

ARTICLE 23-4
DISTRICT REGULATIONS

SECTION 4.1 APPLICATION OF DISTRICT REGULATIONS

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly:

SECTION 4.101

No building, structure or land shall be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all applicable regulations herein as specified for the district in which it is located.

SECTION 4.102

No building or other structure shall hereafter be erected or altered:

- A. To exceed the height or bulk;
- B. To accommodate or house a greater number of families;
- C. To occupy a greater percentage of lot area;
- D. To have narrower or small rear yards, front yards, side yards, or other open space than herein required;
- E. In any manner contrary to the provisions of this ordinance.

SECTION 4.103

No part of a yard or other open space or off-street parking or loading space required about or in connection with any building, for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading spaces similarly required for any other building.

SECTION 4.2 DISTRICT REGULATIONS

District Regulations for Residence, Business and Industrial Districts shall be as set forth in the "Schedule of Use Regulations" and in the "Schedule of Intensity Regulations" hereby adopted by reference and declared to be a part of this ordinance and in Section 4.3 entitled "Supplementary District Regulations". Use of a building, structure or premises shall be further regulated in all districts by the applicable provisions of all sections of this ordinance.

SECTION 4.201 SCHEDULE OF USE REGULATIONS

- A. The following is a listing in alphabetical order by use categories of the principal permitted uses allowed in each established district where marked with an "X" for that class of district, as regulated herein and elsewhere in this ordinance, either as:

		USE GROUP SYMBOL
1.	Principal uses by right	BR
2.	Conditional uses subject to special requirements as provided in Section 7.7	SR
3.	Conditional uses requiring special use permit, from the Board of Appeals as regulated in Section 7.8 and "Article 23-11" or from the City Council if so provided herein for a specific use	SP

- B. Any unlisted use compatible with principal permitted uses of a district, as determined by the Community Development Board, may be classified by the said Board as to the use group within which it falls and as to the applicable special requirements, if any, under which such unlisted use shall be permitted to locate therein. **[Amended 6-28-2022 by Ord. No. 1250]**

SECTION 4.202

TABLE OF PRINCIPAL PERMITTED USES¹

[Amended 1-11-2005 by Ord. No. 938 (adding B-N column); 6-27-2013 by Ord. No. 1070; 1-14-2014 by Ord. No. 1076; 6-14-2014 by Ord. No. 1083; 4-10-2018 by Ord. No. 1202; 3-12-2019 by Ord. No. 1214; 2-11-2020 by Ord. No. 1221; 2-23-2021 by Ord. No. 1233; 4-13-2021 by Ord. No. 1237; 2-13-2024 by Ord. No. 1274]

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
a. RESIDENCE USES															
Dwellings: One-Family	BR	X	X	X	X	X	X							X	
" Two-Family	BR				X	X	X							X	
" Three-Family	BR					X	X							X	
" Multi-Family	SR						X		X					X	
" Garden Apartments any number of dwelling units	SR						X								
" Garden Apartments 60 or less dwelling units in district	SR					X	X								
" Garden Apartments more than 60 dwelling units in district	SP					X									
Assisted Living Residences (ORD 791, 1995)	SP	X	X	X	X	X	X		X						
Flexible Development [Added 2-13-2007 by Ord. No. 988]	SP	X	X	X	X	X	X		X	X				X	
Group Homes	SR	X	X	X	X	X	X	X	X	X	X	X	X		
Motels or Hotels	BR								X	X				X	

1 Editor’s Note: See Section 4.234 for permitted uses in the Downtown Creative District (DCD), and see ZONING-COVER-INDEXES-ORDINANCE attachment for subsequent amendments to the uses in that district.

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS- OD
Mobile Home Parks	SP	X	X												

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
Planned Unit Residential Development (ORD 799, 1996)	SP	X	X	X	X	X									
Residential Cluster Development	SP	X	X	X											
Rooming Lodging House (ORD 913, 2003)	BR						X		X						
Bed-and-Breakfast or Tourist Homes (ORD 913, 2003)	BR						X		X						
Bed-and-Breakfast or Tourist Homes (ORD 913, 2003)	SP				X									X	
b. <u>INSTITUTIONAL, RECREATIONAL AND EDUCATIONAL USES</u>															
Art Galleries	BR							X	X					X	
Camping Facilities	SP	X	X												
Camps: Private Camps	SP	X	X	X	X										
Charitable, Welfare or Health Centers or Institutions, or Day Care Services for Children	SP	X	X	X	X	X	X		X	X	X	X	X	X	
Churches, Temples or Other Places of Worship	BR	X	X	X	X	X	X	X	X	X	X	X	X	X	
Clubs, Lodges or Associations: Country Clubs	BR	X	X	X	X	X	X								
Fraternal, Social, Recreational, Youth or Veterans Organizations not Conducted for Profit	SR			X	X	X	X		X	X				X	

