

**Minutes
Pittsfield Planning Board
Regular Meeting
July 8, 2013**

The Pittsfield Planning Board met on Monday, July 8, 2013 at 7:00 pm, in the Council Chambers of the Pittsfield Municipal Building, 112 Somerset Avenue, Pittsfield, ME.

PRESENT: Brent Newhouse, Kelly Flanigan, Holly Zadra, Jack Wright, Walter Reuter and Alan Dunphy. **Absent:** Jan Laux and Royce Sposato. **Also Present:** Building Inspector Steve Seekins and Town Manager, Kathryn Ruth.

1. Chair **Alan Dunphy** opened the meeting by leading the Pledge of Allegiance to the flag.
2. Motion by **Holly Zadra** and seconded by **Walter Reuter** to adopt the minutes of the meeting of June 10, 2013.

VOTE: UNANIMOUS AYE

3. **Public Hearing: NONE**

4. **New Business: NONE**

5. **Old Business:**

- a. Review draft of the ordinances to address un-kept buildings and yards and In-law apartments.

Chair **Alan Dunphy** led the review of draft ordinances. The board members recommended the following changes: (Please see additions and ~~cross-outs~~ listed below)

PROPERTY MAINTENANCE

AUTHORITY

This ordinance is enacted pursuant to State law, Title 30-A Section 3001.

TITLE

This ordinance shall be known as the "Property Maintenance Ordinance of the Town of Pittsfield, hereinafter referred to as "this ordinance".

PURPOSE

The provisions of this ordinance shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for the maintenance of structures and the grounds of property in order to protect public health, public safety, ~~property values,~~ and to prevent nuisance conditions.

REQUIRED MAINTENANCE

All grounds and structures or parts thereof shall be maintained to prevent unsafe, unsanitary and/or nuisance conditions (according to the nuisance definition found in State law Title 17, Section 2802 and as shown in the Appendix) definition Chapter 13-C. ~~and to avoid any adverse effect on the value of adjoining properties.~~

GROUNDS & PROPERTY MAINTENANCE STANDARDS

The grounds and the exterior of structures or parts thereof shall be kept in good repair and free from any accumulation of rubbish or garbage and any unsafe or unsanitary conditions. Such conditions may include:

Grounds

- Exterior accumulation of refuse, household trash, junk, discarded plumbing, heating supplies, old or scrap copper, brass, rope, rags, batteries, tires, paper/cardboard trash, rubber, waste and all scrap iron, steel, other scrap ferrous or nonferrous material, debris, scrap lumber and building materials, inoperable machinery, ~~more than two unused lawn mowers or part thereof,~~ glass, used furniture, used household items and unused and inoperable appliance.
- Any exterior storage of more than two unserviceable, unregistered or un-inspected vehicles, to include in excess of two un-register boats, all terrain vehicles, snowmobiles, and motorcycles. Except in case of an approved licensed junkyard or auto repair business permitted under the Town of Pittsfield Junkyards and Automobile Graveyard and State Laws. ~~Exterior storage of the vehicles, boats, all terrain vehicles, snowmobiles, and motorcycles listed in the.~~ The above shall not be in any state of visible disassembly to include missing or broken doors or windows and tires and wheels.
- Items in excess of those approved above intended for the private use by the property owner shall be screened from view by fencing or tree growth so as not visible from the public way and from abutting properties provided these items are not in violation of town and state laws pertaining to Junkyards and Automobile Graveyards. Private use does not include items intended for resale.

Screening and vehicle and equipment storage requirements of this ordinance shall not pertain to operational business sites.

~~APPENDIX A GENERAL~~ Acceptable Screening Methods

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 be interpreted to be:

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. Combinations of above.

Plantings

Trees, shrubs, or other vegetation of sufficient height, density and depth of planting or growth to completely screen the junkyard from ordinary view from any highway within the prescribed distance throughout the entire calendar year may be used for screening.

Fences

Fences shall be so located and of sufficient height to completely screen the junkyard from ordinary view from any highway within the prescribed distances. It must be emphasized that height must be sufficient to accomplish the 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 will be acceptable to be considered a fence.

Suggested Materials

Posts:

Wood - Sound, round or square, preferably cedar, hackmatack, spruce, or fir. Preservative treatment is suggested. 4" x 4" (square) or 4" minimum diameter (round).

Metal - Steel pipe or structural section steel either galvanized or base coat painted with rust inhibitive paint.

All posts to extend a minimum of forty (40) inches below ground level and to be set plumb. Recommended post spacing eight feet (8') to twelve feet (12'). End and corner posts to be diagonal braced to nearest adjacent post.

Stringers: Minimum 2" x 4" - Spruce or Fir - Sound and free of excessive or weakening knots, and relatively free from lumber defects such as wane, twist, cup, or bow and preferably treated with wood preserver after cutting to length. Solidly spike to wood posts or bolted to metal posts. Three stringers for 6 to 8 foot height of fence.

Steel pipe or structural section stringers may be used. There should be either galvanized or base coat painted with rust inhibitive paint.

