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## **CHAPTER 13. ZONING ORDINANCE**

### **SECTION 1 - GENERAL**

#### **A. TITLE**

This Ordinance shall be known and cited as the Zoning Ordinance of the Town of Pittsfield, Maine, and will be referred to as “this Ordinance.”

#### **B. AUTHORITY**

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine constitution, the provisions of Title 30-A, MRSA Section 3001 (Home Rule), the State’s growth management law, Title 30-A, MRSA, Sections 4211 et. seq.

#### **C. PURPOSES**

<sup>1</sup>The purposes of this Ordinance are to implement the provisions of the Town’s Comprehensive Plan; to encourage growth in the identified growth areas of the community, and to limit growth in the rural areas; to promote the health and safety and general welfare of the residents of the community; to encourage the most appropriate use of land throughout the community; to promote traffic safety; to provide safety from fire and other elements; to provide an allotment of land area in new developments sufficient for adequate enjoyment of community life; to conserve natural resources; and to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to control building sites, placement of structures and land uses; to conserve natural beauty and open space.

#### **D. APPLICABILITY**

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Pittsfield, except for those areas designated under the Town of Pittsfield Shoreland Zoning Ordinance.

#### **E. CONFLICTS WITH OTHER ORDINANCES**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Ordinance, other than Shoreland Zoning Ordinance, regulation or statute, the more restrictive provision shall control.

This Ordinance supersedes and replaces the Pittsfield Zoning Ordinance, which became effective on July 3, 1986.

#### **F. VALIDITY AND SEVERABILITY**

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

**G. EFFECTIVE DATE**

1. The effective date of this Ordinance shall be thirty (30) days after its date of adoption by the Town Council on June 6, 2000. The Ordinance shall apply to all proceedings, applications and petitions not pending within the meaning of Title 30A, M.R.S.A., Section 3002 as of the date of adoption of this Ordinance.

**H. AMENDMENTS**

1. An amendment of this Ordinance may be initiated by the Planning Board provided a majority of the Board has voted to do so; a request of the Council to the Planning Board; a written petition of a number of voters equal to at least ten per cent (10%) of the number of votes cast in the municipality at the last gubernatorial election.
2. An amendment of this Ordinance may be adopted by a majority vote of the Council if the proposed amendment is recommended by an affirmative vote of at least four members of the Planning Board; or, at least five affirmative votes of the Council if the proposed amendment is not recommended by at least four members of the Planning Board.

In either case, the Planning Board shall hold a public hearing on the proposed amendment at least 14 days prior to the meeting of the governing body. Notice of the hearing shall be given in accordance with the requirements of 30-A M.R.S.A., Section 4352 as may be amended from time to time.

3. No proposed change in this Ordinance which has been unfavorably acted upon by the Council shall be considered on its merits by the Council within two (2) years after the date of such unfavorable action unless adoption of the proposed change is recommended by the unanimous vote of the Planning Board.

**SECTION 2 - NON-CONFORMANCE**

**A. PURPOSE**

It is the intent of these provisions to promote land use conformities, except that non-conforming conditions that legally existed before the effective date of this Ordinance or any amendment thereto shall be allowed to continue, subject to the requirements set forth in this section.

**B. GENERAL REQUIREMENTS**

1. **Transfer of Ownership:** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. **Repair and Maintenance:** This Ordinance allows, without a permit pursuant to this Ordinance, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure. It also

allows changes in a non-conforming use or structure required by federal, state or local building and safety codes.

### C. NON-CONFORMING STRUCTURES

1. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the Code Enforcement Officer, if such addition or expansion does not increase the non-conformity of the structure.

Foundations: Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided that: 1) the structure and new foundation are placed such that the setback and other dimensional requirements are met to the greatest practical extent as determined by the Code Enforcement Officer, basing his or her decision on the criteria specified in subsection 2. Relocation, below; 2) the completed foundation does not extend beyond the exterior existing dimension of the structure; and 3) the foundation does not cause the structure to be elevated more than three (3) additional feet.

Lot Lines: No structure which is less than the required setback from a property line or the normal high water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the property line or the water body, tributary stream, or wetland.

2. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback or other dimensional requirements to the greatest practical extent as determined by the Code Enforcement Officer, and provided that the applicant demonstrates that the present subsurface sewage disposal system (if applicable) meets the requirements of State law and the State of Maine Subsurface Water Disposal Rules or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback or other dimensional requirements to the greatest practical extent, the Code Enforcement Officer shall base his or her decision on the size of the lot, the slope of the land, the potential for soil erosion, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

3. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from the normal high water line of a water body, tributary stream, or upland edge of a wetland, or from the property line, or which otherwise fails to meet the dimensional requirements of this Ordinance, and which is removed or damaged or destroyed by more than 50 percent of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction or removal and provided that such reconstruction or replacement is in compliance with the setback or other dimensional requirements to the greatest practical extent as determined by the Code Enforcement Officer, and provided that the applicant demonstrates that the present subsurface sewage disposal system (if applicable) meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any non-conforming structure which is damaged or destroyed by 50 percent or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit from the Code Enforcement Officer.

In determining whether the building reconstruction or replacement meets setbacks to the greatest practical extent, the Code Enforcement Officer shall consider in addition to the criteria in paragraph 2 above, the physical condition and type of foundation present, if any.

4. **Change of Use of a Non-Conforming Structure:** The use of a non-conforming structure may not be changed to another use unless the Code Enforcement Officer, after reviewing a written application, determines that the new use will have no greater adverse impact than the existing use.

In determining whether a greater adverse impact will occur, the Code Enforcement Officer shall require written documentation from the applicant, regarding the probable effects of the change on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historical resources, and the character of the neighborhood.

#### **D. NON-CONFORMING USES**

1. **Continuance of Non-Conforming Uses:** Any use of land, buildings or structures that was lawful at the time of adoption of this Ordinance may continue, although such use does not conform to the provisions of this Ordinance.
2. **Expansions:** Non-conforming uses may, after obtaining a permit from the Planning Board, be permitted to expand on a lot of record legally existing as of the effective date of this Ordinance.

**New Structures:** Where a legal non-conforming use exists a new structure may be allowed when this structure will have no greater adverse impact on adjacent properties. In making this determination the Planning Board shall utilize the Site Plan Review Ordinance to evaluate any potential changes.

In granting a permit for the expansion of a non-conforming use the Planning Board must determine that the expanded use will have no greater adverse impact on adjacent properties. In making this determination, the Planning Board shall evaluate changes in noise, traffic, parking, odors, litter or other nuisances likely to result from the expanded use.

3. **Discontinuance of Non-Conforming Uses:** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use.
4. **Change of Use:** An existing non-conforming use may be changed to another non-conforming use provided that the Planning Board finds that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and that the proposed use will have no greater adverse impact on adjacent properties than the former use.

The determination of appropriateness shall be based on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards of this Ordinance shall apply to such requests.

In determining that greater adverse impact will not occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historical resources, and the character of the neighborhood.

25. Notwithstanding Section 2.D. of this Ordinance, the Planning Board may, upon determining that a structure/lot is of such design and/or configuration that it can not reasonably be converted to a conforming use, allow the reestablishment of a non-conforming use. The Board shall use the criteria in Section 2.D.4. for its review.

#### **E. NON-CONFORMING LOTS**

1. Non-conforming Lots: A vacant, non-conforming lot of record legally existing as of the effective date of this Ordinance or amendment thereto, and in separate ownership, may be built upon without the need for a lot size variance.
2. Contiguous Built Lots: If two or more contiguous lots or parcels are in the same ownership of record at the time of effective date or amendment of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that lots of at least 10,000 square feet are created in areas with Town water and sewer and at least 20,000 square feet in all other areas of Town and meet the requirements of the State Subsurface Wastewater Disposal Rules.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in the same ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements.

#### **F. <sup>22</sup>MAINTENANCE AFTER CASUALTY DAMAGE**

Within a period of 90 days after casualty (see Definitions) damage to property grounds or structures, the owner shall cause or contract for the repair or restoration of damaged areas, the demolition of any

structures not to be repaired and the removal of all debris connected therewith. The Code Enforcement Officer may grant an extension under certain hardship conditions

## **RESPONSIBILITIES**

Owners, operators, and occupants of properties shall maintain the structures and exterior property grounds in compliance with this ordinance. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as so as not to cause a blighting problem or adversely affect the public health and safety and to avoid any adverse effects to the adjoining properties.

## **ENFORCEMENT & PENALTIES**

### **Method of Service**

The Code Enforcement Officer shall issue a notice of violation for any violation of this subsection. Such written notice of violation shall be served by one more of the following methods: 1. Delivered personally by hand delivery, 2. Sent by certified mail and first class U. S. mail addressed to the last known address. 3. A copy of the notice may also be posted in a conspicuous place in or about the structure or property affected by such notice.

Said notice shall explain the nature of the violation and require corrective action within 30 calendar days from the date of the receipt of the notice to correct the violation; 7 days for a health and/or safety violation. The violator may appeal the Code Enforcement Officer's decision to the Board of Appeals. A written application for appeal must be filed within 7 days of the notice of violation or order being served by the Code Enforcement Officer. Appeals of notices and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Board of Appeals. The number of days given for compliance shall start after the Board of Appeals has heard the appeal.

If a violation is not corrected within the time allowed, the Town may pursue all remedies and relief available by law and/or in equity for land use ordinances, including without limitation the remedies and relief provided in 30A-M.R.S.A. Section 4452. The Town shall retain all penalties set forth in this ordinance. The Code Enforcement Officer may after approval of the Town Council represent the Town in District Court. However, should the services of the Town Attorney be required, the case shall first be reviewed with the Town Council.

## **EXTENSION REQUESTS**

Violators may submit a written request to the Code Enforcement Officer for a one-time extension of time to correct any violation under this subsection.. The extension of time may be given for financial hardship. Evidence of hardship must be provided by final documentation such as proof of expensive and other relevant information. If a violation is discovered during winter months (November 1 - April 1) and if winter weather prevents the correction of a violation/s a onetime extension of time for winter conditions may be given. These extensions for financial or seasonal hardships shall be at the discretion of the Code Enforcement Officer. The Code Enforcement Officer may offer one (1) special extension of up to 180 days to violators of this ordinance if a hardship can be shown.

**G. VESTED RIGHTS**

Non-conforming use rights do not arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required State permits and approvals. Such rights may arise when actual substantial construction has begun, or in the case of pending applications, when the substantive review process to determine compliance with substantive performance standards on a complete application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both State and local.

**SECTION 3 - ESTABLISHMENT OF DISTRICTS**

**A. DISTRICTS ESTABLISHED**

The Town of Pittsfield is hereby divided into the following classes of districts as shown on the Rural and Urban Land Use Maps, dated October 1977, revised November 1999 and January 2000, attached hereto and incorporated herein. District boundaries that abut a road are divided at the road's centerline. Where any ambiguity exists concerning the permissibility of a use, the Code Enforcement Officer shall make a determination.

**RESIDENTIAL DISTRICTS**

- One Family Residential District - R-1
- One and Two Family and Mobile Home Residential District – R-2
- One and Two Family Residential District – R-3
- One Family and Community Residential District – R-4

**COMMERCIAL DISTRICTS**

- Town Center District – C-1
- Highway Commercial District – C-2
  
- Industrial District – C-3
- Corridor Development Overlay District (CDOD)
- Medical Services Overlay District (MSOD)

**RURAL DISTRICT**

- Rural District – C-4

**SPECIAL DISTRICTS**

- Agricultural Protection District (APD)
- Riverfront District (RF)
- Scenic Overlay District (SOD)
- Airport Overlay District (AOD)

**B. ONE FAMILY RESIDENTIAL DISTRICT (R-1)**

The purpose of the R-1 residential district is to provide an area for high quality, upscale single-family neighborhoods on larger lots served by the Town's water and sewer departments. Privacy between homes and isolation from commercial and industrial land uses characterize this district. High quality planned residential developments with nicely landscaped grounds may be compatible with the single-family homes in this district.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table P.

**C. ONE AND TWO FAMILY AND MOBILE HOME RESIDENTIAL DISTRICT (R-2)**

<sup>3</sup>The purpose of the R-2 residential district is to provide for affordable, medium-density housing. Planned unit developments, professional offices, and civic uses such as schools, churches, parks and community centers are appropriate for this district. In order to meet the goals of the Comprehensive Plan to keep 75% of the new housing units in the urban area, it is also appropriate for two-family dwelling units to add or expand to a third unit. Day care centers, nursery schools, boarding homes and assisted living facilities are appropriate conditional uses in this district if the integrity of the principal uses is protected.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table P.

**D. ONE AND TWO FAMILY RESIDENTIAL DISTRICT (R-3)**

The purpose of the R-3 residential district is to provide guidelines to protect the character of the traditional, medium density residential neighborhoods that were developed in the mid- to late-1800s. Much of the older portion of in-town Pittsfield is designated in this district and is characterized by well-kept, older, traditionally styled homes. Supporting services for residential neighborhoods, such as schools, libraries, parks, and churches are appropriate in this district. Professional offices and multi-family housing which maintain the residential appearance of large older homes is also appropriate. Day care centers and nursery schools are appropriate conditional uses in this district. Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table P.

**E. FAMILY AND COMMUNITY RESIDENTIAL DISTRICT (R-4)**

The purpose of the R-4 residential district is to provide a high-quality yet affordable residential growth area that allows for single-family homes but especially encourages planned residential developments. A variety of rental and ownership options, from Townhouse apartments to condominiums, mobile home parks, and retirement and assisted living communities are envisioned in this district. Quality design and construction, efficient and attractive placement of structures and amenities, privacy and landscaping are to be required to ensure that desirable residential areas are created. Supporting services for residential neighborhoods, such as schools, libraries, parks, and churches are appropriate in this district. Day care centers and nursery schools are appropriate conditional uses in this district.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table P.

**F. TOWN CENTER DISTRICT (C-1)**

The purpose of the Town Center District is to preserve and enhance a thriving business district in Pittsfield's downtown. Retail stores, professional offices, banks, restaurants, government offices, consumer services and indoor recreation facilities are encouraged to locate here. Residential units are allowed only on floors above street level of commercial buildings.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table Q.

**G. HIGHWAY COMMERCIAL DISTRICT (C-2)**

The purpose of the Highway Commercial District is to provide for travel and vehicle-oriented sales and services and retail uses that are too land-intensive for the Town Center District. It is the intent of the Town to prevent strip development in these areas by managing access, regulating signs, and encouraging landscaping. Residential uses are not allowed in this district.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table Q.

**H. INDUSTRIAL DISTRICT (C-3)**

The purpose of the Industrial District is to provide areas for a wide range of intensive, non-retail commercial activities that require good transportation, utilities, and related services. In addition to manufacturing and transportation-related activities, wholesaling, office space, high-tech employers, call centers, etc., are appropriate in this district. Residential uses are not permitted in this district.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table Q.

**I. CORRIDOR DEVELOPMENT OVERLAY DISTRICT (CDOD)**

The purpose of the Corridor Development Overlay District is to provide areas for land-intensive commercial enterprises that do not require public water and sewer. The only retail operations allowed in this district are those that require too much land to locate in the Town Center or the Highway Commercial Districts, such as large equipment dealerships, and lumberyards. Junkyards and traffic-intensive recreational activities such as amusement parks and racetracks shall be directed to this district.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table Q.

**J. MEDICAL SERVICES OVERLAY DISTRICT (MSOD)**

The purpose of the Medical Services Overlay District is to encourage the siting of medical facilities in the area adjacent to Seabrook Valley Hospital. This district is especially appropriate for intensive health care facilities and support services related to the hospital such as laboratories, rehabilitation centers, nursing homes and clinics. By virtue of being an overlay district rather than a base district, property owners will maintain residential development opportunities in this area in addition to those related to medical facilities.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table Q.

**K. RURAL DISTRICT (C-4)**

The purpose of the rural district is to preserve undeveloped land to the greatest extent possible and to support natural resource based industries. Agriculture and forestry will be the predominant land uses other than conservation. Low-density residential development will be permitted but discouraged. Home-based enterprises will be allowed within strict guidelines to ensure environmental protection and compatibility with neighboring uses.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table P.

**L. AGRICULTURAL PROTECTION DISTRICT**

1. Purpose

The purpose of the Agricultural Protection District is to both preserve productive farmland and enhance the viability of agricultural work. This district shall cover a land area (not necessarily contiguous) of between 1000 and 2000 acres.

Permitted uses allowed in this district and space and bulk standards for these uses are set forth on the following Table R.