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
Non-Commercial Outdoor Swimming clubs, Tennis Clubs, Sportsmen Clubs, or any other non-commercial recreational open uses of land which are compatible with a residential environment	SP	X	X	X	X	X	X								
Commercial Recreation (General)	BR							X	X	X	X				
Community Centers: Senior Citizen and other Neighborhood Centers	BR	X	X	X	X	X	X	X	X					X	
Correctional Institutions	SP	X	X	X	X	X	X	X	X	X	X	X			
Drive-In Theaters	SR									X	X	X			
Golf Courses	SR	X	X	X	X	X	X								
Golf Courses: Par 3 Golf Driving Ranges	SR								X	X	X	X			
Governmental Archives (ORD 712, 1992)	SP	X	X	X		X									
Governmental Archives (ORD 712, 1992)	BR							X	X	X	X	X	X		
Hospice House [Added 8-14-2007 by Ord. No. 1000]	SP	X													
Hospitals or Sanatoriums (ORD 647, 1989)	SR	X	X			X	X		X						
Libraries: Public or Private	BR	X	X	X	X	X	X	X	X					X	
Museums	BR							X	X						
Nursing Homes	SP	X	X	X	X	X	X	X	X	X					

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
Parks and Playgrounds (ORD 923, 2004)	BR	X	X	X	X	X	X	X	X	X	X	X	X	X	
Riding Stables, Commercial	SR	X	X	X											
Shooting Ranges	SP	X	X												
Skiing Areas, Commercial	SR	X													
Stadiums, Arenas, Racetracks, Coliseums	SP	X								X	X	X			
Theaters: movie theaters or theaters for the performing arts (ORD 906, 2002)	BR							X	X						
c. <u>SCHOOLS</u>															
Educational Uses	SR	X	X	X	X	X	X	X	X	X	X	X	X	X	
d. <u>OFFICE USES</u>															
Administrative Offices Devoted to single use	SR	X	X	X	X	X	X	X	X	X	X	X	X		
Banking, Governmental, Real Estate or Insurance	BR							X	X	X	X	X	X	X	
General Business or Professional	BR							X	X	X			X	X	
General Business or Professional (ORD 656, 1990 & ORD 721, 1992)	SP										X	X			
Planned Office Uses	BR							X	X	X			X	X	
Planned Office Uses	SR						X								

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS- OD
Offices: General Business, Professional, Banking, Real Estate or Insurance: Drive-In, Drive-Up or Drive-Through (ORD 768, 1994)	SP							X	X	X	X	X	X		
e. <u>AUTOMOTIVE SALES AND SERVICE USES</u>															
Car Washes	SP								X	X	X	X			
Body or Paint Shops	BR									X	X	X			
Repair Shops or Garages	BR								X	X	X	X			
Sales Lots and Showrooms (ORD 865, 2000)	BR							X	X	X	X	X			
Service Stations	SP							X	X	X	X	X			
Parking Areas in Residence Districts	SP	X	X	X	X	X	X								
Parking Garages and Structures	BR									X	X	X			
Parking Lots, Commercial	SR							X	X	X	X	X			
Used Car Lot (ORD 898, 2002)	BR								X	X	X	X			
Autobody or Paint Shops in a BG Dist.	SP								X						
f. <u>RETAIL AND CONSUMER SERVICES USES</u>															
Adult Entertainment Establishments (ORD 936, 2004)	SP										X				

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
Agricultural Implements or Machinery Sales, Rental, Repair or Storage	BR									X	X	X			
Billboards	SP							X	X	X	X	X			
Eating Establishments	BR							X	X	X	X	X		X	
Eating Establishments, Drive-In, Drive-Up or Drive-Through (ORD 768, 1994)	SP							X	X	X	X	X			
Laboratories: Medical and Dental	BR								X	X					
Lounges, Bars, Taverns, or Nightclubs	BR							X	X	X	X	X			
Recreational and/or medical marijuana retail	SP							X	X	X	X	X	X		
Retail Sales and Services: Including but not limited to retail stores and shops, barber shops, self-service laundries, repair shops, rental shops, caterers, interior decorators, custom printers	BR							X	X	X	X	X		X	
Retail Sales or propane and liquefied petroleum gas from a bulk storage tank (in which the volume does not exceed 1000 gallons (3,785 Liters) and 150 pounds per square inch pressure.	BR									X	X	X			
Retail sales or propane and liquefied petroleum gas from a bulk storage tank (in which the volume does not exceed 1000 gallons (3,785 Liters) and 150 pounds per square inch pressure. (ORD 863, 1999)	SP							X	X						
Retail Sales and Services, Drive-In, Drive-Up or Drive-Through (ORD 768, 1994)	SP							X	X	X	X	X			

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
Self Storage Mini-Warehouses	SP							X					X		
Self Storage Mini-Warehouses	BR									X	X	X			

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
Shopping Centers, Plazas, Malls	SP							X	X	X	X	X			
Shopping Centers, Plazas, Malls (BD District)	SR														
Veterinary Hospitals or Kennels	SP	X	X							X	X				
g. <u>UTILITIES, COMMUNICATION AND TRANSPORTATION</u>															
Airports or Heliports	SP	X	X	X	X	X	X	X	X	X	X	X	X		
Bus Terminals	SP							X	X	X	X	X			
Public or Quasi-Public Utilities	SP	X	X	X	X	X	X	X	X	X	X	X	X		
Telephone Exchanges/Similar Structures	SP	X	X	X	X	X	X	X	X	X	X	X	X		
Television/Radio Broadcasting Studios	BR							X	X	X	X	X	X		
Terminals, Trucks, Rail or Freight	SR									X	X	X			
Terminals, Trucks, Rail or Freight	SP												X		
h. <u>INDUSTRIAL, MANUFACTURING AND STORAGE USES</u>															
Baking, Bottling, or Dairy Processing Plants	BR									X	X	X	X		
Concrete or Bituminous Concrete Batching Plants	SP											X			