Facing Materials

Facing materials may be wood, composite, sheet metal or plastic. Although new material will not be a requirement, deteriorated, poor quality, bent, damaged, scrap, discarded, mixed or conglomerate materials will not be acceptable as facing material.

Suggested materials would be sound, new or used boards; exterior grade hardboard, steel, aluminum, or vinyl fence material.

It is suggested that all fastenings be galvanized nails, spikes, bolts, clamps, etc., and that all wood materials be treated with wood preservative (with color additive) to preserve and prolong the life of the fence and to present a uniformity of appearance.

Since wind damage is a problem with any fence, bracing may be required and certainly would be essential on any fence over 8 feet in height. In board fence construction, relief of wind pressure may be achieved by placing the boarding alternatively on outside and inside of stringers with the spacing to be such that the edges overlap enough to present a solid appearance and effectively screen the junkyard from ordinary view.

(Does town want to consider this?)

~~Upon the closure of a business activity, the owner of said business or activity, or property owner, if different from the business owner, shall, within 30 days, remove from public view all signs identifying the business or activity that has vacated the premises.~~

Consider adding to the sign ordinance at later date

Exterior of Structures Bullets were added

- 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 **wall and** roof coverings such as tarps, plastic sheeting or roofing under layment shall be not allowed for a period greater than **60 90** days. **Temporary coverings must be maintained water tight and secured to prevent the wind noise.**
- 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.

Board members recommended rewording the section above on insect and rodent infestations and adding a definition of insect and rodent infestations.

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 (see Definitions) for the repair or restoration of damaged areas and the demolition of any areas not to be repaired and the removal of all debris connected therewith. The Code Enforcement Officer may grant an extension under certain hardship conditions.

ENFORCEMENT & PENALTIES

Dangerous Building or Property

A building or property is deemed to be dangerous if, in the judgment of the Building Inspector, it presents a serious threat to life from any of the following conditions:

- Structural failure;
- Fire damage, explosion, or toxic gases.
- Poisonous, contamination or biological infection of water, flood damage, air or the physical environment;
- Any use or condition of the building or property from which death or physical injury to the occupants or public could be reasonably expected if occupancy or entry to the building or property is allowed. *(Numbers were changed to bullets)*

If the Building Inspector finds a building or property to be dangerous, a written notice of violation shall be given to the property owner and violator if different, to immediately secure such building or property to prevent unauthorized entry. If the owner fails to secure their building or property within seven (7) days of said order, or when immediate action is required to protect public safety, the Building Inspector shall cause the building or property to be secured and shall take any other necessary protective measures including, but not limited to, installing sidewalk and street barricades. All expenses incurred by the town to secure the dangerous premises and to assure the public safety affected thereby, shall be repaid to the Town of Pittsfield by the owner or owners of the dangerous building or property within thirty (30) days after demand for repayment to the town or a special tax may be assessed against the property and collected in the same manner as other municipal taxes are collected.

The procedure for demolition of buildings shall be in accordance with Title 17 §2851 et seq., as amended, Dangerous Buildings.

Note: If it is decided to adopt the above section then it will need to replace our present Unsafe Depilated And Casualty Damaged Property in section 2 for Chapter 13.

RESPONSIBILITIES

Owners, operators, and occupants of properties shall maintain the structures and exterior property grounds in compliance with this ordinance and shall be jointly and severally liable for violations and for corrective actions required.

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health and safety, ~~and to avoid any adverse effect on the value of adjoining properties.~~

ENFORCEMENT & PENALTIES

Method of Service

The Code Enforcement Officer shall notify the violator. Such written notice of violation shall be deemed to be properly served if a copy thereof is:

1. Delivered personally by hand delivery,
2. Sent by certified mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall 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 ~~Town Council~~ Board of Appeals. A written application for appeal must be filed within ~~7~~ 30 days of notification of violation or order 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 ~~Town Council~~ Board of Appeals. The number of days given for compliance shall start after the ~~Council~~ Board of Appeals has heard the appeal.

If a violation is not corrected within the time allowed, the Town shall 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 MRSA Section 4452 currently including, without limitation, a penalty of \$100 to \$2,500 per day for a specific violation, injunctive relief and reasonable attorney fees, expert witness fees and costs. 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, pursuant to Rule 80-K. However, should the services of the Town Attorney be required, the Code Enforcement Officer shall first review the case with the Town Council.

It shall be unlawful for the owner of a structure or property who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

Extension Requests

Violators may submit a written request to the Code Enforcement Officer for a one-time extension of time to correct the violation/s. The extension of time may be given for financial hardship and it shall be required to prove hardship through financial documentation such as tax returns and proof of expenses. 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 Town Council) choose one). The Code Enforcement Officer may offer one (1) special extension of up to 180 days to violators of this ordinance if a reasonable hardship can be shown.

SEVERABILITY

If any section, subsection, clause, paragraph, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed to be a separate, distinct, and independent provisions and such holdings shall not effect the validity of the remaining portions thereof.

CONFLICT WITH OTHER LAWS

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the provision imposing the greater restriction shall control. The newest version of this Ordinance shall be the one that is enforced.