2. Application Process

All applications for the inclusion of land into the Agricultural Protection District shall be made to the Planning Board.

The application shall include the following information:

- a) Landowner's name and address.
- b) Proof of ownership of the parcel.
- c) The address and location of the property including the tax map and lot number.
- d) Number of acres to be included within the district and current use of the property.

- e) A medium intensity soil survey of the property and a USGS 10' topographic map of the site.
- f) A statement from the applicant that the land in question will be preserved in or for an agricultural use.

3. Review Criteria

In determining the suitability of land submitted for inclusion into the Agricultural Protection District, the Planning Board shall utilize the following criteria.

- a) Taxes on land brought for consideration shall be current.
- b) Land brought for consideration shall not lie within a growth area as designated by the Pittsfield Comprehensive Plan.
- c) Land under consideration must be currently farmed or it must include a large percentage of prime agricultural soils as defined below.

For the purposes of this section, prime agricultural soils shall include:

- BaB Bangor silt loam, 3-8% slopes
- BuB Buxton silt loam, 0-8% slopes
- DxB Dixmont silt loam, 0-8% slopes
- Ha Hadley silt loam
- MbB Madawaska fine sandy loam, 0-8% slopes
- Wn Winooski silt loam
- AaB Adams loamy sand, 0-8% slopes
- PgB Plaisted gravelly loam, 3-8% slopes
- TtB Thorndike-Bangor silt loams, 0-8% slopes
- TpB Thorndike-Plaisted loams, 0-8% slopes
- Lk Limerick silt loam

- d) The topography of land brought for consideration shall be acceptable for agricultural purposes.

4. Withdrawal Penalty

Land removed from this district within seven years (7) of first acceptance into the program shall be assessed a penalty set by the Town Council.

**M. RIVERFRONT DISTRICT**

The purpose of the Riverfront District is to recognize that there is a limited amount of riverfront property in Pittsfield and that the use of such property is worthy of individual consideration based upon the opportunities offered by specific sites, creative ideas, entrepreneurial spirit, resource protection, and greater community benefit, such as the preservation of public access. All uses in this district are conditional uses and must meet a strict set of criteria which are outlined in Section 6., B. of this Ordinance to ensure appropriateness.

Uses allowed in this district and space and bulk standards for these uses are set forth on the following Table R.

**N. SCENIC OVERLAY DISTRICT**

The purpose of this district is to preserve the quality of the view of urban Pittsfield from I-95 northbound near the Webb Road. Structures such as cellular towers, standpipes, and drive-in movie screens that might distract from the view shall be prohibited from this district.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table R.

**O. AIRPORT OVERLAY DISTRICT**

The purpose of this district is to create an area that includes the airport property, adjacent clear zones, and adjoining properties with potential for providing support services to the airport. This district would designate such properties as related to the current or future functioning of the airport. Where this overlay district falls over an urban land use district, property therein would be eligible for uses related to the airport that might otherwise be prohibited in the district. Residential uses not directly related to airport activities shall not be permitted in this district.

Permitted and conditional uses allowed in this district and space and bulk standards for these uses are set forth on the following Table R.

**SECTION 4 - PERFORMANCE STANDARDS**

**A. GENERAL REQUIREMENTS**

<sup>4</sup>The following general requirements shall apply to all districts except the Shoreland districts:

1. No structure shall be erected or used, and no lot shall be used or divided, unless in conformity with the provisions of this Ordinance, except as provided below. All structures and lots, and uses of structures and lots, which fail to conform to the provisions of this Ordinance, are prohibited, except as provided herein.
  - a) Accessory buildings, for residential uses only, that have less than 200 square feet of footprint, are less than 15 feet in height, contain no plumbing and are not permanently attached shall not be required to comply with the setback requirements of Table P and shall not require a building permit subject to the following;
    - i. Accessory buildings shall not be allowed in the front yard area of a lot except in the C-4 District where a single building for shelter while awaiting transportation shall be allowed in the front yard area.

1. If the building does not meet the lot line setback established for the district in Table P then the owner of the property abutting the sideline adjacent to the building must give a written approval for the building.
- ii. In no case shall any accessory structure be located closer than 5' to the property lines.

For the purposes of this section permanently attached shall mean to be on a concrete foundation or slab or otherwise constructed such that it can not be removed without the need for excavation and demolition.

2. When a lot is situated in part in the Town of Pittsfield and in part in an adjacent municipality, the provisions of this Ordinance shall be applied to that portion of such lot that lies in the Town of Pittsfield as if the entire lot were situated in Pittsfield.
3. <sup>20</sup>When a lot is transected by a zoning district boundary, the regulations set forth in this Ordinance applying to the larger part by area of such lot may also be deemed to govern in the smaller part beyond such zoning district boundary but only to an extent not more than thirty (30) feet in depth beyond said zoning district boundary. The Planning Board may grant a Conditional Use to allow the lot to be used in its entirety to the conditions of either one or the other zones in the lot. The Planning Board shall follow the Conditional Uses approval process of this Chapter 13 – Section 6 “Conditional Uses” in granting or denying a request.
4. No dwelling shall be erected except on a lot that fronts on a street, as defined. The minimum street frontage, measured along the lot line at the street, shall be at least equal to the minimum lot width.
5. The area of a lot that lies within the right-of-way lines of a public or private way shall not be counted as part of such lot for the purposes of meeting the area requirements of this Ordinance even if the fee to such land is held by the lot owner.
6. Any land taken by eminent domain, or conveyed for a public purpose, for which the land could have been or was taken by eminent domain, shall not be deemed to have been transferred in violation of the lot size, lot coverage and setback provisions of this Ordinance.

## **B. SPECIFIC REQUIREMENTS**

The following specific requirements shall apply to uses in all districts except as noted.

### **ACCESSORY USES**

Accessory uses and structures are permitted in any district but only in conjunction with the construction of a principal structure. Accessory buildings may be constructed prior to construction of the principal structure, as long as the principal structure is completed within twenty-four (24) months of the issuance of the building permit for the accessory building. Other than Home Occupations, residential accessory uses shall not involve the conduct of any business, trade, or industry. Accessory uses include space for incidental repairs, storage, parking, gardening, servant's, itinerant agricultural laborer's and watchman's quarters not for rent, and private emergency shelters.

<sup>23</sup>An Accessory or in-Law Apartment is allowed in Residential District R-1 provided the conditions are met.

An accessory apartment is a second dwelling unit located within, attached or on the same lot as a structure constructed as a detached single-family dwelling, subordinate in size to the principal dwelling unit and separated from it in a manner that maintains the appearance of the structure as a single family dwelling unit.

The Building Inspector shall issue a building permit for an accessory apartment provided that the unit meets the standards of the building code and each of the following conditions and requirements is met:

1. The owner of the dwelling or lot which or in which the accessory apartment is created, shall occupy either of the dwelling units except for temporary absences of up to six months. For the purpose of this section, the "owner" shall be one or more individuals residing in a dwelling, who hold title and for whom the dwelling is the primary residence for voting and tax purposes.
2. There shall be no more than one accessory apartment within or on the lot of the single-family dwelling.
3. There shall be no boarders or lodgers within either unit of the dwelling.
4. The gross floor area of the dwelling, including the basement, shall have be at least 1200 square feet, which amount shall be verified in the records of the Building Inspector. For purposes of this subsection, "gross floor area" is defined as the sum of the gross horizontal living areas of the floors of a building measured from the exterior face of exterior walls, or from the center line of a wall separating two buildings, but not including interior parking spaces.
5. The maximum net floor area of the accessory apartment shall not exceed 33 percent of the net floor area of the principal dwelling unit.
6. There shall be no more than two bedrooms in an accessory apartment.
7. The accessory apartment's exterior shall be designed so that the appearance of the structure remains that of a single family dwelling.
8. All stairways to second floor shall be enclosed within the exterior walls of the dwelling.
9. Any new entrance shall be located on the side or in the rear of the dwelling.
10. Where there are two or more existing entrances on the front facade of a dwelling, if modifications are made to any entrance, the result shall be that one appears to be the principal entrance and the other entrances appear to be secondary.
11. There shall be provided at least two off-street parking spaces for the principal dwelling unit and at least two off-street parking spaces for accessory apartment.
12. The accessory apartment shall have its own separate entrances from the outside.
13. The accessory apartment shall have its own complete kitchen and complete bath and toilet

facilities.

14. Accessory apartment may be located within the single family dwelling, attached to it or located over an attached or detached garage provided the appearance of a single family home is maintained.

15. Both the accessory apartment and the single family dwelling are served on one water meter and one electrical meter.

## **SWIMMING POOLS**

In-ground swimming pools are considered structures for the purposes of this Ordinance. In-ground pools shall be surrounded by a barrier type fence at least four (4) feet high equipped with self locking gates capable of preventing children from gaining access.

## **<sup>26</sup>HOME BASED ENTERPRISE**

Definition: A Home Based Enterprise is a business conducted by the owner or lessee of his or her dwelling unit or other building on the same lot as the dwelling in Rural District C4. The Home Based Enterprise operator must be a resident of the home. A lessee must obtain landowner permission. This ordinance shall not apply to agricultural businesses such as farms and farm stands.

### **Intent:**

The intent of this ordinance is to allow the operation of a Home Based Enterprise that will allow uses in zoning district C-4 that may have a greater impact than those allowed in a Home Occupation Business while having a minimal effect on surrounding properties. A Site Plan Review will not be required for a Home Based Enterprise approval.

A permit fee for a Home Based Enterprise shall be established by the Pittsfield Town Council. The fee shall be subject to change by the Pittsfield Town Council on an as needed basis.

A permit for a Home Based Enterprise shall be granted by the Code Enforcement Officer if all of the following requirements are met:

### **Regulations:**

The lot must be a minimum of two (2) acres in land area with at least 200 feet of lot frontage.

No more than five (5) persons, other than the owners or lessees, shall be engaged in such occupation at the site.

No more than 50% of the living area of the dwelling shall be used for the office or operations area of the Home Based Enterprise either in the residence or another building on the lot. Exterior areas are not part of the 50%.

There shall be no change in the outside appearance of the dwelling or other buildings except to add non-display windows or changes required to access the building. A sign as allowed by town codes is permitted.

No equipment, employee parking or material storage shall be allowed in either the 50-foot road setback or within 30 feet of the other property lines.

If the traffic generated by the Home Based Enterprise exceeds 25 trips per day, the Code Enforcement Officer shall refer approval of the application to the Planning Board who shall require the applicant to submit a traffic impact analysis by a professional traffic engineer to aid in their decision.

On State maintained roads a Maine Department of Transportation driveway entrance permit or change of use permit is required. Town roads will require a Town of Pittsfield private driveway entrance permit if a new driveway is added.

No customer or employee parking shall be allowed within the right-of-way of any adjoining road.

The driveway area shall be large enough to prevent trucks or other vehicles from needing to back in from or back out into the road.

Objectionable conditions such as smoke, dust, electrical disturbances or odor shall not be allowed.

Noise shall be governed by the Town of Pittsfield Chapter 13 Zoning Ordinance Section 4 "Performance Standards" "Noise".

Exterior lighting must be shielded down lighting.

Exterior storage of materials, product or equipment shall occupy a total area no more than 10,000 square feet and shall be shielded from the view of any road and of surrounding properties and be at least 100 feet from any residential dwelling other than owner's dwelling. Interior storage in existing buildings is allowed in the setback areas. However, this interior storage would count as to the 50% of the living area calculation.

All business vehicles must have a current inspection sticker and be registered if required by State law.

Any uses which were in active operation on the effective date of this ordinance shall be allowed to continue and shall be considered preexisting non-conforming uses, but only to the extent of actual active pursuit of the use (in number of employees, vehicles, types of use, etc.). Any subsequent change or diminution of such use will result in the partial or total loss of the non-conforming status. Business not in operation for more than 1 year shall lose their non-conforming or grandfathered status.

Preexisting Non-Conforming Uses meeting the definition of Home Based Enterprises shall be required to register with Code Enforcement Officer within 90 days of the effective date of this ordinance. The operator of the Home Enterprise shall provide information as to the number of employees, type and amount of equipment, the size of exterior storage area and the size of operations area.

## **HOME OCCUPATIONS**

Home Occupations which are accessory to and compatible with a residential use are permitted in any single or two family dwelling unit. A permit for a home occupation shall be granted if the Code Enforcement Officer finds that the activity conforms with the following conditions:

1. The occupation or profession shall be carried out wholly within the dwelling unit or within a structure that is customarily accessory to a dwelling unit.
2. No more than one person other than family residing on the premises shall be employed in the home occupation.
3. There shall be no exterior display, no exterior sign (except as expressly permitted by the sign regulations of this Ordinance), no exterior storage of materials, equipment, vehicles or supplies and no other exterior indication of the home occupation or variation from the residential character of the principal building.
4. No nuisance shall be generated, including but not necessarily limited to offensive noise, electrical disturbances, activity at unreasonable hours, vibration, smoke, dust, odors, heat, glare, traffic or parking.
5. Automobile and truck traffic generated shall not be greater than 25 trips per day.
6. No exterior structural alterations to the primary structure may be made to increase the visibility of the home occupation.
7. The home occupation may not utilize more than 35% of the gross floor area of the dwelling unit.

<sup>21</sup>**ANIMALS**

Farm animals such as horses, cattle, pigs, etc., are permitted in the C-4 Rural District and the R-4 Residential District as provided in Table P of this Ordinance. Livestock enclosures must not be located within 50 feet of any drinking water source.

In residential districts no animals or birds shall be allowed to be kept on the premises except normal household pets such as cats, dogs or parakeets. Female chickens will be allowed in residential districts R-1, R-2, and R-3 and in districts C-1, C-2, C-3 and RF on lots with residential housing. The Shoreland Ordinance shall govern lots in Shoreland Zoning. Female chickens shall not be allowed in Mobile Home Parks. The following conditions shall apply:

The purpose of this article is to provide standards for the keeping of domesticated chickens in residential districts R-1, R-2, and R-3 and in districts C-1, C-2, C-3 and RF on lots with residential housing. The Town recognizes that adverse neighborhood impacts may result from the keeping of domesticated chickens as a result of noise, odor, unsanitary animal living conditions, unsanitary waste storage and removal, the attraction of predators, rodents, insects, or parasites, and non-confined animals leaving the owner's property. This article is intended to create licensing standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept.

1. Chicken Pen shall mean a wire enclosure connected to a chicken house for the purpose of allowing chickens to leave the chicken house while remaining in an enclosed environment, safe from land and air predators.
2. Chicken House shall mean a structure for the sheltering of female chickens. An existing shed or

garage can be used for this purpose if it meets the standards contained below including the required distance from property lines.

3. An annual permit is required for the keeping of any female chickens within the residential districts R-1, R-2, and R-3 and in districts C-1, C-2, C-3 and RF on lots with residential housing. The permit shall include allowances for a single chicken house less than 200 square feet in size and a secure chicken pen as defined above. A building permit will not be required. The Town Council will set a fee for this permit by order and revise as needed from time to time.
4. The maximum number of chickens allowed is six (6) per lot regardless of how many dwelling units are on the lot. In the case of residential condominium complexes without individually owned back yards, the maximum number of chickens allowed is six (6) per complex.
5. Only female chickens are allowed. There is no restriction on chicken species.
6. Chickens shall be kept as pets and for personal use only; no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes. The slaughtering of chickens for meat production is prohibited.
7. Chickens must be kept in an enclosure or fenced area at all times. During daylight hours, chickens may be allowed outside of their chicken house, shed or garage in a securely fenced chicken pen. Chickens shall be secured within the chicken house during non-daylight hours.
8. The chicken house must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.
9. The chicken house and chicken pen must provide adequate ventilation and adequate sun and shade and must both be impermeable to rodents, wild birds, and predators, including dogs and cats.
10. A stationary or mobile chicken house shall be provided and shall be designed to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to other residents in the neighborhood. The structures shall be enclosed on all sides and shall have a roof and doors. The structure shall be less than 200 square feet in size. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird-proof wire of less than one (1) inch openings. The materials used in making the chicken house shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The chicken house shall be well maintained.
11. Stationary and mobile chicken houses shall only be located in rear yards. For a corner lot or other property where no rear yard exists, a side yard may be used as long as the setbacks generally applicable in the zoning district are met.
12. If a mobile or stationary chicken house is proposed to be located less than twenty (20) feet in zoning district R-2 and R-3, thirty (30) feet in zoning district R-1, 20 feet in C-1 and C-2 and twenty-five (25) feet in C-3 from any side or rear property line, the applicant shall have the abutting land owner or owners affected sign an "Acknowledgment of Reduction of Set Back by

Abutter for a Chicken House” document supplied by the Town. This form must be completed before the Code Enforcement Officer may issue a permit. No chicken house shall be located closer than 5 feet to a property line.