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
Flammable Liquids/Gases Bulk Storage	SR											X			
Food Processing	BR											X	X		
Freezers and ice Plants	BR									X	X	X	X		
Labs: Analytical, Experimental, Testing, or Industrial Processing	BR										X	X	X		
Lumber or Building Materials Yards	SR									X	X	X			
Manufacturing, Processing/Fabrication: Unlisted Uses, any unlisted manufacturing processing/fabrication or any product of any material	SR										X	X	X		
Marijuana cultivation, manufacturing, processing	SR									X	X	X	X		
Marijuana cultivation, manufacturing, processing	SP							X	X						
Marijuana testing and research	SR									X	X	X	X		
Marijuana testing and research	SP							X	X						
Listed Use: Manufacturing/processing of textiles, electrical components; fabrication of wood, leather, paper, water or plastics products, fabrication or assembly of products from previously prepared materials [Amended 2-14-2006 by Ord. No. 979]	BR											X	X		
	SR										X				
	SP									X					
Printing Plants	BR									X	X	X	X		
Shops for building trades and similar uses; shops and yards for builders, contractors, carpenters, electricians, masons,	BR									X	X	X	X		

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
plumbers, etc., woodworking, sheet metal, upholstering, appliance repair or machine shops.															
Slaughterhouses or dressing plants	SR											X			

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
Steam Laundries or Dry Cleaning Plants	BR									X	X	X	X		
Stone and Monuments Works	BR									X	X	X			
Storage Warehouses and Yards	BR									X	X	X			
Storage Warehouses and Yards (ORD 437, 1983)	SP												X		
Supply Yards	BR									X	X	X			
Quarries, Gravel Pits or other Extractive Ind.	SP	X	X								X	X			
Wholesale or Jobbing Establishments	BR									X	X	X	X		
Wrecking, Salvage or Scrap Metal Processing Yards	SP											X			
i. <u>GOVERNMENTAL USES AND SERVICES</u>															
Fire Station	BR	X	X	X	X	X	X	X	X	X	X	X		X	
Garages, Yards or Service Areas	BR									X	X	X			
Police Stations	BR	X	X	X	X	X	X	X	X	X	X	X		X	
j. <u>OTHER PRINCIPAL USES</u>															
Agricultural uses, (as defined under MGL c. 40A, § 3)	BR	X	X	X	X	X	X	X	X	X	X	X	X		

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
Agricultural uses involving livestock, such as, but not limited to Dairy, Poultry, Stock Farming, Piggeries, or Fur Farms.	SR	X	X	X	X	X	X	X	X	X	X	X			
Animal Shelter (ORD 861, 1999)	SR			X	X						X	X			
Cemeteries	BR	X	X												
Commercial/Industrial-Scale Battery Energy Storage System and BESS Facility (for commercial, industrial, manufacturing and/or research)	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SP	SP	SP	NP	SP
Crematoriums	BR								X	X	X	X			
Funeral Homes	BR					X	X	X	X	X					
Landfill, Sanitary	SP	X	X	X	X	X		X	X	X	X	X			
Large-Scale Ground-Mounted	SP							X	X	X	X	X			
Medium-Scale Ground-Mounted	SP							X	X	X	X	X			
Nurseries (Retail), Landscape Gardening or Greenhouses	SR	X	X	X	X	X	X		X	X	X	X			
Small-Scale Battery Energy Storage System (for retail, customer service and employee use by owner, landlord, or developer or for commercial, industrial, manufacturing and/or research)	NP	NP	NP	NP	NP	NP	NP	NP	NP	SP	SP	SP	SP	SP	SP
Small-Scale Ground-Mounted	SR							X	X	X	X	X			
Waste Transfer Station (ORD 925, 2004)	SP										X	X	X		

<u>PRINCIPAL PERMITTED USES</u>	<u>USE GROUP</u>	R-43	R-20	R-12	R-6	R-G	R-M	B-C	B-G	C-W-S	I-L	I-G	L-D-I	B-N	BESS-OD
<u>k. ACCESSORY USES</u>															
Commercial/Industrial-Scale Battery Energy Storage System and BESS Facility (for commercial, industrial, manufacturing and/or research)	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SP	SP	SP	SP	SP
Medium-Scale Ground-Mounted	SP									X	X	X			
Residential-Scale Battery Energy Storage System (for private residential use by owner, landlord, or housing developer)	BR	BR	BR	BR	BR	BR	BR	BR	BR	BR	BR	BR	BR	BR	BR
Roof-Mounted Solar	BR	X	X	X	X	X	X	X	X	X	X	X	X		
Small-Scale Battery Energy Storage System (for retail, customer service and employee use by owner, landlord, or developer or for commercial, industrial, manufacturing and/or research)	NP	NP	NP	NP	NP	NP	SP	SP	SP	SP	SP	SP	SP	SP	SP
Small-Scale Ground-Mounted	BR	X	X	X	X	X	X	X	X	X	X	X	X		

SECTION 4.203 SCHEDULE OF INTENSITY REGULATIONS. [Amended by Ord. No. 575; 7-10-2001 by Ord. No. 894; 2-11-2020 by Ord. No. 1221]

N.B. Variations or exceptions from these minimum requirements are as set forth in Section 4.3 entitled Supplementary District Regulations and as specifically provided elsewhere in this Ordinance.