~~EFFECTIVE DATE~~ AMENDMENT DATE

This ordinance shall be effective upon adoption by the Pittsfield Town Council and may be amended in accordance with Town requirements for amending ordinances. Adopted: 30 days (date)

DEFINITIONS *(To be added to our present definitions Chapter 13-C)*

Where terms are not defined in this ordinance and are defined in the building, fire prevention, land use, plumbing or mechanical codes, such terms shall have the meanings ascribed to them as in those codes.

Where terms are not defined, through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context applies.

Blighting Problem – A deteriorated condition.

Casualty- Any unforeseeable, unintended accident affecting a property.

Cause or Contract- For this ordinance, “cause or contract” as it appears in Section 5 includes the initiation of an insurance claim (as opposed to resolution), the contracting of a construction/repair business, or the substantial preparation for self-repair work.

Grounds- The part of a property not covered by permanent structures.

Imminent Hazard – A condition which could cause serious or life-threatening injury or death at any time.

Infestation – The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

Junk — For this ordinance the term “junk” refers to dilapidated, discarded or used material or objects.

Nuisance Condition-This term has been defined by MRSA Title 17 Section 2802. It reads as follows: “The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells, or other annoyances, become injurious and dangerous to the health, comfort or property of individuals, or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the

injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn out or junked motor vehicles as defined in Title 29A, Section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.”

Occupant- Any person living, sleeping, or having actual possession of a dwelling unit or rooming unit.

Operator- Any person who has charge, care or control of a dwelling or property, or a part thereof, whether with or without the knowledge and consent of the owner.

Owner- Any person who, alone or jointly or severally with each other, shall have legal or equitable title to any property, with or without accompanying actual possession thereof, or shall have charge or control of any dwelling unit as owner or agent of the owner or as fiduciary including but not limited to executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained.

Premises –A lot, plot or parcel of land including any structures thereon.

Property- For this ordinance the term shall be defined as any lot, plot, or parcel of land.

Structure- Anything built or constructed and permanently affixed on a property that cannot be considered grounds or landscaping.

Unserviceable- For the purposes of this ordinance the Town will rely on a Maine Supreme Court decision (Town of Pownal v. Emerson, 639 A.2d 619 (Me. 1994); Town of Mt. Desert v. Smith, 2000ME 88, 751 A.2.d. 445) which includes the following: “unserviceable means not ready for use or presently useable” as opposed to “incapable of being serviced.”

Yard –An open space on the same lot with a structure.

APPENDIX A GENERAL

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The above would not pertain to lots and structures in the Shoreland Zoned area unless we address the below condition of Chapter 13. Possibly adding the above as a new separate chapter would be the easiest fix?

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.

It was decided by the board members that the above should be a new chapter to the Pittsfield Town Codes not a change or addition to chapter 13.

Next **Alan Dunphy** led the discussion on an ordinance change to address In-law apartments.

The board members recommended the following changes: (Please see **additions** and ~~cross-outs~~ listed below)

Chapter 13 Zoning Ordinances

Section 4 B. Specific Requirements

The following specific requirements shall apply to uses in all Residential ~~District R-1~~ **Districts** except as noted.

ACCESSORY USES

(This section currently exists in Chapter 13).

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.

(New/proposed section to c)

An Accessory or in-Law Apartment is allowed in Residential Districts ~~R-1~~ provided the conditions are met.

An accessory apartment is a second dwelling unit located within, attached **to** or on the same lot as a structure constructed as a detached one 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 one family 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 one 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. (Note: 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~~ **living** floor area of the accessory apartment shall not exceed 33 percent of the net floor area of the dwelling.
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 one 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 one family dwelling, attached to it or located over an attached or detached garage provided the appears of a one family to home is maintained.
15. Both the accessory apartment and the one family dwelling are served ~~on~~ **by** one water meter and one electrical meter.

(Table P of Chapter 13 should be revised to add Accessory Apartment as an allowed use)

Chair **Alan Dunphy** requested a draft of the above codes with changes made at this meeting be completed for review at the next Planning Board meeting.

- b.** Review suggestions of Department of Inland Fisheries and Wildlife's comments of 4-1-13 Notice of Completeness and determine whether to recommend amending the Town of Pittsfield 2013 Comprehensive Plan.

Alan Dunphy led the discussion on suggestions from the Department of Inland Fisheries and Wildlife's comments. The board members recommended not making any changes to the Comprehensive Plan and submitting to the Town Council as is.

Chair Alan **Dunphy** read the letter from Efficient Energy Solutions, Inc in reference to the A.E. Robinson Convenience Store tree planting. It was noted 19 cedar trees 5' to 8' tall (mostly taller) and 3 Blue Spruce trees 12' tall was planted to replace tree that were removed for construction. It was the consensus of the board that this was acceptable.

6. ADJOURNMENT:

Motion by **Walter Reuter** and seconded by **Jack Wright** that the meeting be adjourned at 8:48 pm.

VOTE: UNANIMOUS AYE

Respectfully submitted by:
Steve Seekins, Building Inspector
Nicole Nickolan, Town Clerk