13. Chicken pens must be provided consisting of sturdy wire fencing or other fencing approved by Code Enforcement Officer to contain hens at any time the hens are not inside the chicken house. These pens shall be kept in good repair and include overhead protection from air and land predators.
14. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.
15. Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.
16. The property owner shall take necessary action to reduce the attraction of predators, rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation shall be removed by the Code Enforcement Officer.
17. Chickens must be provided with access to feed and clean water at all times, Such feed and water shall be fed to the chickens inside the chicken house and shall be unavailable to rodents, wild birds and predators. Feed must be stored in a metal container impermeable to rodents, wild birds and other predators.
18. Provision must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed structure with a water repellant roof or lid over the entire structure. No more than three (3) cubic feet of manure shall be stored. All other manure not used for composting or fertilizing shall be removed. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.
19. Every applicant for a permit to keep chickens shall complete and file an application on a form prescribed by the Code Enforcement Officer. Any material misstatement or omission shall be grounds for denial, suspension or revocation of the permit.
20. The Code Enforcement Officer shall issue an annual permit if the applicant has demonstrated compliance with the criteria and standards in this article.
21. The Code Enforcement Officer shall deny a permit if the applicant has not demonstrated compliance with all provisions of this article.
22. A permit to keep chickens may be suspended or revoked by the Code Enforcement Officer where there is a risk to public health or safety or for any violation of or failure to comply with any of the provisions of this article or with the provisions of any other applicable ordinance or law.
23. Any denial, revocation or suspension of a permit shall be in writing and shall include notification of the right to and procedure for appeal.

24. Any violation of the provisions of this section or of the permit shall be grounds for an order from the Code Enforcement Officer to remove the chickens and the chicken-related structures within (30) days of notice of violation. In addition to any other enforcement action, which the Town may take, violation of any provision of this article shall be a civil violation and a fine not exceeding one-hundred dollars (\$100.00) may be imposed per terms of State of Maine Statute 30-A M. R. S. A. Section 4452. Each day that a violation continues may be treated as a separate offense.
25. The Health Officer or Code Enforcement Officer may also order the removal of the chickens upon a determination that the chickens pose a health risk.
26. If a chicken dies, it must be disposed of promptly in a sanitary manner in accordance with applicable regulations for carcass disposal.
27. On or before (January 31) annually, the Code Enforcement Officer shall submit to the Town Council a report stating the number of permits issued in the previous permit year, the number of complaints reported in the previous permit year, the nature of any enforcement activities, and any other information relevant to the oversight of provisions in this article.

**Commercial kennels**, or other accommodations where household pet species such as cats, dogs, or parakeets are boarded are permitted only in the C-4 Rural District provided no animals or birds are kept within 50 feet of a residential lot line.

## **DRIVEWAYS**

All driveways installed, altered, changed, replaced, or extended after the effective date of this Ordinance shall meet the following requirements:

1. A minimum of twelve feet (12') shall be provided between all driveways. Five feet (5') shall be provided between a driveway and all lot lines.
2. Driveway openings for vehicular ingress and egress shall not exceed twenty-four feet (24') at the right-of-way line and thirty feet (30') at the pavement.
3. Driveways into corner lots shall take their access from the less traveled road.

## **ACCESS**

No direct public or private access shall be permitted to existing or proposed rights-of-way:

1. Within one hundred feet (100') of where the right-of-way of one arterial street intersects another arterial street.
2. Within fifty feet (50') of where the right-of-way of a minor/residential street intersects with the right-of-way of an arterial street.

## **HEIGHT**

The district height limitations stipulated elsewhere in this Ordinance may be exceeded in all zones except the Scenic Overlay District, but such modifications shall be in accordance with the following:

1. Architectural projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this Ordinance.
2. Special structures such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooking towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Ordinance.
3. Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Ordinance.
4. <sup>28</sup>Communication Towers, Meteorological Towers, Observation Towers and Wind Energy Facilities shall have height requirements determined by a lot line setback of 150% of the height of the structure.
5. Agricultural structures such as barns, silos, and windmills, shall not exceed in height twice their distance from the nearest lot line.

## **SANITARY WASTES**

All sanitary waste disposal facilities shall conform in all respects with the provisions of the State of Maine Plumbing Code and subsequent revisions thereof. No structure or land use requiring sanitary waste disposal facilities shall be issued a permit under the provisions of this Ordinance without first having been issued a Plumbing Permit and/or Subsurface Wastewater Disposal System permit by the Plumbing Inspector of the Town.

## **SITE RESTRICTIONS**

1. All lots shall abut upon a public way or a private way.
2. No land shall be used which does not meet the requirements of the Pittsfield Flood Hazard Ordinance.

## **<sup>27</sup>WELLHEAD PROTECTION ZONES**

The Town of Pittsfield shall use State of Maine Revised Statute, Title 38, Subsection 1392 through 1400 to assure and enforce protection of Wellhead Protection Zones as mapped by the State of Maine.

## **<sup>22</sup>PROPERTY MAINTENANCE**

### **Exterior of Structures**

All fences and barriers shall be kept in good repair.

All exterior walls, roofs, chimneys, smokestacks, stairs, decks, porches, and balconies shall be structurally sound and maintained in good repair.

Temporary roof coverings such tarps, plastic sheeting or roofing under layment shall be not allowed

for a period greater than 60 days.

All projections from structures, such as awnings, signs, fire escapes, and ductwork shall be properly anchored and maintained in good repair.

All handrails and guards shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

All exterior doors, door assemblies and hardware shall be maintained in good condition.

All exterior wall and roof surfaces of any structure used for human occupancy shall be protected so as to prevent wind, rain, and snow penetration.

Basement foundations shall be enclosed so as to prevent entry of vermin.

All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

## **22 SCREENING**

All outside storage of materials of any type shall be located and suitably screened by plantings or fencing so as not be clearly visible from the street or abutting properties.

Screening may be accomplished by natural or man-made objects, plantings or properly constructed fences, any of which must completely screen the items from ordinary view from any portion of any public way or abutting property throughout the entire calendar year. All screening must be located outside of the public way right-of-way limits.

Natural or man-made objects may include:

1. Hills, gullies, or embankments. Such man-made objects must be constructed to blend with the landscape with loaming and seeding or other treatment as may be necessary to establish a natural appearance.
2. Buildings or other installations.
3. Planting, including trees, shrubs, or other vegetation of sufficient height, density and depth of planting or growth to completely screen a property from ordinary view from any highway throughout the entire calendar year may be used for screening.
4. Fences, which shall be so located and of sufficient height to completely screen the property from ordinary view from any highway within the prescribed distances. The height of the fence shall be sufficient to accomplish complete screening from ordinary view. All fences shall be well constructed and maintained. Only sound, undamaged material, uniform in appearance, and erected in a workmanlike manner, shall be used in the construction and maintenance of a fence used for screening purposes.

## **JUNKYARDS AND AUTOMOBILE GRAVEYARDS**

Junkyards and automobile graveyards shall comply with the requirements of 30-A., M.R.S.A. 3751-3760, as amended. In addition, a yearly permit must be obtained from the Planning Board and the following standards shall apply.

1. Junkyards may not be located in a flood hazard area, within 300 feet of a river, pond or freshwater wetland or over a sand and gravel aquifer. If the Planning Board has any doubt about a proposed facility's proximity to any of these sensitive areas, it may require the applicant to hire a qualified professional soil scientist or equivalent to determine boundaries of and take measurements from sensitive areas.
2. The discharge of any fluid from any motor vehicle or piece of junk into or onto the ground is prohibited. The owner and operator shall take full responsibility for thorough clean-up of any spill and shall be required to maintain a suitable performance bond and/or insurance policy to ensure adequate clean-up in the event of an environmental accident or operations shutdown. Such bond/policy shall be reviewed by the Planning Board and approved prior to issuance of permit approval. The bond/policy shall be effective prior to the start of junkyard operations.
3. The operator must have an adequate written management plan for liquid wastes, batteries, and potential spills.
4. All fluid removal and repair work involving fluids shall take place on an impervious surface designed to contain any runoff. All storage facilities for liquids that may threaten groundwater quality must be covered and situated on impervious floors with dikes adequate to contain the largest quantity of fluid in use at any one time in the area.
5. The applicant must provide a list of and copies of agreements between haulers of waste fluids, tires, unsalvageable vehicles, etc., concerning the legal removal of these materials from the site. The Town shall be provided with copies of any changes to these agreements, and the operator shall maintain a log of actual disposal records that may be inspected by the Town during normal operation hours without notice.
6. If the junkyard is visible from a public way or neighboring property, a vegetative buffer shall be planted and maintained on the junkyard property to effectively screen the operation from view on a year-round basis from that direction. In the event that new plantings are necessary to achieve this goal, vegetation shall be planted that is of sufficient species, age and spacing to achieve the full screening standard within four years of planting. Junk shall not be stored within view of the public way through driveway openings. The applicant may petition the Planning Board to substitute an attractive, high quality fence for the vegetative screening. The Planning Board may approve this substitute if the proposed fence materials and design do not detract from the neighborhood character and are acceptable to any affected abutters.
7. The Planning Board may attach any permit conditions it feels reasonable and necessary to ensure compliance with the above standards.
8. Each permitted junkyard and auto graveyard shall be inspected by the Code Enforcement Officer at least once a year to ensure compliance with these requirements. The Code Enforcement Officer shall make a report of the inspection, which shall be reviewed at the time of annual permit renewal by the Planning Board and Council. Any violations discovered shall be appropriately prosecuted and may serve as grounds for permit revocation.

## **TEMPORARY UNITS**

Temporary units such as real estate sales field offices, construction management trailers and shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Code Enforcement Officer. Such units shall be placed on a site in such a manner that all setback requirements of the zone are met. After two years the Code Enforcement Officer may require the removal of said units.

## **MANUFACTURED HOUSING**

A manufactured housing unit shall meet the following standards:

1. The unit shall be constructed with a pitched roof having a pitch of 2 in 12 or greater.
2. The roof shall be covered with asphalt composition shingles, fiberglass shingles, approved wood shingles or shakes, or similar residential roofing material.
3. The exterior wall surfaces shall be covered with materials similar to traditional site-built housing units. These materials may include clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles or shakes or similar materials, but shall not include smooth, ribbed or corrugated metal or plastic panels.
4. Manufactured housing units built prior to June 15, 1976 must comply with the National Electric Code, the State of Maine Internal Plumbing Rules and the National Fire Protection Association's Life Safety Code. The referenced codes shall be the edition adopted by the State of Maine.
5. The minimum floor area of the unit shall be 750 square feet.
6. Mobile homes will set on a minimum eighteen inch (18") gravel base pad.
7. Skirting will be required on all mobile homes.
8. Notwithstanding the above requirements 1 through 5, units currently existing within the Municipal limits may be relocated within the Municipality.

## **PREVENTION OF EROSION**

1. No person shall perform any act or use of the land in a manner that would cause substantial or avoidable erosion, create a nuisance, or alter existing patterns of natural water flow in the Town. This shall not affect any extractive operations complying with the standards of performance specified elsewhere in this Code.
2. All development shall generally comply with the following guidelines for prevention of erosion:
  - a) Select a site with the right soil properties, including natural drainage and topography, for the intended use.
  - b) Utilize for open space uses those areas with soil unsuitable for construction.
  - c) Preserve trees and other vegetation wherever possible.

- d) Hold lot grading to a minimum by fitting the development to the natural contour of the land; avoid substantial areas of excessive grade.
- e) Spread jute matting or straw during construction in critical areas subject to erosion.
- f) Construct sediment basins to trap sediment from run-off waters during development. Expose as small an area of subsoil as possible at any one time during development and for as short a period as possible.
- g) Provide for the disposal of increased run-off caused by changed land formation, paving and construction, and for the avoidance of sedimentation of run-off channels, on or off the site.
- h) Plant permanent vegetation and install structures as soon as possible for the purpose of soil stabilization and re-vegetation adequate to meet the minimum standards of the Cumberland County Soil and Water Conservation District Technical Guide, Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, and subsequent amendments thereto.

#### **MINERAL EXPLORATION, EXCAVATION AND GRAVEL PITS**

Top soil, rock, sand, gravel, and similar earth materials may be removed from locations where permitted under the terms of this Ordinance only after a Conditional Use Permit for such operations has been issued by the Planning Board in accordance with the provisions of this Ordinance, and provided that the following provisions shall be specifically illustrated in the application for the Conditional Use.

1. Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon the completion of operations, it shall be at a slope not steeper than one (1) foot vertical to two (2) feet horizontal.
2. The operation is shielded from surrounding property with adequate screening and creates no disturbance of a water source.
3. No excavation shall be extended below the grade of adjacent streets unless one hundred feet (100') from the street line or unless provisions have been made for reconstruction of the street at a different level.
4. Sufficient topsoil or loam shall be retained to cover all areas with a three inch (3") layer so that they may be seeded and a vegetative cover may be restored. Such seeding and restoration shall be provided by the applicant.
5. There is at least one hundred feet (100') between the edge of the digging or quarrying activities and the property lines.
6. Dust or other air pollutants are kept to a minimum by appropriate landscaping, paving, watering or fencing.

7. Appropriate fencing or landscaping is provided to screen the site of digging operations from any public right-of-way and from any dwelling within two hundred fifty feet (250') of the property lines of the excavation site.

A surety bond shall be posted with the Town Clerk by the applicant in an amount found by the Town Council upon recommendation by the Planning Board to be sufficient to guarantee conformity with the provisions of the grant of approval.

All plan review shall take into consideration the following items. The Planning Board may impose such conditions as necessary to safeguard the health, safety and welfare of the community. Such conditions may include:

- a) Fencing, landscaped buffer strips, public safety
- b) Advertising signs, lighting
- c) Parking space, loading and unloading areas
- d) Entrances and exits
- e) Time period of operation
- f) Hours of operation
- g) Methods of operation
- h) Weight and loading limit of trucks
- i) Sand and gravel spillage upon public streets
- j) Reclamation proposals

## **NOISE**

Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. Noise may be equal to but not exceed during any consecutive 8-hour period an average of 75 decibels at 600 cps measured at any boundary line. During the peak activity of 60 minutes in a 24-hour period a noise may not exceed 100 decibels at 600 cps when measured at the source. The cost of such testing shall be borne by the applicant.

## **PARKING, LOADING AND TRAFFIC**

### **A. Off-Street Parking Standards**

1. Off-street parking, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any district.
2. The following minimum off-street parking and loading requirements shall be provided and maintained in case of new construction, alterations and changes of use. Such parking may be provided in spaces of 180 square feet each, except as provided for in the Site Plan Review Ordinance. All spaces shall be accessible from lanes of adequate size and location.

Single Family Dwellings:                      2 parking spaces for each dwelling.

Multi-Family Dwellings:	1.5 parking spaces per each dwelling unit.
Motels, tourist homes, rooming houses, fraternities:	1 parking space for each sleeping room.
Hotels:	1 parking space for each 2 guest rooms.
Nursery Schools:	5 parking spaces for each room used as a nursery room.
Elementary Schools:	1 parking space for each adult employee plus 15 parking spaces.
Junior High Schools:	1 parking space for each adult employee plus 15 parking spaces.
Senior High Schools:	1 parking space for each adult employee plus 15 parking spaces for each 100 students or major fraction thereof of total enrollment.
Hospitals, sanatoria, nursing homes:	1 parking space for each 500 square feet or major fraction thereof of floor area, exclusive of basement.
Theaters, auditoria, churches, arenas:	1 parking space for each 4 seats or for each 100 square feet or major fraction thereof of assemblage space if no fixed seats.
Mortuary Chapels:	15 parking spaces for each chapel.
Retail Stores:	1 parking space for each 200 square feet of gross floor area.
Bowling Alley:	4 parking spaces for each bowling lane.
Restaurants:	1 parking space for each 100 square feet, or major fraction thereof, of floor area not used for storage or food preparation.
Drive-in restaurants, Snack bars:	Minimum 25 parking spaces plus 4 square feet of parking for each square foot of floor space in excess of 2,500 square feet.
Offices, professional	

and public buildings:	1 parking space for each 250 square feet of gross floor area.
Medical and Dental Offices:	1 parking space for each 250 square feet of gross floor area plus 1 space for each examination, treatment or consultation room.
Industry, Manufacturing and business:	1 parking space for each 1,000 square feet of floor area, or major fraction thereof, for that part of every business, manufacturing and industrial building not catering to retail trade and with floor area over 3000 square feet.