DISTRICT	Min. Lot area in sq. ft.	Minimum Lot Width in feet	Minimum Yards In Feet front/side/rear	Maximum coverage by all bldgs.	Maximum height of bldgs. feet
R-43	43,560	150	50 / 15 / 25	N/R	35
R-20	20,000	100	35 / 10 / 25	N/R	35
R-12	12,000	75	35 / 10 / 25	25%	35
R-6	6,000 7,500*	60	20 / 10 / 25	50%	35
R-G	12,000	75	35 / 10 / 25	25%	35
R-M	6,000	60	10 / 5 / 10	70%	60
B-C	6,000	50	N/R / N/R / N/R	N/R	35
B-G	N/R	N/R	N/R / N/R / N/R	N/R	50
B-D	N/R	N/R	N/R / N/R / N/R	N/R	180
C-W-S	5,000	N/R	N/R / N/R / N/R	N/R	90
I-L	12,000	50	35 / N/R / 30	N/R	90
I-G	7,500	N/R	N/R / N/R / N/R	N/R	125
L-D-I	12,500	50	35 / 10 / 25	50%	65
B-N**	6,000	60	N/R / N/R / N/R	50%	40

NOTES:

Abbreviation N/R in the above schedule indicates no requirements.

* For two-family housing.

** [Added 1-11-2005 by Ord. No. 938]

SECTION 4.3 SUPPLEMENTARY DISTRICT REGULATIONS

SECTION 4.301 ERECTION OF MORE THAN ONE PRINCIPAL BUILDING OR

STRUCTURE ON A LOT.

- A. In any district more than one building or structure housing a principal use may be erected on a single lot, provided that area, width, frontage, yard and other requirements of this ordinance shall be met for each building or structure as though it were on an individual lot, except as specifically provided herein.
- B. In an R-M and R-G zone, the following distances shall be required between multi-family residential buildings on a single lot (See Plate 3).
 - 1. Front Facing Front
The minimum distance between the front walls of buildings oriented so as to face each other shall not be less than equal to two times the height of the taller structure as measured at mid-point of the front wall. In no event shall such distance be less than thirty-five (35) feet.
 - 2. Rear Facing Rear
The minimum distance between the rear walls of buildings oriented back to back shall not be less than equal to one and one-half times the height of the taller structure as measured at mid-point of the rear wall. In no event shall distance be less than thirty (30) feet.
 - 3. Front Facing Side
The minimum distance between the front wall of a building and the side wall of another building shall not be less than the height of the taller structure as measured at mid-point of the pertinent wall. In no event shall such distance be less than twenty (20) feet if either wall contains a window.
 - 4. Side Facing Side
The distance between the side walls of buildings shall not be less than three fourths the height of the taller structure as measured at mid-point of the pertinent wall. In no event shall such distance be less than fifteen (15) feet if either wall contains a window.
 - 5. Rear Facing Side
The distance between the rear of a building and the side of another building shall not be less than equal to the height of the taller structure as measured at mid-point of the pertinent wall. In no event shall such distance be less than twenty (20) feet if either wall contains a window.

SECTION 4.302 BUILDING OR STRUCTURES TO HAVE ACCESS ON STREET (ORD #587-1987)

Every building or structure (proposed) to be erected or moved shall be on a lot having frontage on an accepted City street or on a private street developed in accordance with an approved subdivision plan prepared and recorded on or after July 4, 1953 or by the grant of a special permit in accordance with Section 4.317 pertaining to legally existing ways as shown on plans prepared and recorded prior to the July 4, 1953 enactment of the Subdivision Control Law, M.G.L. Chapter 41, Section 81-K to 81-GG. Said ways are commonly referred to as paper streets. In no case shall the lot frontage on the street be less

than eight (80) percent of the required minimum lot width as listed in the "Schedule of Intensity Regulations" of this ordinance for the applicable district. Access to any lot in any district, duly recorded at the effective date of this ordinance may be provided from a public way through a more restricted district by an access road laid out on a plan duly approved by the Community Development Board following a public hearing in accordance with the "Subdivision Rules and Regulations" and subject to the applicable screening regulations and transition requirements of this ordinance. **[Amended 6-28-2022 by Ord. No. 1250]**

SECTION 4.303 EXCEPTIONS TO HEIGHT REGULATIONS

The height regulations contained in the "Schedule of District Regulations" do not apply to churches, temples, agricultural buildings, mixing plants, cement silos, screening or loading towers for sand or rock, water tanks, ventilators, chimneys, spires, belfries, cupolas, antennae, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

SECTION 4.304 FRONT YARDS

A. Landscaping and Maintenance

Every required front yard in any Residence District shall be suitably landscaped and maintained with grass, trees, shrubs or walks; kept open and unobstructed and shall not be used for parking or storage of any vehicles or equipment, except as specifically provided herein.

