of New York Code of Rules and Regulations.

D. The permit shall not authorize the holder to exceed the maximum gross weight limit authorized for crossing an R-Posted bridge.

Section 11. Violation of local law; penalties therefore

Any person who shall operate or move a vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in section 385 on town roads or highways without obtaining the permit required hereunder shall be guilty of a Class A misdemeanor, which shall be punishable by a fine not exceeding One Thousand (\$1,000.00) Dollars.

Section 12. Severability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the

validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Kirkwood hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 13. Repealer

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 14. Effective Date

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.