3. Required off-street parking in all residential districts shall be located on the same lot as the principal building or use except that where it cannot reasonably be provided on the same lot, the Planning Board may authorize residential off-street parking to be located on another lot within 300 feet of the residential uses served as measured along lines of public access. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required.
4. Required off-street parking in all business and industrial zones shall be located on the same lot with the principal building or use, or within 100 feet measured along lines of public access, except that where off-street parking cannot be provided within these limits, the Planning Board may permit such off-street parking to be located a reasonable distance from the principal building or use, measured along lines of public access. Such parking areas shall be held under the same ownership or lease, and evidence of such control or lease shall be required. Such lots shall be located within business or industrial districts.
5. Where off-street parking for more than six vehicles is required or provided on a lot in a Residential Zone and vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side, and rear yards in the zone in which such parking is located, the following requirements shall be met:
  - a) A continuous guard curb, rectangular in cross section, at least six inches in height and permanently anchored, shall be provided and maintained at least five feet from the street or lot line between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or line involved, either above or below the impact surface.
  - b) Where such off-street parking shall abut a lot in residential use or an unoccupied lot which is located in a Residential Zone, a chain link, picket or sapling fence, not less than 48 inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.
6. Where off-street parking for more than six vehicles is required or provided on a lot in any Business Zone, the following requirements shall be met:

- a) Where vehicles are to be or may be parked within ten feet of any street line, a continuous guard curb, rectangular in cross section, at least six inches in height and permanently anchored, shall be provided and maintained at least five feet from the street line between such off-street parking and that part of the street line so that the bumpers of vehicles cannot project beyond its face toward the street line involved, either above or below the impact surface.
  - b) Where such off-street parking shall abut a lot in a residential district or a lot in residential use, a chain link, picket, or sapling fence, not less than 48 inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.
7. Where off-street parking is required or provided, the following construction requirements shall apply:
- a) Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by the Public Works Director or Foreman. When access to parking areas is available from more than one street, the location of points of ingress and egress shall have the approval of the Planning Board.
  - b) The surface of driveways, maneuvering areas, and parking areas shall be uniformly graded with a subgrade consisting of well-compacted gravel or equivalent materials at least six inches in depth. For commercial, industrial, and institutional uses and apartment buildings, the drives, maneuvering areas and parking areas shall be covered with two inches of bituminous concrete properly prepared and laid in two courses of one inch each in accordance with specifications prepared by the Public Works Department. All other installations shall have a wearing surface equivalent in qualities of compaction and durability to fine gravel.
  - c) A system of surface drainage shall be provided in such a way that the water run-off shall not run over or across any public sidewalk or street.
  - d) Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.
8. The Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reasons of variation in the probable time of maximum use by patrons or employees among such establishments.
9. No portion of any lot that is used to satisfy the street setback requirements of this Ordinance shall be used for parking for any commercial or industrial use.

**B. Off-Street Loading Standards**

1. In those districts where off-street loading is required, the following minimum off-street loading bay or loading berths shall be provided and maintained in the case of new construction, alterations, and changes of use:

Office Buildings and Hotels with a gross floor area of more than 100,000 square feet: 1 Bay

Retail, wholesale and industrial operations with a gross floor area of more than 5,000 square feet:

5,001 to 40,000 sq. ft.	1 Bay
40,001 to 100,000 sq. ft.	2 Bays
100,001 to 160,000 sq. ft.	3 Bays
160,001 to 240,000 sq. ft.	4 Bays
240,001 to 320,000 sq. ft.	5 Bays
320,001 to 400,000 sq. ft.	6 Bays

Each 90,000 square feet over 400,000 1 additional Bay

2. Each loading bay shall have minimum dimensions of 70 feet by 14 feet and may be located either within a building or outside and adjoining an opening in the building. Every part of such loading bay shall be located completely off the street. In case trucks, trailers, or other motor vehicles larger than the dimensions of the minimum loading bay habitually serve the building in question, additional space shall be provided so that such vehicle shall park or stand completely off the street.
3. The provisions of this section for off-street loading shall not be construed as prohibiting incidental curbside business deliveries, dispatches, or services provided that they are in compliance with all applicable State and local traffic regulations.

**C. Corner Clearances**

For purposes of traffic safety in all Districts, no building or structure may be erected and no vegetation other than shade trees may be maintained above a height of three feet above the plane through the curb grades of intersecting streets within a triangle two sides of which are the edges of the public ways for twenty feet measured from their point of intersection or in the case of rounded street corners, the point of intersection of their tangents.

**BUFFERS**

1. No structure shall be erected or any use permitted in nonresidential districts unless a buffer strip at least twenty five feet (25') but not more than seventy-five feet (75') wide as determined by the Planning Board is provided and maintained between any adjoining residential district and the nonresidential structure or use. Such buffer area shall be for the purpose of eliminating or minimizing any adverse effects upon the environmental or aesthetic qualities of abutting properties or any type of nuisance affecting the health, safety, welfare and property values of the residents of Pittsfield.

2. Natural features shall be maintained wherever possible to provide a break between the proposed development and abutting properties.
3. When natural features such as topography, gullies, stands of trees, shrubbery, or rock outcrops do not exist or are insufficient to provide a buffer, the developer shall landscape or otherwise provide fencing or screening.
4. All buffer areas shall be maintained in a tidy and sanitary condition by the owner.

## <sup>19</sup>SIGNS

### A. Permit Required

No person, firm or corporation shall hereafter erect, hang, place or alter a sign or sign structure of any kind without a permit having been issued by the Code Enforcement Officer, upon payment of a permit fee as determined by the Town Council. Any permit obtained subsequent to the erecting, hanging, placing, or altering of a sign or structure shall be subject to a permit fee five times the scheduled fee. Every application for a sign permit shall be accompanied by plan to scale, showing the area of the sign, the position of the building, structure or lot to which or upon which the sign is to be attached or erected, the method of illumination if any, and such other information as the Code Enforcement Officer shall require to show full compliance with this and all other laws and Ordinances of the Town. If the proposed sign is in compliance with all such requirements and laws, the permit shall be issued. No sign shall block visual access to any public way.

### B. Exempted Signs

The following signs are exempt from the provisions of this Ordinance.

1. Any sign that was lawfully in existence prior to the date of adoption of this Ordinance, provided however, any change in lettering size, construction,<sup>1</sup> wording, location, or lighting of said sign shall constitute a new sign and such change shall be governed by the terms of this Ordinance.
2. House addresses, family names and no trespassing signs.
3. Traffic control signs, official State DOT business directional signs and municipal directional signs, and safety signs including handicapped access signs.
4. Temporary signs as defined in this ordinance and Chapter 13C.
- <sup>5</sup>5. Signs applied to, over, or near a door or window that display operating hours and operations directly related to the Business or Agency. Such signs shall be limited to a total of two (2) square feet per entrance that serves the Business or Agency. In the case of more than one Business or Agency per building, each shall be allowed one sign per entrance that serves the Business or Agency.
- <sup>6</sup>6. Parking and parking controls signs not exceeding 3 sq. ft.
7. "No Smoking" exterior or in building signs not exceeding 3 sq. ft.

**C. Community, Municipal and Quasi-Municipal Facilities**

All community, municipal or quasi-municipal signs shall meet the requirements of Section I. Specifications below.

6D. This section intentionally left blank

**E. Illuminated Signs**

1. Externally illuminated signs shall be lighted by sources that are shielded from streets and adjoining property, with no exposed source of illumination. The intensity of light shall remain constant in color, location and brightness.
2. Internally illuminated signs must be of solid non-translucent background with subdued lights coming through translucent letters. No sign shall constitute a hazard to vehicular traffic.

**F. Flags, Banners and Pennants**

Flags, banners, and pennants are permitted as temporary signs for the promotion of an event by a civic group, provided they are displayed no longer than seven consecutive days.

Exterior flags with the word “OPEN” are allowed provided the sidewalk area is not obstructed and these signs are taken down when the business represented is closed for the day.

**G. General Prohibition in all Zones**

1. Billboards, animated signs, flashing signs, roof signs, rotating signs, signs containing any visible moving parts, and portable signs are prohibited in all zones. Engraved cornerstones and stone engraved building or structure names are exempt from this prohibition.
72. Easel and other sidewalk signs not affixed to a structure or sign post are prohibited in all zones except:
  - 7a. Portable, non-permanent, sandwich signs shall be allowed on the side<sup>1</sup>walks in the C-1 District and shall not exceed 2' in width and 4' in height. The signs may not be placed prior to 8AM daily and must be removed by 6PM. The signs may not be placed on the road surface and must leave 40" of clear passage on the sidewalk. They must be approved by the Public Works Foreman.

**H. Off-Premise Signs**

1. Off premise signs are prohibited except for official business directional signs that have been approved by the State Department of Transportation.
2. The location of public parking, public transportation, and roadside municipal directional signs must be approved by the Code Enforcement Officer.

**I. Specifications**

All signs must conform to the following specifications.

1. In the C-3 Industrial district one on-premise sign per business on the site with a maximum area of 32 square feet per side (per business) shall be permitted.

2. In the C-4 Rural district one on-premise sign per business on the site identifying a permitted use conducted on the premise, with a maximum area of 16 square feet per side shall be permitted. Approved subdivisions may be allowed one sign, with a maximum area of 16 square feet per side, designating the name of the subdivision.
- <sup>83</sup>. In the C-1 Town Center district two on-premise signs per business on the site with a combined maximum area of 32 square feet shall be permitted. In addition, the following standards shall apply:
  - a) Projecting signs that hang on an arm or object shall not exceed 12 square feet in size and shall be perpendicular to the building.
  - b) The sign area of canopies and awnings shall not exceed 50% of the total area of the canopy or awning. The area of the canopy or awning shall be calculated by its measurement on the face of the structure to which it is attached.
  - c) Any sign, canopy or awning over a sidewalk or other public way shall have a minimum vertical clearance of 8 feet.
- <sup>94</sup>. In the Medical Services Overlay District the following standards shall apply:
  - a) Two on-premise signs per business on the site with a maximum combined area of 45 square feet per side shall be permitted.
  - b) Freestanding signs shall have a maximum height of 15 feet measured from the ground to the top of the sign.
  - c) Multi-use buildings may have an additional sign as a ladder sign not to exceed 100 sq. ft. One additional sign, not to exceed 32 sq. ft., shall be permitted if the building fronts upon more than one thoroughfare.
- <sup>95</sup>. In the C-2 Highway Commercial District and the Corridor Development Overlay District the following standards shall apply:
  - a) Two on-premise signs per business on the site with maximum combined area of 60 square feet per side shall be permitted.
  - b) Freestanding signs shall have maximum height of 20 feet measured from the ground to the top of the sign.
  - c) Multi-use buildings may have an additional sign as a ladder sign not to exceed 100 sq. ft. One additional sign, not to exceed 32 sq. ft., shall be permitted if the building fronts upon more than one thoroughfare.
6. No signs are permitted in any residential district except for signs identifying a permitted home occupation. Such home occupations shall be permitted one non-illuminated sign with a maximum area of 4 square feet. Properties with more than one home occupation shall not exceed the permitted 4 square feet with any combination of signs.
- <sup>97</sup>. If not already allowed, businesses, other than home occupations shall be allowed to have a single sign not to exceed 32 sq. ft. except in the R-1, R-2 and R-3 districts where they shall

be allowed a 16 sq. ft. sign.

**<sup>10</sup>J. Non-Conforming Signs**

Non-conforming signs in existence prior to the date of adoption of this Ordinance may be replaced by new signs that comply with the terms of this section or that are not larger than existing sign area. A non-conforming sign, which is discontinued for a period of 12 consecutive months, may not be resumed.

**K. Signs in Front Setback**

A sign in the front setback area may not protrude outside the property line, except for canopy or projecting signs in conformance with I. Specifications of this section.

The person applying/receiving a permit shall be responsible for compliance with all federal and state requirements regulating the placement of signs.

**L. Roadside Signs**

Roadside signs for public parking and transportation facilities shall be no larger than 12 inches by 18 inches in size. Freestanding signs within public parking facilities shall be no larger than 16 square feet.

**M. Signs on tax parcel lots that abut and are intended to be seen from Interstate I-95 shall be governed by Maine State Law requirements as adopted by the State of Maine from time to time.**

**N. Temporary Signs**

A temporary sign, as defined in Chapter 13C shall not exceed 32 square feet in sign area and shall not be illuminated. A sign permit shall be required for any sign erected longer than 90 days within any 12-month period, except real estate signs, which may be left in place without a permit until the sale of the property, and construction, charitable and fundraising signs, which shall be allowed without a permit for the duration of the project.

**O. Planning Board Approval of extra signage or alternative location**

The Planning Board may grant approval to an application for an increase in any of the following: (1) size, (2) number of signs per business or per tax lot, and (3) location. The Planning Board may not approve an increase to the maximum height above ground level. In no event shall the Planning Board approve an increase in the number of signs that exceeds one additional sign per business or an increase in the area of signage that exceeds the otherwise applicable requirement by greater than fifty percent.

In determining whether to approve a requested increase, the Planning Board shall take the following into consideration:

The additional signage, sign area or requested location is needed to provide sign visibility from tax lots that abut more than one street, road, or highway.

The approval is needed for a business to comply with franchise requirements.

The approval will not create a nuisance to abutting property owners due to appearance, light spillover or interference with sight distances, or significantly change the character of the neighborhood.

## MOBILE HOME PARKS

Mobile home parks shall meet State requirements for mobile home parks and all of the following criteria:

1. Mobile home parks shall meet all applicable requirements for a residential subdivision, except as modified below, and shall conform to all applicable State laws and local Ordinances except as modified below.
2. The minimum area of land within the park shall be 10% greater than the combined area of the individual lots proposed (not including the area required for road rights of way and buffer strips), but only for mobile home parks that are served by public sewer.
3. All mobile homes in a mobile home park shall be connected to a common water supply and distribution system, either public or private, at no expense to the municipality, approved by the Department of Human Services, Division of Health Engineering.
4. All mobile homes in a mobile home park shall be connected to an approved sanitary sewer system, in accordance with the sanitary provisions of this Ordinance.
- <sup>115.</sup> No mobile home shall be placed within thirty feet (30') of any other mobile home.
6. Each mobile home site shall have a lot area of at least 5000 square feet where town water and sewer service is provided and 12,000 square feet where the park is served by a private central on-site subsurface wastewater disposal system. For units that are served by individual on-site subsurface wastewater disposal systems 20,000 square feet shall be required.
- <sup>127.</sup> Each mobile home site shall have at least 50 feet of frontage on a public way or private way open to the general public. Private ways shall be at least 23 feet in width of which 20 feet shall be paved. Private ways shall be in accordance with acceptable engineering standards and in accordance with a Professional Engineer's seal as required by the Manufactured Housing Board. Private ways shall also conform with "reasonable safety standards applicable to intersections with public ways adjacent to the mobile home park." Nothing in these requirements shall have the effect of requiring mobile home be placed parallel to either a public or private way. Unless a road in a mobile home park is to be accepted by the Town then private roads in the mobile home park shall be exempt from the street design standards of the Subdivision Ordinance.
8. A continuous landscaped area not less than twenty-five feet (25') in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six (6) feet in height shall be located along property boundaries that abut land used for residential use and when the park's density is more than two (2) times that of the immediately adjacent parcels or, if they are undeveloped, of the maximum permitted net residential density.

9. Each mobile home shall be set on an eighteen inch (18") gravel base pad.
10. All mobile homes in a mobile home park shall be provided with at least two (2) off-street parking spaces.
11. Each mobile home site shall have garbage cans constructed of durable metal or other approved types of material with tight fitting covers in quantities adequate to permit storage of all garbage and rubbish. The cans shall be kept in sanitary condition at all times. The mobile home park owner is responsible to see that garbage and rubbish is taken to an approved solid waste disposal facility on a regular basis, not exceeding two (2) week intervals.
12. Mobile home parks are not to be used as commercial sales lots for the sale of mobile homes on a regular basis, but this does not prevent normal sales transactions of mobile home units that have occupied the park as residential units.
13. All parks shall be furnished with lighting units so spaced and equipped as to provide for the safe movement of pedestrians and vehicles at night.
14. A mobile home site approved for occupancy by the Planning Board may be rented or leased as a site within a mobile home park, but if the lot is sold it may be occupied only if it meets all dimensional requirements prescribed for the zoning district in which it is located, and must be on a street which meets Town standards as defined in the Subdivision Ordinance for an ordinary subdivision as opposed to a mobile home park.
15. Full skirting shall be required around all homes.
16. Oil drums shall be kept under cover.
17. Trees shall be retained and/or planted to offer shade and visual screening of at least 50% between homes. In the case of new plantings, species, age and spacing shall be such that the 50% effective visual screening standard shall be achieved within 4 years of planting.
18. Existing parks shall come into compliance with the performance standards of this Ordinance within three years of its adoption.
19. Nothing in these requirements shall require that electrical lines and telephone lines be located underground within a mobile home park.
- <sup>13</sup>20. Mobile Home Parks in the C-4 Rural District with lot areas of 20,000 square feet or less shall maintain the following minimum setbacks:

Street setback (see note)	30'
Side and rear lines	20'

Note: This shall apply to streets and roads that are part of the park but not other public and private roads. The distance is from the property line not the edge of the roadway.