B. Landscaping in I-L and L-D-I Districts(ORD #437-1983)

Every required front yard in a Light Industrial District (IL) or Limited Industrial District (LDI) shall be suitably landscaped in accordance with plans filed with the application for a building permit, the approval of which plans by the Building Inspector shall be prerequisite to granting of a permit, except as otherwise specifically provided herein.

C. Setback Exceptions

In a Residence District if the alignment of existing buildings on adjacent lots on both sides of a lot fronting on the same street within the same block in the same district is nearer to the street than the required setbacks, the average of the existing alignment of all buildings within one hundred (100) feet of said lot shall be the minimum front yard.

SECTION 4.305 REAR YARD EXCEPTIONS

A. In a Residence District where depth of the lot is less than one hundred (100) feet, the rear yard may be reduced by one half of the difference between the actual depth of the lot and one hundred (100) feet provided that a rear yard of at least twelve (12) feet shall be provided.

B. No rear yard is required in case of a through lot to be occupied by only one principal building or structure in any Residence District, but each street front yard shall be subject to the setback requirements for the district in which it is located.

SECTION 4.306 PROJECTIONS INTO YARDS. [Amended 1982 by Ord. No. 423; 2001 by Ord. No. 885; 10-28-2003 by Ord. No. 920]

Except for the following projections and encroachments and uses specified in Section 9.101 and in Section 10.1, all required yards shall be open and unobstructed;

- A. Unroofed terraces, steps, open porches or other similar appurtenances, not within five (5) feet of any lot line, may be located within a minimum yard, provided such features of appurtenances are not over three (3) feet high above the ground level.
- B. Chimneys and flues, cornices, eaves and similar features may project or extend not more than four (4) feet into a required yard.
- C. Openwork fire balconies and fire escapes may extend not more than five (5) feet into any required yard.
- D. Rear and side lot fences or walls shall not exceed six (6) feet in height and side lot line fences or walls shall not extend into any required front yard.
- E. The provisions of this ordinance shall not apply to plantings, arbors, flagpoles, or to any necessary retaining wall or to any fences or walls which are less than three (3) feet high and less than sixty percent (60%) solid, or to any playground or laundry drying equipment in rear yards.
- F. Fences greater than three (3) feet but not exceeding six (6) feet in height are permitted in front yards, whether along the lot line or at any other location, by the grant of a special permit from the Zoning Board of Appeals subject to the following findings that:
 - a. the fence would be compatible with the character of the neighborhood
 - b. the fence is less than 60% solid
 - c. the fence does not adversely impact pedestrian or vehicular traffic.

The special permit granting authority may impose additional conditions if in its judgment such conditions are necessary or desirable.

SECTION 4.307 CORNER LOT VARIATION (ORD. #864 – 2000)

The setback requirements for corner lots shall be the minimum front yard requirement for both streets. A modification of this requirement may be permitted by the grant of a special permit from the Community Development Board. The Board will review the specific impacts this modification may have on:

- A. Pedestrian traffic
- B. Vehicular traffic
- C. The physical characteristics of the surrounding area especially modifications of view, light and the neighborhood design.

The special permit granting authority may impose additional conditions if in its judgment such conditions are necessary or desirable.

SECTION 4.308 VISIBILITY AT INTERSECTIONS

On a corner lot in any district where a front yard is required, nothing shall be erected, placed (including snow), planted, or allowed to be or to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) and ten (10) feet above the curb level within the triangular area formed by the intersection of any two street lines and a line joining points along said street lines twenty (20) feet from the point of intersection of the two street lines.

SECTION 4.309 SCREENING REGULATIONS

- A. The requirements of the screening regulations shall be complied with as provided in this ordinance and wherever any of the following situations may occur on a lot:
1. Where a business or industrial use adjoins a Residence District or a residential or institutional use, which business or industry shall provide and maintain a screen along the property line adjoining such Residence District or such residential or institutional use.
 2. Where an off-street parking facility or lot for more than five (5) vehicles or an off-street loading area is established as either a permitted use or an accessory use adjacent to a Residence District or a residential or institutional use, a screen shall be provided and maintained along the property line adjoining the Residence District or residential or institutional use (**ORD #423-1982**)
 3. Where a portion or all of a lot is used as a permitted use, or an accessory use in conjunction with a permitted use, for the purpose of storing in open-air or unenclosed structures new or discarded materials, products or wastes, in bulk or in containers, a screen shall be provided and maintained in such a manner as to obscure the storage of materials, products, or wastes from view from a street or from adjoining properties.
- B. All screens shall be established and maintained in a sightly and well-kept condition and shall be designed to comply with the following requirements:
1. A screen may consist of plant materials, at least three (3) feet in height at the time of planting, which are of a type that may be expected to form a year-round, dense screen and will reach a height in maturity of at least five (5) feet and which shall be maintained at a height no greater than eight (8) feet; or a masonry wall or wooden fence from five (5) feet to six (6) feet in height at least fifty (50 percent solid, designed in an attractive manner not to obscure any view.
 2. A screen shall occupy a strip of land at least five (5) feet in width along a property line or the periphery of the screened area. Where a screen consists of a masonry wall or wooden screen, the remainder of the required five (5) foot strip shall be landscaped with trees, shrubs or lawn.
- C. Any existing growth of trees and shrubs may take the place of the required planting, wall or fencing, if, in the judgment of the Community Development Board or the Building Inspector, such growth provides equivalent screening. Additional planning or landscaping shall be provided and maintained whenever the Building Inspector finds that sufficient planting or landscaping

does not exist on the site or that it is inadequate. **[Amended 6-28-2022 by Ord. No. 1250]**