#### **<sup>14</sup>CONVERSIONS TO MULTI-FAMILY STRUCTURES**

Existing Residential Structures may be converted to Multi-family residential subject to the following:

1. The structure is located in a district that allows multi-family housing.
2. The structure is serviced by Municipal sewer and water.
3. Notwithstanding the requirements of Table P, lot area and lot frontage, the minimum street frontage shall be 50'. The minimum lot area shall be 2,000 square feet per unit.
4. The minimum lot area required for the conversion of a structure shall be 6,000 square feet.
5. Conversions of existing structures creating more than 6 units shall not be allowed under these standards and must comply with the structure requirements of Table P.
6. Except for accessory buildings there shall be no expansion of the structure.
7. The Appeals Board shall grant no Variance of these provisions.

#### **<sup>15</sup>BED AND BREAKFASTS**

The following standards shall apply to bed and breakfasts, as defined:

1. Class 3 Bed and Breakfasts shall be considered as Home Occupations.
2. Class 2 Bed and Breakfasts shall be considered conditional uses and be reviewed by the Planning Board as such.
3. Class 1 Bed and Breakfasts shall be considered motels and be reviewed by the Planning Board under the Site Plan Review Ordinance.
4. Class 2 and 3 Bed and Breakfasts shall be allowed in all legally existing single-family dwelling units.
5. All Bed and Breakfasts shall occur in the dwelling unit that is the principal residence of the occupant who acts as the proprietor.
6. A Bed and Breakfast may serve meals to its guests only.
7. Prior to being permitted by the Planning Board or the CEO, the applicant for a Bed and Breakfast shall demonstrate approval by the State Fire Marshal's Office and the Department of Human Services.

#### **<sup>24</sup>MEDICAL MARIJUANA DISPENSARY:**

Notwithstanding the provisions of 1 M.R.S.A. Section 302 or any other law to the contrary, this

Section, when enacted, shall govern any proposed medical marijuana dispensary for which an application has not been submitted and acted on by the Planning Board prior to October 21, 2014.

This Ordinance shall apply to medical marijuana dispensaries that may be proposed to be located within the Town of Pittsfield

The following standards shall apply to all medical marijuana dispensaries, in addition to the standards in Section 6 of this Ordinance:

1. Location Criteria: No medical marijuana dispensary shall be sited on a property with any boundary within 250 feet of any of the following uses:
  - a) a church, synagogue or other house of religious worship;
  - b) a lot used principally for one, two or multi-family residential purposes;
  - c) an athletic field, park, playground or recreational facility;
  - d) a licensed child care facility;
  - e) any juvenile or adult halfway house, correctional facility or substance abuse rehabilitation or treatment center; or
  - f) any existing business or professional office.

When the use listed above is located within a structure, the 250 feet shall be measured from that structure to the property line of the medical marijuana dispensary. When the use is a use that is located outside of a structure, the 250 feet shall be measured from lot line to lot line.

A dispensary shall be a single-use operation. It shall not be located in a mixed-use residential building, a multi-tenant commercial building, or within a structure shared with other uses and/or tenants.

A dispensary shall be operated from a permanent location and shall not be permitted to operate from a moveable, mobile, or transitory location.

A dispensary shall only be located in a zoning district where a dispensary is allowed as a conditional use and shall not be allowed in any other zoning district.

2. Hours of Operation: Medical marijuana dispensaries may be open for business only between the hours of 9:00 am and 7:00 pm, locally prevailing time.
3. Parking: Medical marijuana dispensaries shall provide adequate on-site parking spaces to meet anticipated peak hour parking needs for employees and visitors.
4. Signage and Advertising: All signage and advertising for a medical marijuana dispensary shall comply with all applicable provisions of the Town's ordinances pertaining to sign regulations.

In addition, no signage or advertising shall use the word "marijuana" or "cannabis," or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other

words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana qualifying patients and primary caregivers.

5. Security Requirements: Security measures at a medical marijuana dispensary and any associated cultivation facility shall include, at a minimum, the following:
  - a) Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
  - b) Door and window intrusion robbery and burglary alarm systems with Audible and Police Department notification components that are Professionally monitored and maintained in good working condition;
  - c) A locking safe permanently affixed to the premises that is suitable for Storage of all prepared marijuana and cash stored overnight on the Licensed premises;
  - d) Exterior lighting that illuminates the exterior walls of the licensed Premises and complies with applicable provisions of this Ordinance; and
  - e) Deadbolt locks on all exterior doors and locks or bars on any other access Points (i.e., windows).

The medical marijuana dispensary shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the medical marijuana dispensary.

6. Fire Safety: All buildings associated with a medical marijuana dispensary, including any associated cultivation facility, shall be protected by the use of a fire suppression system and shall be approved by the Fire Chief. A medical marijuana dispensary shall have a Knox Box or shall provide the Fire Department with the necessary information to allow entry by Fire Department personnel in the event of an emergency at the location.
7. Cultivation: If there is both the cultivation and dispensation of marijuana occurring on the same site, the cultivation area shall not be greater than 25% of the total floor area of the portion of the building used for dispensation of marijuana. All cultivation of marijuana shall take place in a non-transparent secured building.
8. On-site Consumption of Medical Marijuana: The consumption, ingestion or inhalation of medical marijuana on or within the premises of a medical marijuana dispensary or cultivation facility is prohibited; provided, however, that a medical marijuana dispensary employee who is a qualifying patient, as that term is defined in 22 M.R.S.A. Section 2422(9), as may be amended, may consume medical

marijuana within the enclosed building area of the premises if such consumption occurs via oral consumption (i.e., eating only). For purposes of this subsection, the term “premises” includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surrounding within 250 feet of the medical marijuana dispensary’s entrance.

9. Visibility of Activities; Control of Emissions; and Disposal Plan:

A dispensary shall not adversely affect health and safety of the nearby residents or businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

- a) All activities of medical marijuana dispensaries and cultivation facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors in an enclosed and locked facility.
- b) No marijuana or paraphernalia shall be displayed or kept in a dispensary or cultivation facility so as to be visible from outside the premises. A dispensary shall not have on-site display of marijuana plants. There shall be no window display.
- c) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a dispensary or cultivation facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other Substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.
- d) All medical marijuana dispensaries shall have in place an operational plan for proper disposal of marijuana and related by-products.

10. Sale of Edible Products: No food products shall be sold, prepared, produced or assembled by a medical marijuana dispensary except in compliance with all operating and other requirements of state and local law and regulations, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

11. Other Laws Remain Applicable: A medical marijuana dispensary shall meet all operating and other requirements of state and local law and regulations. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulations governing medical marijuana dispensaries, the stricter law or regulation shall control.

12. Maximum Number: The maximum number of medical marijuana dispensaries in the Town shall be capped at one (1) and it shall operate from only one physical location.

13. Application Submission Requirements: The applicant shall provide the Code Enforcement Officer with documentation of any required state or federal Approvals for the medical marijuana dispensary operation.

**<sup>25</sup>METHADONE CLINIC:**

Notwithstanding the provisions of 1 M.R.S.A. Section 302 or any other law to the contrary, this Section, when enacted, shall govern any proposed methadone clinic for which an application has not been submitted and acted on by the Planning Board prior to November 18, 2014.

This Ordinance shall apply to methadone clinics, as defined in Chapter 13C, that may be proposed to be located within the Town of Pittsfield.

The following standards shall apply to all methadone clinics, in addition to the standards in Section 6 of this Ordinance:

1. Location Criteria: No methadone clinic shall be sited within 250 feet of any of the following uses:
  - a) a church, synagogue or other house of religious worship;
  - b) a public or private school;
  - c) a lot used principally for one, two or multi-family residential purposes;
  - d) an athletic field, park, playground or recreational facility;
  - e) a licensed child care facility;
  - f) any juvenile or adult halfway house, correctional facility, methadone clinic or substance abuse rehabilitation or treatment center;
  - g) a lot on which another methadone clinic is sited; or
  - h) any business or professional office.

When the use listed above is located within a structure, the 250 feet shall be measured from that structure to the property line of the methadone clinic. When the use is a use that is located outside of a structure, the 250 feet shall be measured from lot line to lot line.

A methadone clinic shall be a single-use operation. It shall not be located in a mixed-use residential building, a multi-tenant commercial building, or within a structure shared with other uses and/or tenants.

A methadone clinic shall be operated from a permanent location and shall not be permitted to operate from a moveable, mobile, or transitory location.

Methadone clinic shall only be located in a zoning district where the clinic is allowed as a conditional use and shall not be allowed in any other zoning district.

Any entrance or exit drive for a methadone clinic shall be located only on Route 100. Notwithstanding any other requirements of this Ordinance, a methadone clinic shall be set back at least 100 feet from the edge of the road right-of-way.

2. Hours of Operation: Methadone clinics may be open for business only between the hours of 9:00 am and 5:00 pm, locally prevailing time.

3. **Parking:** Methadone clinics shall provide adequate on-site parking spaces to meet anticipated peak hour parking needs for employees and visitors.
4. **Signage and Advertising:** All signage and advertising for a methadone clinic shall comply with all applicable provisions of the Town's ordinances pertaining to sign regulations.
5. **Security Requirements:** Security measures at a methadone clinic shall include, at a minimum, the following:
  - a) Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
  - b) Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working condition;
  - c) A locking safe permanently affixed to the premises that is suitable for storage of all drugs and cash stored overnight on the licensed premises;
  - d) Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this Ordinance; and
  - e) Deadbolt locks on all exterior doors and locks or bars on any other access points (i.e., windows).

All security recordings shall be preserved for at least seventy-two (72) hours by the methadone clinic. The methadone clinic shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the methadone clinic.

6. **Fire Safety:** All buildings associated with a methadone clinic shall be protected by the use of a fire suppression system and shall be approved by the Fire Chief. A methadone clinic shall have a Knox Box or shall provide the Fire department with the necessary information to allow entry by Fire Department personnel in the event of an emergency at the location.
7. **Visibility of Activities; Control of Emissions; and Disposal Plan:**

A methadone clinic shall not adversely affect health and safety of the nearby residents or businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

  - a) All activities of the methadone clinic shall be conducted indoors in an

enclosed and locked facility.

- b) No drugs shall be displayed or kept in a methadone clinic so as to be visible from outside the premises. A clinic shall not have on-site displays of drugs and there shall be no window display.
  - c) Sufficient measures and means of preventing smoke, odors, debris, dust, Fluids and other substances from exiting a methadone clinic must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.
  - d) All methadone clinics shall have in place an operational plan for proper disposal of drugs.
8. Other Laws Remain Applicable: A methadone clinic shall meet all operating and other requirements of state and local law and regulations. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulations governing methadone clinics, the stricter law or regulation shall control.
9. Maximum Number: The maximum number of methadone clinics in the Town shall be capped at one (1) and it shall operate from only one physical location.
10. Not-for-profit Corporation: A methadone clinic must operate on a not-for-profit basis.
11. Application Submission Requirements: The applicant shall provide the Code Enforcement Officer with documentation of any required state or federal approvals for the methadone clinic.

## **<sup>28</sup>WIND ENERGY FACILITY**

### **1. Lot Line Setbacks**

Wind Turbines shall have a lot line setback a horizontal distance equivalent to 150% of the Turbine Height from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed Generating Facility.

### **2. Natural Resource Protection**

A Wind Energy Facility shall not have an unreasonable adverse effect on rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities. In making its determination under this subsection, the Planning Board shall consider pertinent application materials and the written comments and/or recommendations, if any, of the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and the Maine Natural Areas Program (MNAP).

3. Building Permit

Building Permits are as required by Section 5, Subsection E of this Ordinance. All components of the Wind Energy Facility shall conform to relevant and applicable local, state and national building codes and shall meet the requirements of all applicable state and federal agencies.

4. Overspeed Controls and Brakes

Each Wind Turbine shall be equipped with an over speed control system that: 1) includes both an aerodynamic control such as stall regulation, variable blade pitch, or other similar system, and a mechanical brake that operates in fail safe mode; or 2) has been designed by the manufacturer or a Maine licensed engineer and found by the Planning Board, based on its review of a written description of the design and function of the system, to meet the needs of public safety.

5. Access

All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower shall not be climbable up to a minimum of fifteen (15) feet above ground surface.

6. Blade Clearance

The minimum distance between the ground and all blades of a Wind Turbine shall be 25 feet as measured at the lowest arc of the blades.

7. Signal Interference

The Wind Energy Facility shall not cause any disruption or loss of radio, telephone, television, or similar signals and the operator shall make all efforts necessary to mitigate any disruption or loss.

8. Structure Type

With the exception of Meteorological (MET) Towers, Towers shall be monopoles with no guy wires. This requirement may be waived for type 1 facilities or if the Applicant demonstrates to the satisfaction of the Planning Board, that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

9. Building-Mounted Wind Turbines

Building-mounted Wind Turbines are not permitted.

10. Visual Appearance

1. A Wind Turbine shall be a non-obtrusive color such as white, off-white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the

Wind Energy Facility.

2. A Wind Turbine shall not be lighted artificially, except to the extent consistent with Federal Aviation Administration requirements or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the Wind Energy Facility.
3. A Wind Turbine shall not be used to support signs except for warning signs and shall not display advertising.

11. Control of Noise

Noise emanating from a Wind Energy Facility shall be controlled in accordance with the provisions of Appendix A or Appendix B in accordance with Table S. If there is a conflict between a provision of Appendix A or Appendix B and other provision of this ordinance, the provision of Appendix A or B as determined by classification shall apply.

12. Warnings

Clearly visible warning signs concerning voltage must be placed at the base of all pad-mounted transformers and substations.

13. Artificial Habitat

The creation of artificial habitat for raptors or raptor prey shall be minimized. In making its determination the Planning Board shall consider comments and recommendations, if any, provided by the Maine Department of Inland Fisheries and Wildlife.

14. Effect on Scenic Resources

1. Except as otherwise provided in this subsection, if a Type 2 or Type 3 Wind Energy Facility is proposed for location in or is visible from a Scenic Resource, the Applicant shall provide the Planning Board a visual impact assessment that addresses the evaluation criteria in subsection 2. There is a rebuttable presumption that a visual impact assessment is not required for those portions of a Type 2 or Type 3 Wind Energy Facility that are located more than 3 miles, measured horizontally, from a Scenic Resource. The Planning Board may require a visual impact assessment for portions of the Type 2 or Type 3 Wind Energy Facility located more than 3 miles and up to 8 miles from a Scenic Resource if it finds that a visual impact assessment is needed to determine if there is the potential for significant adverse effects on the Scenic Resource. Information intended to rebut the presumption must be submitted to the Planning Board by any interested Person within 30 days of acceptance of the application as complete. The Planning Board shall determine if the presumption is rebutted based on a preponderance of evidence in the record.

Wind Energy Facility applicants required to provide a visual impact assessment shall follow the charts and requirements of "Protecting Local Scenic Resource Community-Based Performance Standards by Robert F. Faunce" dated December of 2007, a copy of

which is available in the Building Inspector and Codes Office. This shall only apply to Wind Energy Facilities.

2. The Planning Board shall determine, based on consideration of the evaluation criteria in subsection 3, whether the Type 2 or 3 Wind Energy Facility significantly compromises views from a Scenic Resource such that the proposed facility has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of that Scenic Resource.
3. In making its determination pursuant to subsection 2., and in determining whether an Applicant for a Type 2 or 3 Wind Energy Facility located more than 3 miles from a Scenic Resource must provide a visual impact assessment in accordance with subsection 1., the Planning Board shall consider:
  - a. The significance of the potentially affected Scenic Resource;
  - b. The existing character of the surrounding area;
  - c. The expectations of the typical viewer;
  - d. The Type 2 or Type 3 Wind Energy Facility's purpose and the context of the proposed activity;
  - e. The extent, nature and duration of potentially affected public uses of the Scenic Resource and the potential effect on the public's continued use and enjoyment of the Scenic Resource; and
  - f. The scope and scale of the potential effect of views of the Wind Energy Facility on the Scenic Resource, including but not limited to issues related to the number and extent of Wind Turbines visible from the Scenic Resource, the distance from the Scenic Resource and the effect of prominent features of the Wind Energy Facility on the landscape.

A finding by the Planning Board that the Type 2 or Type 3 Wind Energy Facility is a highly visible feature in the landscape is not a solely sufficient basis for determination that it has an unreasonable adverse effect on the scenic character and existing uses related to scenic character of a Scenic Resource. In making its determination under subsection 2, the Planning Board shall consider insignificant the effects of portions of a Type 2 or Type 3 Wind Energy Facility located more than 8 miles, measured horizontally, from a Scenic Resource.

#### 15 Shadow Flicker

Wind Energy Facilities shall be designed to avoid unreasonable adverse shadow flicker effect at any Occupied Building located on a Non-Participating Landowner's property.

#### 16 Relationship to DEP Certification and Permitting

1. For Wind Energy Facility for which a DEP Certification has been submitted the Planning Board shall consider, to the extent applicable, pertinent findings in that

certification when making its determination. There is a rebuttable presumption that a Wind Energy Facility that has obtained DEP Certification meets the requirements of subsections 1, 11, and 15. The Planning Board may, as a condition of approval of a Type 2 Wind Energy Facility that generates energy for sale or use by a person other than the generator, deem DEP's issuance of a certificate for the development sufficient to meet, in whole or in part, as applicable, the requirements of sections 1, 11, and 15.

2. If DEP has issued a Site Location of Development Act permit for a Type 3 Wind Energy Facility pursuant to 38 M.R.S. § 484(3), there is a rebuttable presumption that the development meets the requirements of subsections 1, 2, 11, 15, 21 and, as it pertains to Scenic Resources of state or national significance as defined by 35-A M.R.S. §3451 (9), section 14.5. The Planning Board may, as a condition of approval of a Type 3 Wind Energy Facility, deem DEP's issuance of a permit for the development sufficient to meet, in whole or in part, as applicable, the requirements of subsections 1, 2, 11, 15, 21 and, as it pertains to Scenic Resources of state or national significance as it pertains to section 14.5.

#### 17 Local Emergency Services

1. The Applicant shall provide a copy of the project summary and site plan to local emergency service providers, including paid or volunteer fire department(s).
2. Upon request, the Applicant shall cooperate with emergency service providers to develop and coordinate implementation of an emergency response plan for a Type 2 or Type 3 Wind Energy Facility.
3. A Wind Turbine shall be equipped with an appropriate fire suppression system to address fires within the Nacelle portion of the turbine or shall otherwise address the issue of fire safety to the satisfaction of the Planning Board.

#### 18 Liability Insurance

The Applicant or an Applicant's designee acceptable to the Planning Board shall maintain a current general liability policy for the Type 2 or Type 3 Wind Energy Facility that covers bodily injury and property damage with limits in an amount commensurate with the scope and scale of the Facility. The Applicant or its designee shall make certificates of insurance available to the Code Enforcement Officer upon request.

#### 19 Design Safety Certification

Each Wind Turbine shall conform to applicable industry standards including those of the American National Standards Institute (ANSI) and at least one of the following: Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organization.

#### 20 Public Inquiries and Complaints

1. The Applicant/owner or its designee shall maintain a phone number and

identify a responsible Person for the public to contact with inquiries and complaints throughout the life of the Wind Energy Facility.

2. The Applicant/Owner or its designee of type 2 and 3 facilities shall make reasonable efforts to respond to the public’s inquiries and complaints and shall provide written copies of all complaints and the company’s resolution or response to the Code Enforcement Officer upon request.

## 21 Decommissioning

The Applicant shall prepare a decommissioning plan in conformance with Appendix C. This shall not apply to type 1 and 2 facilities.

**TABLE S: Classification of Wind Energy Facilities, Noise Control Standards and Corresponding Local Review and Approval Authority**

Facility Type	Aggregate Capacity	Turbine Height	Max # of Turbines	Noise Control Standards	DEP Site Location Permit Required	Local Review and Approval
1A	<100kW	< 80'	1	Appendix A or B	No	Planning Board
1B	<100 kW	> 80'	N/A	Appendix A or B	No	Planning Board
2	≥100 kW	N/A	N/A	Appendix B	No <sup>1</sup>	Planning Board
3	≥100 kW	N/A	N/A	Appendix B	Yes <sup>2</sup>	Planning Board

<sup>1</sup> Per 35- A MRS §3456. DEP Certificate required if energy generated is for sale or use by a Person other than the generator

<sup>2</sup> Per 38 MRS §482(2)

## **28 COMMUNICATION TOWERS AND METEOROLOGICAL TOWERS**

### 1 Lot Line Setbacks

Free standing Communication Towers and permanent Meteorological Towers shall be set back a horizontal distance equivalent to 150% of the structure height from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed facility.

Communication Towers and Meteorological Towers that are mounted on or are physically attached to a building shall be set back a horizontal distance equivalent to 150% of the structure height from the highest level of attachment to the building.

### 2 Building Permit

Building Permits are as required by Section 5, Subsection E of this Ordinance. All components of the Communication Towers and Meteorological Towers shall conform to relevant and applicable local, state and national building codes and shall meet the requirements of all applicable state and federal agencies.

3 Access

All ground-mounted electrical equipment and all access doors shall be labeled and secured to prevent unauthorized access. A Tower shall not be climbable up to a minimum of fifteen (15) feet above ground surface.

4 Signal Interference

The Communication Towers and Meteorological Towers shall not cause any disruption or loss of radio, telephone, television, or similar signals and the operator shall make all efforts necessary to mitigate any disruption or loss.

5 Visual Appearance

- A. A Communication Tower or Meteorological Tower shall not be lighted artificially, except to the extent consistent with Federal Aviation Administration requirements or other applicable authority that regulates air safety.
- B. A Communication Tower or Meteorological Tower shall not be used to support signs except for warning signs and shall not display advertising.
- C. Free standing Communication Towers and Meteorological Towers shall be located to maximize the effectiveness of existing vegetation, structures and topographic features in screening views of the structure from Scenic Resources or shall be camouflaged. Communication Structures and Meteorological Towers that are mounted on or are physically attached to a building shall be designed to appear as part of the building.

**SECTION 5 – ADMINISTRATION**

**A. PLANNING BOARD**

It shall be the duty of the Planning Board to review and act on applications for Conditional Use permits, review and act on requests to expand non-conforming uses and review and act on requests to change an existing non-conforming use to another non- conforming use as authorized per this ordinance.

**B. CODE ENFORCEMENT OFFICER**

<sup>16</sup>It shall be the duty of the Code Enforcement Officer or other person duly authorized by the Town of Pittsfield to identify violations of the provisions of this Ordinance. If the Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the owner or occupant, indicating the nature of the violation and ordering the action necessary to correct it. He shall also notify the Council of the written notice of a violation. He shall order the discontinuance of illegal buildings or structures or of

additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Code to insure compliance with or to prevent violation of its provisions.

The Code Enforcement Officer shall have the right of access to buildings and structures for inspection purposes as provided under 30-A M.R.S.A. 4452(1) and other applicable provisions of state law.

**C. LEGAL ACTIONS AND VIOLATIONS**

When any violation of any provisions of this Code shall be found to exist, the Town Council, after notice from the Code Enforcement Officer, shall assume sole responsibility for resolution the violation. Any resolution will be by the Council in the name of the Town. The Council may institute any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of the provisions of this Ordinance, the same to be brought in the name of the Town. The Council shall adopt written procedures for its conduct in addressing a violation. This provision shall not prevent any person aggrieved by a violation of this Code from taking appropriate legal action against the violator.

**D. FINES**

Any person, firm, contractor or agent being the owner of or having control or use of any building or premises who violates any of the provisions hereof shall be in violation of this Ordinance and subject to an enforcement action under the terms of 30-A M.R.S.A. Section 4452.

**E. BUILDING PERMIT**

<sup>17</sup>No building or other structure shall be erected, moved, added to, or structurally altered without a permit, except as otherwise provided in this ordinance, issued by the Code Enforcement Officer or his designee. No building permit shall be issued except in conformity with the provisions of this Code, except after written order from the Board of Appeals. Development must commence within (6) months of the date of issuance of the building permit. If not, the permit is no longer valid, a new permit must be obtained and any changes in municipal Ordinances must be complied with. If the building or part is not substantially completed within 24 months of the issuing of the permit, the permit shall lapse. It may be renewed without charge upon application but any part of the development not completed must conform to any changes in the zoning or building Ordinances that may have been enacted since the date of issue.

**F. APPLICATION**

- 1) Unless excused by the Code Enforcement Officer, all applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; the location and dimensions of the proposed building or alteration; and the proposed sewage disposal system as designed by a Licensed Site Evaluator or Soil

Scientist. The Code Enforcement Officer may require at his discretion additional tests to be performed under his observation and at the expense of the applicant. The application shall include such other information as lawfully may be required by the Code Enforcement Officer to determine conformance with and provide for the enforcement of this Code. In addition, if water service is not available from the Pittsfield Water Department, the application shall identify the proposed water supply plan. The Plumbing Inspector must approve this plan and shall require in writing that an adequate and safe supply of water will be provided.

- 2) In all districts, the approval of building permit applications where on-site septic disposal is proposed shall be subject to prior obtainment of all required plumbing and Subsurface Wastewater Disposal system permits.
- 3) No building or structure of any kind shall be erected and no alteration of the natural contour of the land by grading or filling for any purpose shall be permitted in an area subject to periodic flooding or standing water.

#### **G. CERTIFICATE OF OCCUPANCY**

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been issued therefor by the Code Enforcement Officer and endorsed to the effect that the proposed use of the building or land conforms with the requirements of this Ordinance.

A temporary Certificate of Occupancy may be issued by the Code Enforcement Officer for a period of six months during construction or alterations for partial occupancy of a building pending its completion, provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public. The Code Enforcement Officer shall maintain a public record of all Certificates of Occupancy. Failure to obtain a Certificate of Occupancy prior to use of the premises shall be a violation of this Code.

No Certificate of Occupancy shall be issued until the applicant has presented evidence to the Code Enforcement Officer that any restrictions or conditions of approval imposed by the Planning Board or Board of Appeals have been recorded in the County Registry of Deeds, either by means of notation(s) on a recorded plan or by filing of such other certificate as will provide record notice of such conditions of approval. The cost of recording any such plan or certificate shall be borne by the applicant.

#### **H. FEE**

The application for a building permit shall be accompanied by a fee. The fee shall be determined from the schedule of building permit fees adopted by order of the Town Council. No building permit shall be issued until the fee is paid.

### **SECTION 6 – CONDITIONAL USES**

- A. Conditional uses may be granted by the Planning Board after considering the characteristics and location of the proposed use and of other properties in the surrounding neighborhood,

provided that the petitioner shall submit to the Board statements in writing, which may be accompanied by diagrams or photographs which shall become part of the record of such petitions, demonstrating that the proposed use:

- 1) Will meet the definition and any specific requirements set forth in this Ordinance for such particular use;
- 2) Will be compatible with the general character of the neighborhood with regard to design, scale, and bulk of proposed structure;
- 3) Will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, light or glare;
- 4) Will not have a significant adverse effect on adjacent or nearby property values;
- 5) Will not result in significant flood hazard or flood damage, drainage problems, ground or surface water contamination, or soil erosion;
- 6) Will be served adequately by, but will not overburden, existing public services and facilities, including fire protection services, sanitary sewers, roads, water and storm drainage systems.

Upon showing that a proposed use is a conditional use in the district where it is to be located, a conditional use permit shall be granted unless the Board determines that the proposed use will not meet one of the standards set forth in paragraphs 1) through 6) of this subsection.

B. Conditional uses in the Riverfront District. Conditional Uses in the Riverfront District may be granted by the Planning Board providing they meet all the conditions set forth in section 6 A above and the Board finds that the following conditions are met:

- 1) The proposed use meets the dimensional and performance standards of the strictest use district which it abuts.
- 2) If a residential development, the proposed use meets the maximum density standards of the strictest neighboring residential district, unless there is a distance of at least 150 feet between a developed use of the property and the property boundary. In such a case, a maximum residential density of 7500 square feet /unit may be allowed if the Planning Board finds that the lot and services can support that density.
- 3) The proposed use meets all applicable requirements of the Shoreland Zoning Ordinance and the Planning Board makes all findings necessary to approve a Shoreland Zoning Permit.
- 4) The proposed use and its impacts will protect the integrity of the Sebasticook River.

## **SECTION 7 – APPEALS**

### **A. APPOINTMENT AND COMPOSITION**

- 1) The Municipal Officers shall appoint members to the Board of Appeals.
- 2) The Board shall consist of seven (7) members and one associate member serving staggered terms of five (5) years for regular members and three (3) years for the associate member. The associate member shall act on the Board in place of a member who may be unable to act due to conflict of interest, absence, or physical incapacity. The board shall elect annually a chairman and secretary from its membership. The secretary shall provide for the keeping of the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall consist of four members. All decisions shall be by at least 4 affirmative votes of the Board.
- 3) Neither a Municipal Officer nor his or her spouse may serve as a member or an associate member of the Board.
- 4) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
- 5) A member of the Board may be dismissed for cause by the Municipal Officers before the expiration of his/her term.

### **B. POWERS AND DUTIES**

Appeals shall lie from a decision of the Code Enforcement Officer or Planning Board to the Board of Appeals, except as otherwise provided, and from the Board of Appeals to the Superior Court as provided by law (Title 30-A, §2691, MRSA).

The Board of Appeals shall have the following powers and duties:

- 1) **Administrative Appeals.** To hear and decide where it is alleged there is an error in any order, requirement, decision, or determination made by the Code Enforcement Officer or Planning Board in the administration of this Code. The action of the Code Enforcement Officer or Planning Board may be modified or reversed by the Board of Appeals, by majority vote.

**NOTE:** Enforcement decisions made by the Code Enforcement Officer are not appealable to the Board of Appeals. An “enforcement decision” is any decision concerning land use activities that is in violation of the municipal ordinances and includes but is not limited to “stop work orders,” notices of violation and commencement of a civil action under rule 80 K, Maine Rules of Civil Procedure.

- 2) **Variance Appeals.** To authorize variances upon appeal, within the limitations set forth in this Ordinance. Variances may be granted by the Board from the restrictions imposed

by this Ordinance on frontage, lot size, structure height, percent of lot coverage and setback requirements.

Variances shall not be granted for the establishment of any use otherwise prohibited by this Ordinance.

Except as provided in 3 and 4 of this section a variance may be granted by the Board only where strict application of the Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words “undue hardship” as used in this subsection mean:

- a) the land in question cannot yield a reasonable return unless a variance is granted.
  - b) the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - c) the granting of a variance will not alter the essential character of the locality; and
  - d) the hardship is not the result of action taken by the applicant or a prior owner.
- 3) Disability Variance. The Board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, §4553, MRSA and the term “structures necessary for access to or egress from the property” is defined to include railing wall or roof systems necessary for the safety or effectiveness of the structure.
- 4) Variance from dimensional standards. The Board of Appeals may grant a variance from the dimensional standards of this ordinance when the strict application of the ordinance to the petitioner and the petitioner’s property would cause a practical difficulty and when the following conditions exist:
- a) The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
  - b) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
  - c) The practical difficulty is not the result of action taken by the petitioner or a prior owner;

- d) No other feasible alternative to a variance is available to the petitioner;
- e) The granting of a variance will not unreasonably adversely affect the natural environment; and
- f) The property is not located in whole or in part within Shoreland areas as described in Title 38, section 435.