- D. A screen at variance with the requirements as set forth herein may be substituted if, in the judgment of the Community Development Board or the Building Inspector, it provides equivalent screening. **[Amended 6-28-2022 by Ord. No. 1250]**

SECTION 4.310 REGULATIONS PERTAINING TO REMOVAL OF EARTH MATERIALS

- A. The removal of earth materials, including stripping of topsoil or sod, shall be permitted when incidental to or required in connection with any of the following operations:
1. The erection of a building on a lot for which a permit has been properly issued;
 2. The construction of a private road in an approved subdivision.
 3. In connection with any accessory use incidental to a permitted use;
 4. In connection with grading of the premises not below level of adjoining streets and in such a way as not to leave exposed boulders.
 5. In connection with a floodplain or wetlands permit issued by the Conservation Commission requiring compensation at any location designated by the Commission. **(ORD #747-1994)**
- B. The removal of earth materials may be permitted under other circumstances as set forth in the "Schedule of Use Regulations" and in Section 7.8 of this ordinance.
- C. The accessory and incidental removal of earth materials, including stripping of topsoil or sod, for the purpose of sale (but not for the purposes described in Section A-1 the A-5 above) shall require a special permit from the Zoning Board of Appeals. The applicant must meet the following requirements:
1. The submission of a site plan (the Zoning Board may require that the plans be prepared by a Registered Land Surveyor or Professional Engineer) containing the following information:
 - a. the specific site of the earth removal and surrounding area and area within 100 feet.
 - b. all structures, vegetative cover, wetlands, natural waters and drainage ditches, within 100 feet.
 - c. the existing and proposed contours of the site and the area within 100 feet.
 - d. depth of existing water table.
 2. A plan for the restoration and/use of the site after completion of the earth removal. The plan must include data on surface drainage to insure that no standing water will result, or that abutters will not be adversely affected.

3. A specific time table (including proposed work and transport hours) for the proposed removal of materials and restoration of the site must be provided.
4. Evidence that the proposed use has been reviewed by the Conservation Commission and is in conformity with wetland requirements. The Conservation Commission may recommend and the Special Permit Granting Authority may impose additional requirements to be made a condition of the permit.
5. The establishment of a performance guarantee in an amount as determined by Department of Public Works and Utilities, Engineering Division, to assure satisfactory performance in the fulfillment of the requirements of this ordinance and/or the conditions of the permit or to correct any damages to the public ways caused by the exercise of said permit. This document is to be approved by the City Solicitor as to form and legality.
6. **EXEMPTIONS**
The removal of 90 cubic feet or less of earth material including topsoil or sod during any five year period will be exempt from the need for a special permit and the fore-going requirement. A notice of such action is to be filed with the Building Inspector.
7. **WAIVER OF PLANS**

Upon request of the applicant the Zoning Board of Appeals may waive or modify the information to be submitted with the site plan. **(ORD #747-1994)**

**SECTION 4.311 REGULATIONS PERTAINING TO THE PARKING, STORING OR USE
OF MAJOR RECREATIONAL OR COMMERCIAL EQUIPMENT OR
VEHICLES IN RESIDENCE DISTRICTS
(ORD. #817-1997)**

A. Recreational Vehicles and/or Equipment

1. No recreational vehicles or equipment shall be parked or stored in a required front yard except in a driveway as permitted by this ordinance.
2. Except as otherwise provided by this ordinance, recreational vehicles or equipment shall be parked or stored in a car port, garage or other enclosed building, or in a side or rear yard, and shall be screened in accordance with the screening regulations of this ordinance.
3. Recreational vehicles or equipment 4000 lbs or under of gross vehicle weight may be parked in a driveway, side or rear yard without screening during periods of seasonal use. For purposes of this ordinance, "seasonal use" shall, for those recreational vehicles or equipment designed for use in the winter, be from November 1st to April 30th. "Seasonal use" for recreational vehicles or equipment not designed for use in the winter shall be from March 1st to November 30th.
4. Recreational vehicles may be parked without screening on the residential premises for periods up to 3 days when used for living or sleeping purposes by visitors to the property's residents. For visitation periods in excess of 3 days, but in no case for longer than 3 weeks, oral or written

permission must be obtained from the Building Inspectors' Office. No more than one unit of recreational equipment may be used for living or sleeping on the residential premises at one time.

5. Recreational vehicles over 4000 lbs. gross vehicle weight may be parked in a driveway, side or rear yard without screening for periods up to 2 days for the purposes of loading or servicing.

B. Commercial Vehicles and/or Equipment

1. Except for the purpose described in Section B6, no commercial vehicle or piece of equipment with a gross vehicle weight of over 10,000 lbs shall be parked or stored on residential premises without a special permit under Section C.
2. Except for purposes described in Section B6, only one (1) commercial vehicle or piece of equipment not to exceed 10,000 lbs gross vehicle weight shall be parked or stored on a residential premises without the grant of a special permit as per Section C.
3. One registered commercial vehicle of a gross vehicle weight of 10,000 lbs or less may be parked on a driveway at a residential premises and shall be exempt from Section B5 and B6, provided that said registered commercial vehicle, when parked on said driveway, does not impair the safety of pedestrians or drivers.
4. Except as otherwise provided, no commercial vehicles or equipment shall be parked or stored in a required front yard, including the driveway.
5. A commercial vehicle or piece of equipment shall be parked or stored in a carport, garage, other enclosed building, or in a side or rear yard. A commercial vehicle or piece of equipment parked or stored in a side or rear yard shall be screened in accordance with the screening regulations of this ordinance.
6. Commercial vehicles or equipment being used to service residential premises may be parked at a residential premises for up to 72 hours at a time.

C. Modification of Conditions by Special Permit:

1. The conditions as set forth in Subsections A and B, and other requirements of the Zoning Ordinance relating thereto, may be modified by the grant of a Special Permit from the Zoning Board of Appeals subject to the following:
 - a. that the parking or storing of the vehicle or equipment shall not be in a manner that will negatively impact pedestrian or vehicular safety; or will not unduly interfere with the use or enjoyment of others' property.
 - b. that economic conditions and/or conditions of the site, including but not limited to, topography, vegetation or placement of buildings, impact on the compliance with the conditions of either Subsection A and B, or other requirements of the Zoning Ordinance
2. The special permit granting authority may impose additional conditions if in its judgment such conditions are necessary or desirable in order to effectuate the purposes of this ordinance.

SECTION 4.312 REGULATIONS PERTAINING TO MOBILE HOMES

A mobile home may be occupied for residence purposes in a Planned Unit Residential Development, as regulated in "Article 23-5", or on a lot which is intended for use as a mobile home park, as regulated in "Article 23-7". Otherwise, a mobile home may be occupied for residence purposes as follows, subject to all the applicable provisions of the City Code:

- A. As a temporary residence of a supervisor on the premises of a construction job in any district;
- B. As a residence of a guard or caretaker employed on the same property in an Industrial District;
- C. As a temporary residence for not to exceed six (6) months on a lot for which a building permit has been properly issued for the construction of a dwelling;
- D. No mobile home may be stored in the open in a Residence District.

SECTION 4.313 CONVERSIONS

1. A structure containing one or more dwelling units in a Residential District (R-M) or Business District (B-G) may be converted for additional dwelling units or for a combination of dwelling units and office uses in accordance with other provisions of this ordinance. The conversion may be allowed on a lot having less than the required minimum land area per dwelling unit or minimum lot size. The applicant must meet the following requirements:

- A. A special permit is issued by the Board of Appeals.
- B. Off-street parking space shall be provided in accordance with off-street parking requirements of this ordinance.
- C. Stairways leading to any floor or story above the first floor story shall be located within the walls of the building wherever practicable; otherwise, stairways and fire escapes shall be located on the rear wall in preference to either side wall. In no instance shall a stairway or fire escape be located on any wall fronting on a street.
- D. No dwelling shall be converted in such a manner that it will occupy a land area in excess of that occupied by the existing structure, nor shall any exterior addition to an existing dwelling be made, other than fire escapes or outside stairways.

2. A structure containing one or more dwelling units in a Residential District (R-M), Neighborhood Business District (B-N) or Business District (B-G) may be converted to provide for small business centers primarily serving the surrounding neighborhoods and including professional offices, convenience retail, and personal service establishments. **[Added 1-11-2005 by Ord. No. 938]**

SECTION 4.314 TRANSITION REQUIREMENTS

- A. Lot Abutting Upon a Residence District

Wherever an Industrial District or a Business District abuts upon a Residence District with no intervening street or highway, any building or structure or any industrial or business use of land in the district shall be set back from the boundary of such Residence District not less than the adjacent minimum yard requirement in the abutting Residence District (**ORD #564-1987**)

B. Front Yard

In a business or Industrial District, no building shall be erected nearer to the street line, or established building line than is permitted in the adjacent Residence District within a distance of fifty (50) feet from the Residence District boundary line, except where such building is separated by a street from the Residence District.

C. Limitations on Business Entrances, Show Windows or Signs

In all Business and Industrial Districts the location of primary business entrances, show windows or signs shall be subject to the following requirements:

1. For Corner Lots

In all Business and Industrial districts, for corner lots, no primary business entrances, show window or sign shall be located within twenty-five (25) feet of a Residence District Boundary in the same block on the same side of the street.

2. For Zoning Lots with Single Frontage

In all Business and Industrial districts, for zoning lots with single frontage no primary business entrance, show window or sign shall be located within twenty-five (25) feet of a Residence District boundary in the same block on the same side of the street.

3. Exceptions to the Foregoing Provisions

The foregoing provisions do not apply to:

- a. Service entrance or other entrances less than three (3) feet six (6) inches in width;
- b. Windows other than show windows.