As used in this subsection, “dimensional standards” means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection “practical difficulty” means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

In granting by majority vote any variance hereunder, the Board of Appeals shall take into consideration the following and may impose such conditions as it deems necessary in furtherance of the intent and purpose of this Code:

- location, character and natural features
- fencing and screening
- landscaping, topography, and natural drainage
- vehicular access, circulation and parking
- pedestrian circulation
- signs and lighting
- all potential nuisances

**C. APPEAL PROCEDURE**

- 1) Except as otherwise provided, a person aggrieved by a decision of the Code Enforcement Officer or Planning Board shall commence his/her appeal within thirty (30) days after issuance of a written decision. The appeal shall be filed with the Town Clerk on forms to be approved by the Board of Appeals, and the aggrieved person shall specifically set forth on said form the grounds for said appeal. A non-refundable fee in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order shall be paid by the appellant to the Town of Pittsfield at the time of filing his/her appeal. Each appeal shall be filed on a separate form. A separate fee shall be assessed for each appeal except that a single fee shall be assessed for multiple appeals filed by the same appellant, concerning the same property, and scheduled to be heard by the Board of Appeals at the same proceeding.
- 2) Before taking action on any appeal, the Board of Appeals shall hold a public hearing. The Town Clerk shall cause notice of the appeal to be published in a newspaper of general circulation in the Town at least seven days prior to the date of hearing. The notice shall be in a form which the Town Clerk deems to be an adequate summary of the appeal.
- 3) Following the filing of an appeal, the Town Clerk shall notify forthwith the Board of Appeals, the Code Enforcement Officer and the Planning Board, and the appeal shall be in order for

hearing at the next meeting of the Board of Appeals following by at least 7 days the mailing of notices but within sixty (60) days of the filing of the formal appeal.

- 4) In the case of administrative and variance appeals, the Town Clerk shall notify by mail only the owners of property abutting the property for which an appeal is taken of the nature of the appeal and of the time and place of the public hearing thereon.
- 5) For the purposes of this section, the owners of property shall be considered to be the parties listed by the Assessor of Taxes for the Town of Pittsfield as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.
- 6) Written notice of the decision of the Board of Appeals shall be sent by certified mail to the appellant within seven (7) days of the decision by the Board. Copies of the decision shall also be provided to the Town Council, the Planning Board Chairperson and the Code Enforcement Officer within 7 days of the decision.
- 7) At any hearing, a party may appeal by agent or attorney. Hearing shall not be continued to other times except for good cause.
- 8) The Code Enforcement Officer or his/her representative as designated by the Town Manager shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he/she deems appropriate for an understanding of the appeal.
- 9) The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
- 10) An approval under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within six months of the date on which the appeal is granted, and if the work or change is not substantially completed within one year of the date on which such appeal is granted, unless as otherwise provided for in the appeal.
- 11) If the Board of Appeals shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board within one year from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of facts shall have been made.
- 12) The applicant shall record any restrictions or conditions of approval imposed by the Board of Appeals before any Building Permit or Certificate of Occupancy shall be issued.
- 13) The Board shall keep a record of each appeal filed, noting the date of filing, the date when received from the Town Clerk, the date of hearing, and the person by whom such appeal was formally presented at the hearing. The Board shall record in writing the reasons for its actions and the final disposition of each appeal entertained, and may similarly record its rejection and reasons for rejection of any request for an appeal not entertained by the Board.

- 14) Any variance granted must be recorded in the Somerset County Registry of Deeds within 90 days of the date of the granting of the variance, as required by 30-A, M.R.S.A. Section 4353(5). The variance is not valid until recorded. Failure to record a variance within the required period of time shall render the variance void.
- 15) An appeal of a decision of the Board of Appeals in the administration of this ordinance may be initiated by an aggrieved party within 45 days of the original decision by the Board of Appeals. Such action must be to the Superior court under the Maine Rules of Civil Procedure, Rule 80B. The hearing before the Superior Court shall be without a jury.

## <sup>18</sup>SECTION 8 - DEFINITIONS

Unless otherwise specified in this Ordinance, the definitions applicable to this ordinance shall be as found in Chapter 13C. Land Use Definitions Ordinance.

### APPENDIX A

#### Noise Standards for Type 1A and Type 1B Wind Energy Facilities

Noise emanating from a Type 1A or Type 1B Wind Energy Facility shall be controlled in accordance with the provisions of this appendix or, upon the written request of the applicant, the provisions of appendix B. If the Applicant chooses review under appendix B, the provisions of sections 1, 2 and 6 shall apply, but the provisions of section 3, 4 and 5 shall not apply.

1. The sound level limits contained in this section apply only to areas that are defined as Protected Locations and to property boundaries that describe the outer limits of the facility site in combination with any parcel(s) owned by a Participating Land-Owner that are contiguous with the facility site.
2. The sound level limits contained in this section do not apply to the facility site or any parcel(s) owned by a Participating Land-Owner that are contiguous with the facility site.
3. The sound levels resulting from routine operation of a Wind Energy Facility, as measured in accordance with the procedures described in section 5 shall not exceed the limits specified for the following locations and times:
  - a. At a Protected Location with no living and sleeping quarters:

55 dBA during the Protected Location's regular hours of operation
  - b. At a Protected Location with living and sleeping quarters:

Area(s) within 500 feet of living and sleeping quarters:  
45 dBA between 7:00 p.m. and 7:00 a.m.  
55 dBA between 7:00 a.m. and 7:00 p.m.

Area(s) more than 500 feet from living and sleeping quarters:  
55dBA at all times.

- c. At property boundaries that describe the outer limits of the facility site combined with any parcel(s) owned by a Participating Land-Owner that are contiguous with the facility site:

75 dBA at all times.

- 4. The Planning Board shall determine, for purposes of issuing its approval, that the pertinent sound-level limits under this appendix have been met, subject to the Applicant's obligation to take remedial action as necessary under section 8.1,i of the Site Plan Review Ordinance.
- 5. The Code Enforcement Officer or his agent may perform measurements of sound levels resulting from routine operation of an installed Type 1A or Type 1 B Wind Energy Facility at the officer's own initiative or in response to a noise-related complaint to determine compliance with the pertinent standards in this appendix. Such measurements shall be performed as follows:
  - a. Measurements shall be obtained during representative weather conditions when the sound of the Wind Energy Facility is most clearly noticeable. Preferable weather conditions for sound measurements at distances greater than about 500 feet from the sound source include overcast days when the measurement location is downwind of the Wind Turbine and inversion periods (which most commonly occur at night).
  - b. Sound levels shall be measured at least four (4) feet above the ground by a meter set on the A-weighted response scale, fast response. The meter shall meet the latest version of American National Standards Institute (ANSI S1.4.) "American Standard Specification for General Purpose Sound Level Meters" and shall have been calibrated at a recognized laboratory within the past year.
  - c. 5 dBA shall be added to sound levels of any Short Duration Repetitive Sound measured in accordance with paragraphs a and b.
- 6. The Applicant shall operate the proposed Wind Energy Facility in conformance with the sound level limits of this appendix . If, based on post-installation measurements taken in accordance with this appendix the Code Enforcement Officer determines that the applicable sound-level limits are not being met, the Applicant shall, at the Applicant's expense and in accordance with the the Town of Pittsfield's Chapter 13 Zoning Ordinance and in consultation with the Code Enforcement Officer, take the remedial action deemed necessary by the Code Enforcement Officer to ensure compliance with those limits. Remedial action that the Code Enforcement Officer may require, includes, but shall not be limited to, one or more of the following:
  - a. modification or limitation of operations during certain hours or wind conditions;
  - b. maintenance, repair, modification or replacement of equipment;

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- c. relocation of the Wind Turbine(s); and,
  - d. removal of the Wind Turbine(s) provided that the Code Enforcement Officer may require removal of the Wind Turbine(s) only if the Code Enforcement Officer determines that there is no practicable alternative.
  - e. All testing costs shall be paid by the applicant or the facility owner. (This is to include testing required by Appendix A and B).
  - f. The Code Enforcement Officer may require all testing be done by a Maine licensed engineer.

## **APPENDIX B**

### **Control of Noise**

Pursuant to Wind Energy Facility, section 11, noise emanating from a Type 2 Wind Energy Facility, a Type 3 Wind Energy Facility, or, upon written request of the Applicant, a Type 1A or Type 1B Wind Energy Facility, shall be controlled in accordance with the following provisions:

#### **A. Sound Level Limits**

##### **1. Sound from Routine Operation of Facility**

- a. Except as noted in subsections (b) and (c) below, the hourly sound levels resulting from routine operation of the facility and measured in accordance with the measurement procedures described in subsection F shall not exceed the following limits:

- i. At any property line of the facility site or contiguous property owned by the Applicant or Participating Land Owner(s), whichever is farther from the proposed facility's regulated sound sources:

75 dBA at any time of day

- ii. At any Protected Location in an area for which the zoning is not predominantly commercial, transportation, or industrial;

60 dBA between 7:00 a.m. and 7:00 p.m. (the "daytime hourly limit"), and  
50 dBA between 7:00 p.m. and 7:00 a.m. (the "nighttime hourly limit")

- iii. At any Protected Location in an area for which the zoning is predominantly commercial, transportation, or industrial;

70 dBA between 7:00 a.m. and 7:00 p.m. (the "daytime hourly limit"), and 60 dBA  
between 7:00 p.m. and 7:00 a.m. (the 'nighttime hourly limit')

- iv. When a proposed facility is to be located in an area where the daytime pre-development ambient hourly sound level at a Protected Location is equal to or less than 45 dBA and/or the nighttime pre-development ambient hourly sound level at a Protected Location is equal to or less than 35 dBA, the hourly sound levels

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resulting from routine operation of the facility and measured in accordance with the measurement procedures described in subsection F shall not exceed the following limits at that Protected Location:

55 dBA between 7:00 a.m. and 7:00 p.m. (the "daytime hourly limit"), and 45 dBA between 7:00 p.m. and 7:00 a.m. (the "nighttime hourly limit")

For the purpose of determining whether a Protected Location has a daytime or nighttime pre-development ambient hourly sound level equal to or less than 45 dBA or 35 dBA, respectively, the Applicant may make sound level measurements in accordance with the procedures in subsection F or may estimate the sound-level based upon the population density and proximity to local highways. If the resident population within a circle of 3,000 feet radius around a Protected Location is greater than 300 persons, or the hourly sound level from highway traffic at a Protected Location is predicted to be greater than 45 dBA in the daytime or 35 dBA at night, then the Applicant may estimate the daytime or nighttime pre-development ambient hourly sound level to be greater than 45 dBA or 35 dBA, respectively.

NOTE: Highway traffic noise can be predicted using the nomograph method of FHWA Highway Traffic Noise Prediction Model, FHWA-RD-77-108, December 1978.

- v. Notwithstanding the above, the Applicant need not measure or estimate the pre-development ambient hourly sound levels at a Protected Location if he demonstrates, by estimate or example, that the hourly sound levels resulting from routine operation of the facility will not exceed 50 dBA in the daytime or 40 dBA at night.
- b. If the Applicant chooses to demonstrate by measurement that the daytime and/or nighttime pre-development ambient sound environment at any Protected Location near the facility site exceeds the daytime and/or nighttime limits in subsection 1(a)(ii) or 1(a)(iii) by at least 5 dBA, then the daytime and/or nighttime limits shall be 5 dBA less than the measured daytime and/or nighttime pre-development ambient hourly sound level at the location of the measurement for the corresponding time period.
- c. For any Protected Location near an existing facility, the hourly sound level limit for routine operation of the existing facility and all future expansions of that facility shall be the applicable hourly sound level limit of 1(a) or 1(b) above, or, at the Applicant's election, the existing hourly sound level from routine operation of the existing facility plus 3 dBA.
- d. For the purposes of determining compliance with the above sound level limits, 5 dBA shall be added to the observed levels of any tonal sounds that result from routine operation of the facility.
- e. When routine operation of a facility produces short duration repetitive sound, the following limits shall apply:

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- i. For short duration repetitive sounds, 5 dBA shall be added to the observed levels of the short duration repetitive sounds that result from routine operation of the facility for the purposes of determining compliance with the above sound level limits.
  - ii. For short duration repetitive sounds which the municipal entity responsible for review and approval of a pending application under section 4.9.1 determines, due to their character and/or duration, are particularly annoying or pose a threat to the health and welfare of nearby neighbors, 5 dBA shall be added to the observed levels of the short duration repetitive sounds that result from routine operation of the facility for the purposes of determining compliance with the above sound level limits, and the maximum sound level of the short duration repetitive sounds shall not exceed the following limits:
    - a. At any Protected Location in an area for which the zoning is not predominantly commercial, transportation, or industrial:

65 dBA between 7:00 a.m. and 7:00 p.m., and  
55 dBA between 7:00 p.m. and 7:00 a.m.
    - b. At any Protected Location in an area for which the zoning is predominantly commercial, transportation, or industrial:

75 dBA between 7:00 a.m. and 7:00 p.m., and  
65 dBA between 7:00 p.m. and 7:00 a.m.
    - c. If the Applicant chooses to demonstrate by measurement that the pre-development ambient hourly sound level at any Protected Location near the facility site exceeds 60 dBA between 7:00 a.m. and 7:00 p.m., and/or 50 dBA between 7:00 p.m. and 7:00 a.m., then the maximum sound level limit for short duration repetitive sound shall be 5 dBA greater than the measured pre-development ambient hourly sound level at the location of the measurement for the corresponding time period.
    - d. For any Protected Location near an existing facility, the maximum sound level limit for short duration repetitive sound resulting from routine operation of the existing facility and all future expansions and modifications of that facility shall be the applicable maximum sound level limit of (e)(ii)(a) or (e)(ii)(b) above, or, at the Applicant's election, the existing maximum sound level of the short duration repetitive sound resulting from routine operation of the existing facility plus 3 dBA.

NOTE: The maximum sound level of the short duration repetitive sound shall be measured using the fast response [LAF<sub>max</sub>]. See the definition of maximum sound level.

## 2. Sound from Construction of a Facility

- a. The sound from construction activities between 7:00 p.m. and 7:00 a.m. is subject to the following limits:

- i. Sound from nighttime construction activities shall be subject to the nighttime routine operation sound level limits contained in subsections 1(a) and 1(b).
  - ii. If construction activities are conducted concurrently with routine operation of the facility, then the combined total of construction and routine operation sound shall be subject to the nighttime routine operation sound level limits contained in subsections 1(a) and 1(b).
  - iii. Higher levels of nighttime construction sound are permitted when a duly issued permit authorizing nighttime construction sound in excess of these limits has been granted by the Code Enforcement Officer.
- b. Sound from construction activities between 7:00 a.m. and 7:00 p.m. shall not exceed the following limits at any Protected Location:

Duration of Activity	Hourly Sound Level Limit
12 hours	87 dBA
8 hours	90 dBA
6 hours	92 dBA
4 hours	95 dBA
3 hours	97 dBA
2 hours	100 dBA
1 hour or less	105 dBA

- c. All equipment used in construction on the facility site shall comply with applicable federal noise regulations and shall include environmental noise control devices in proper working condition, as originally provided with the equipment by its manufacturer.

3. Sound from Maintenance Activities

- a. Sound from routine, ongoing maintenance activities shall be considered part of the routine operation of the facility and the combined total of the routine maintenance and operation sound shall be subject to the routine operation sound level limits contained in subsection 1.
- b. Sound from occasional, major, scheduled overhaul activities shall be subject to the construction sound level limits contained in subsection 2. If overhaul activities are conducted concurrently with routine operation and/or construction activities, the combined total of the overhaul, routine operation and construction sound shall be subject to the construction sound level limits contained in subsection 2.

**B. Submissions**

1. Facilities with Minor Sound Impact

An Applicant proposing a facility with minor sound impact may choose to file, as part of the permit application, a statement attesting to the minor nature of the anticipated sound

impact of their facility. An applicant proposing an expansion or modification of an existing facility with minor sound impact may follow the same procedure as described above. For the purpose of this ordinance, a facility or an expansion or modification of an existing facility with minor sound impact means a facility where the Applicant demonstrates, by estimate or example, that the regulated sound from routine operation of the facility will not exceed 5 dBA less than the applicable limits established under Section A. It is the intent of this subsection that an applicant need not conduct sound level measurements to demonstrate that the facility or an expansion or modification of an existing facility will have a minor sound impact.

## 2. Other Facilities

Technical information shall be submitted describing the Applicant's plan and intent to make adequate provision for the control of noise. The applicant's plan shall contain information such as the following, when appropriate:

- a. Maps and descriptions of the land uses, local zoning and comprehensive plans for the area potentially affected by sounds from the facility.
- b. A description of major sound sources, including tonal sound sources and sources of short duration repetitive sounds, associated with the construction, operation and maintenance of the proposed facility, including their locations within the proposed facility.
- c. A description of the daytime and nighttime hourly sound levels and, for short duration repetitive sounds, the maximum sound levels expected to be produced by these sound sources at Protected Locations near the proposed facility.
- d. A description of the Protected Locations near the proposed facility.
- e. A description of proposed major sound control measures, including their locations and expected performance.
- f. A comparison of the expected sound levels from the proposed facility with the sound level limits of this regulation.

## **C. Conditions of Approval**

The Planning Board may, as condition of approval, establish any reasonable requirement to ensure that the Applicant has made adequate provision for the control of noise from the facility and to reduce the impact of noise on Protected Locations. Such conditions may include, but are not limited to, enclosing equipment or operations, imposing limits on hours of operation, or requiring the employment of specific design technologies, site design, modes of operation, or traffic patterns.

The sound level limits prescribed in this ordinance shall not preclude the Planning Board from requiring an Applicant to demonstrate that sound levels from a facility will not unreasonably disturb wildlife or adversely affect wildlife populations in accordance with Chapter 13, Wind energy Facility, section 2. In addition, the sound level limits shall not

preclude the Planning Board, as condition of approval, from requiring that lower sound level limits be met to ensure that the Applicant has made adequate provision for the protection of wildlife.

#### **D. Waiver from Sound Level Limits**

The Town of Pittsfield recognizes that there are certain facilities or activities associated with facilities for which noise control measures are not reasonably available. Therefore, the Planning Board may grant a waiver from any of the sound level limits contained in this ordinance upon (1) a showing by the Applicant that he or she has made a comprehensive assessment of the available technologies for the facility and that the sound level limits cannot practicably be met with any of these available technologies, and (2) a finding by the Planning Board that the proposed facility will not have an unreasonable impact on Protected Locations. In addition, a waiver may be granted by the Planning Board if (1) a facility is deemed necessary in the interest of national defense or public safety and the Applicant has shown that the sound level limits cannot practicably be met without unduly limiting the facility's intended function, and (2) a finding is made by the Planning Board that the proposed facility will not have an unreasonable impact on Protected Locations. The Planning Board shall consider the request for a waiver as part of the review of a completed permit application. In granting a waiver, Planning Board may, as a condition of approval, impose terms and conditions to ensure that no unreasonable sound impacts will occur.

#### **E. Definitions**

Terms used herein are defined below for the purpose of this noise regulation.

**AMBIENT SOUND:** At a specified time, the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources at many directions, near and far, including the specific facility of interest.

**ENERGY SUM OF A SERIES OF LEVELS:** Ten times the logarithm of the arithmetic sum of the antilogarithms of one-tenth of the levels. [Note: See Section F(4.2).]

**EQUIVALENT SOUND LEVEL:** The level of the mean-square A-weighted sound pressure during a stated time period, or equivalently the level of the sound exposure during a stated time period divided by the duration of the period. (NOTE: For convenience, a one hour equivalent sound level should begin approximately on the hour.)

**HOURLY SOUND LEVEL:** The equivalent sound level for one hour measured or computed in accordance with this ordinance.

**MAXIMUM SOUND LEVEL:** Ten times the common logarithm of the square of the ratio of the maximum sound to the reference sound of 20 micropascals. Symbol: LAFmax.

**MAXIMUM SOUND:** Largest A-weighted and fast exponential-time-weighted sound during a specified time interval. Unit: pascal (Pa).

**PRE-DEVELOPMENT AMBIENT SOUND:** The ambient sound at a specified location in the vicinity of a facility site prior to the construction and operation of the proposed facility or

expansion.

**SHORT DURATION REPETITIVE SOUNDS:** A sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the facility and are foreseeable.

**SOUND COMPONENT:** The measurable sound from an audibly identifiable source or group of sources.

**SOUND LEVEL:** Ten times the common logarithm of the square of the ratio of the frequency-weighted and time-exponentially averaged sound pressure to the reference sound of 20 micropascals. For the purpose of this ordinance, sound level measurements are obtained using the A-weighted frequency response and fast dynamic response of the measuring system, unless otherwise noted.

**SOUND PRESSURE:** Root-mean-square of the instantaneous sound pressures in a stated frequency band and during a specified time interval. Unit: pascal (Pa).

**SOUND PRESSURE LEVEL:** Ten times the common logarithm of the square of the ratio of the sound pressure to the reference sound pressure of 20 micropascals.

**TONAL SOUND:** for the purpose of this ordinance, a tonal sound exists if, at a Protected Location, the one-third octave band sound pressure level in the band containing the tonal sound exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies at or between 500 Hz and 10,000 Hz, by 8 dB for center frequencies at or between 160 and 400 Hz, and by 15 dB for center frequencies at or between 25 Hz and 125 Hz.

Additional acoustical terms used in work associated with this ordinance shall be used in accordance with the following American National Standards Institute (ANSI) standards:

- ANSI S12.9-1988 - American National Standard Quantities and Procedures for Description and Measurements of Environmental Sound, Part 1;
- ANSI S3.20-1973 - American National Standard Psychoacoustical Terminology;
- ANSI S1.1-1960 - American National Standard Acoustical Terminology

## **F. Measurement Procedures**

1. Scope. These procedures specify measurement criteria and methodology for use, with applications, compliance testing and enforcement. They provide methods for measuring the ambient sound and the sound from routine operation of the facility, and define the information to be reported. The same methods shall be used for measuring the sound of construction and maintenance activities.
2. Measurement Criteria
  - 2.1 Measurement Personnel

Measurements shall be supervised by personnel who are well qualified by training and experience in measurement and evaluation of environmental sound, or by personnel trained to operate under a specific measurement plan approved by the municipal entity responsible for review and approval of the pending application under 9.1.

## 2.2 Measurement Instrumentation

- a. A sound level meter or alternative sound level measurement system used shall meet all of the Type 1 or 2 performance requirements of American National Standard Specifications for Sound Level Meters, ANSI S1 .4-1983.
- b. An integrating sound level meter (or measurement system) shall also meet the Type 1 or 2 performance requirements for integrating/averaging in the International Electrotechnical Commission Standard on Integrating-Averaging Sound Level Meters, IEC Publication 804 (1985).
- c. A filter for determining the existence of tonal sounds shall meet all the requirements of-American National Standard Specification for Octave-Band and Fractional Octave-Band Analog and Digital Filters, ANSI S1.11-1986 for Order 3, Type 3-D performance.
- d. An acoustical calibrator shall be used of a type recommended by the manufacturer of the sound level meter and that meets the requirements of American National Standard Specification for Acoustical Calibrators, ANSI S1 .40-1984.
- e. (e) A microphone windscreen shall be used of a type recommended by the manufacturer of the sound level meter.

## 2.3 Calibration

- a. The sound level meter shall have been calibrated by a laboratory within 12 months of the measurement, and the microphone's response shall be traceable to the National Bureau of Standards.
- b. Field calibrations shall be recorded before and after each measurement period and at shorter intervals if recommended by the manufacturer.

## 2.4 Measurement Location, Configuration and Environment

- a. Except as noted in subsection (b) below, measurement locations shall be at nearby Protected Locations that are most likely affected by the sound from routine operation of the facility.
- b. For determining compliance with the 75 dBA property line hourly sound level limit described in subsection A(1)(a)(i), measurement locations shall be selected at the property lines of the proposed facility or contiguous property owned by the Applicant, as appropriate.

- c. The microphone shall be positioned at a height of approximately 4 to 5 feet above the ground, and oriented in accordance with the manufacturer's recommendations.
- d. Measurement locations should be selected so that no vertical reflective surface exceeding the microphone height is located within 30 feet. When this is not possible, the measurement location may be closer than 30 feet to the reflective surface, but under no circumstances shall it be closer than 6 feet.
- e. When possible, measurement locations should be at least 50 feet from any regulated sound source on the facility.
- f. Measurement periods shall be avoided when the local wind speed exceeds 12 mph and/or precipitation would affect the measurement results.

2.5 Measurement Plans. Plans for measurement of pre-development ambient sound or post-facility sound may be discussed with the Code Enforcement Officer.

### 3. Measurement of Ambient Sound

#### 3.1 Pre-development Ambient Sound

Measurements of the pre-development ambient sound are required only when the Applicant elects to establish the sound level limit in accordance with subsections A(1)(b) and A(1)(e)(ii)(d) for a facility in an area with high ambient sound levels, such as near highways, airports, or pre-existing facilities; or when the Applicant elects to establish that the daytime and nighttime ambient hourly sound levels at representative Protected Locations exceed 45 dBA and 35 dBA, respectively.

- a. Measurements shall be made at representative Protected Locations for periods of time sufficient to adequately characterize the ambient sound. At a minimum, measurements shall be made on three different weekdays (Monday through Friday) during all hours that the facility will operate. If the proposed facility will operate on Saturdays and/or Sundays, measurements shall also be made during all hours that the facility will operate.
- b. Measurement periods with particularly high ambient sounds, such as during holiday traffic activity, significant insect activity or high coastline waves, should generally be avoided.
- c. At any measurement location the daytime and nighttime ambient hourly sound level shall be computed by arithmetically averaging the daytime and nighttime values of the measured one hour equivalent sound levels. Multiple values, if they exist, for any specific hour on any specific day shall first be averaged before the computation described above.

#### 3.2 Post-Facility Ambient Sound

- a. Measurements of the post-facility ambient one hour equivalent sound levels and, if short duration repetitive sounds are produced by the facility, the

maximum sound levels made at nearby Protected Locations and during representative routine operation of the facility that are not greater than the applicable limits of subsection C clearly indicate compliance with those limits.

- b. Compliance with the limits of subsection A(1)(b) may also be demonstrated by showing that the post-facility ambient hourly sound level, measured in accordance with the procedures of subsection 3.1 above during routine operation of the facility, does not exceed the pre-development ambient hourly sound level by more than one decibel, and that the sound from routine operation of the facility is not characterized by either tonal sounds or short duration repetitive sounds.
- c. Compliance with the limits of subsection A(1)(e)(ii)(d) may also be demonstrated by showing that the post facility maximum sound level of any short duration repetitive sound, measured in accordance with the procedures of subsection 3.1 above, during routine operation of the facility, does not exceed the pre-development ambient hourly sound level by more than five decibels.
- d. If any of the conditions in (a), (b) or (c) above are not met, compliance with respect to the applicable limits must be determined by measuring the sound from routine operation of the facility in accordance with the procedures described in subsection 4.

#### 4. Measurement of the Sound from Routine Operation of Facility

##### 4.1 General

- a. Measurements of the sound from routine operation of facilities are generally necessary only for specific compliance testing purposes in the event that community complaints result from operation of the facility, for validation of an Applicant's calculated sound levels when requested by the Planning Board for determination of existing hourly sound levels for an existing facility or for enforcement by the Code Enforcement Officer.
- b. Measurements shall be obtained during representative weather conditions when the facility sound is most clearly noticeable. Preferable weather conditions for sound measurements at distances greater than about 500 feet from the sound source include overcast days when the measurement location is downwind of the facility and inversion periods (which most commonly occur at night).
- c. Measurements of the facility sound shall be made so as to exclude the contribution of sound from facility equipment that is exempt from this regulation.

##### 4.2 Measurement of the Sound Levels Resulting from Routine Operation of the Facility

- a. When the ambient sound levels are greater than the sound level limits, additional measurements can be used to determine the hourly sound level that results from routine operation of the facility. These additional measurements may include diagnostic measurements such as measurements made close to the facility and extrapolated to the Protected Location, special checkmark measurement techniques

that include the separate identification of audible sound sources, or the use of sound level meters with pause capabilities that allow the operator to exclude non-facility sounds.

- b. For the purposes of computing the hourly sound level resulting from routine operation of the facility, sample diagnostic measurements may be made to obtain the one hour equivalent sound levels for each sound component
  - c. Identification of tonal sounds produced by the routine operation of a facility for the purpose of adding the 5 dBA penalty in accordance with subsection A(1)(d) requires aural perception by the measurer, followed by use of one-third octave band spectrum analysis instrumentation. If one or more of the sounds of routine operation of the facility are found to be tonal sounds, the hourly sound level component for tonal sounds shall be computed by adding 5 dBA to the one hour equivalent sound level for those sounds.
  - d. Identification of short duration repetitive sounds produced by routine operation of a facility requires careful observations. For the sound to be classified as short duration repetitive sound, the source(s) must be inherent to the process or operation of the facility and not the result of an unforeseeable occurrence. If one or more of the sounds of routine operation of the facility are found to be short duration repetitive sounds, the hourly sound level component for short duration repetitive sounds shall be computed by adding 5 dBA to the one hour equivalent sound level for those sounds. If required, the maximum sound levels of short duration repetitive sounds shall be measured using the fast response [LAFmax]. The duration and the frequency of occurrence of the events shall also be measured. In some cases, the sound exposure levels of the events may be measured. The one hour equivalent sound level of a short duration repetitive sound may be determined from measurements of the maximum sound level during the events, the duration and frequency of occurrence of the events, and their sound exposure levels.
  - e. The daytime or nighttime hourly sound level resulting from routine operation of a facility is the energy sum of the hourly sound level components from the facility, including appropriate penalties, (see (c) and (d) above). If the energy sum does not exceed the appropriate daytime or nighttime sound level limit, then the facility is in compliance with that sound level limit at that Protected Location.
5. Reporting Sound Measurement Data. The sound measurement data report should include the following:
- a. The dates, days of the week and hours of the day when measurements were made.
  - b. The wind direction and speed, temperature, humidity and sky condition.
  - c. Identification of all measurement equipment by make, model and serial number.
  - d. The most recent dates of laboratory calibration of sound level measuring equipment.
  - e. The dates, times and results of all field calibrations during the measurements.
  - f. The applicable sound level limits, together with the appropriate hourly sound levels and the measurement data from which they were computed, including data relevant to either tonal or short duration repetitive sounds.
  - g. A sketch of the site, not necessarily to scale, orienting the facility, the

measurement locations, topographic features and relevant distances, and containing sufficient information for another investigator to repeat the measurements under similar conditions.

- h. A description of the sound from the facility and the existing environment by character and location.

## **APPENDIX C**

### **Decommissioning Plan**

Pursuant to Wind Energy Facility, section 21, the Applicant shall provide a plan for decommissioning a Type 2 or Type 3 Wind Energy Facility. The decommissioning plan shall include, but shall not be limited to the following:

1. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for a continuous period of twelve (12) months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.
2. A description of the work required to physically remove all Wind Turbines, associated foundations to a depth of 24 inches, buildings, cabling, electrical components, and any other Associated Facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing.

[Note: At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Wind Energy Facility. Any changes to the approved decommissioning plan shall be subject to review and approval by the Codes Enforcement Officer.]

3. An estimate of the total cost of decommissioning less salvage value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: turbine removal, turbine foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization and road infrastructure removal and permanent stabilization.
4. Demonstration in the form of a performance bond, surety bond, letter of credit, parental guarantee or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the Wind Energy Facility the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning, less salvage value. The Applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of 5 years prior to the expected end of the useful life of the Wind Energy Facility.

- <sup>1</sup> Ordinance 04-04, 3/2/04
- <sup>2</sup> Ordinance 03-32A, 12/02/03
- <sup>3</sup> Ordinance 02-25, 10/15/02
- <sup>4</sup> Ordinance 03-29, 10/21/03
- <sup>5</sup> Ordinance 02-18, 08/06/02
- <sup>6</sup> Ordinance 06-02, 02/21/06
- <sup>7</sup> Ordinance 06-02, 02/21/06
- <sup>8</sup> Ordinance 05-10, 06/08/05
- <sup>9</sup> Ordinance 06-02, 02/21/06
- <sup>10</sup> Ordinance 06-02, 02/21/06
- <sup>11</sup> Ordinance 06-04, 02/21/06
- <sup>12</sup> Ordinance 04-09, 4/20/04
- <sup>13</sup> Ordinance 06-03, 02/21/06
- <sup>14</sup> Ordinance 03-32A, 12/02/03
- <sup>15</sup> Ordinance 04-02, 3/02/04
- <sup>16</sup> Ordinance 05-04, 03/15/05
- <sup>17</sup> Ordinance 03-29, 10/21/03
- <sup>18</sup> Ordinance 04-03, 03/02/4
- <sup>19</sup> Ordinance 08-10, 04/15/08
- <sup>20</sup> Ordinance 10-09, 07/13/10
- <sup>21</sup> Ordinance 11-07, 08/16/11
- <sup>22</sup> Ordinance 14-03, 04/01/14
- <sup>23</sup> Ordinance 14-04, 04/01/14
- <sup>24</sup> Ordinance 15-03, 03/03/15
- <sup>25</sup> Ordinance 15-03, 03/03/15
- <sup>26</sup> Ordinance 16-09, 08/16/16
- <sup>27</sup> Ordinance 16-09, 08/16/16
- <sup>28</sup> Ordinance 16-09, 08/16/16
- <sup>28</sup> Ordinance 16-09, 08/16/16