D. Access through the L-D-I District for Use in R-43 District.

Except as otherwise provided herein, the use of land located in the L-D-I District for access to a use located in the R-43 District shall be allowed upon the grant of a special permit by the Pittsfield Community Development Board, provided such R-43 use is a use allowed as of right or by special permit in the R-43 District. [**Added 8-14-2007 by Ord. No. 999**]

SECTION 4.315 PERFORMANCE STANDARDS

A. Purpose

These performance standards are established to permit nuisances to be measured in terms of their potentially dangerous to objectionable elements rather than by classification of use which may not reflect actual conditions or nuisances. The are also established to provide controls to protect any potential use from arbitrary exclusion.

New construction, new facilities and new activities shall not be permitted except in compliance with these standards. Any use already established on the effective date of this ordinance shall not be so altered or modified as to conflict with, or further conflict with, said performance standards.

B. Regulation of Nuisance Elements

No land, building or structure in any district shall be used or occupied for non-residential purposes in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare; or other substance, condition or element (referred to herein as "dangerous or objectionable elements") in such amount as to adversely affect the surrounding area of premises; provided that, any use permitted by this ordinance may be undertaken and maintained in the respective district if it conforms to the regulations limiting dangerous and objectionable elements at the specified point or points of the determination of their existence, as provided herein.

C. Location where Determinations Are to Be Made for Enforcement of Performance Standards

The determination of the existence of any dangerous or objectionable elements shall be made at:

1. The point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbance, for smoke and other forms of air pollution;
2. At or beyond the property lines of the use creating such elements for noise, for vibration, or flare, and for odors wherever the effect is greatest.

D. Standards to be Enforced

1. Noise

A. Maximum Permitted Sound Pressure Levels:

Octave Band Center Frequency of Measurement (Hz)	Octave Bank Level In	Decibels
31.5		79
63	78	
125	73	
250	68	
500	62	
1000	56	

2000	51
4000	47
8000	44

- NOTES:
1. Acoustical Terminology is that most recently approved by the American National Standards Institute (ANSI).
 2. Reference pressure shall be 0.0002 microbars.
 3. Hz is the abbreviation for Hertz, which means cycles per second.
 4. For preliminary survey and monitoring only, the approximate single number, 65 dB (A) may be used.
 5. dB(A) shall mean A-weighted sound pressure level in decibels as measured on a general purpose sound level meter complying with the provisions of American Standard for General Purpose Sound Level Meters (S1.4 - 1971), ANSI, properly calibrated, and operated on the "A" weighing network.

B. Measurements

Measurements to determine compliance with standards shall be provided by the applicant upon request for the Building Inspector. Such measurements may be made by any public or private agency, firm, or person competent to perform such activity. All measurements shall be obtained through the utilization of procedures and equipment approved by the City of Pittsfield.

2. Atmospheric Pollution

All resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke, vapor, radioactive emission, or other atmospheric pollutant which is inherently harmful and likely to destroy life or impair health of is capable of causing injury to the well-being of persons or damage to property, shall be effectively regulated and disposed of so as to avoid any nuisance or hazard to the public's health or safety. Such air pollutants shall not exceed:

- a. Any limits established by the city of Pittsfield Department of Health, under the provisions of Chapter III, Section 31C, of the Massachusetts General Laws, entitled "Regulations, etc., of Atmospheric Pollution" or under any other statute;
- b. Any limits established by the Massachusetts Department of public Health under provisions of Chapter II, Section 142A, of the Massachusetts General Laws, entitled "Pollution or Contamination of Atmosphere"; or any other applicable statute or regulation.

3. Lighting, Glare and Heat

Every use shall be so arranged that any glare or radiant heat produced is shielded so as not to be perceptible at or beyond any condor line of the lot on which the use is located. Exterior lighting including, but not necessarily limited to, lighting of exterior walls or buildings from any external light source, lighting of parking areas, walk and drives shall be arranged in such a manner as to direct light away from adjacent lots and public ways.

4. Vibration

Every use shall be so operated that resultant ground vibrations are not discernible without the use of instruments at any boundary line of the lot on which the use is located for more than three minutes duration in any one hour of the day. The above shall not apply to those vibrations caused by motor vehicles, trains, aircraft, or water vessels being operated in a manner normally incidental to the principal use.

E. Fire and Explosion Hazards

All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices approved by the City Fire Department.

F. Outdoor Storage and Waste Disposal

No material or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces.

1. All materials or waste which constitute a fire hazard or which may be edible by or attractive to rodents or insects shall be stored outdoors only in closed containers.
2. No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground of any materials of such nature or temperature as can contaminate any water supply, or cause the emission of dangerous or offensive elements, shall be permitted, except in accordance with standards approved by the Massachusetts Department of Public Health and the Department of Health of the City of Pittsfield.

SECTION 4.316 TEMPORARY USES

Temporary permit shall be issued by the Building Inspector in case such permits do not come under jurisdiction of the City Council or other City agency if the Building Inspector determines that the proposed temporary use is reasonably required or is customary.

- A. Temporary building, structures, trailers or storage areas incidental to relocation or building development where such temporary use is customary or reasonably required. Such permit may be issued for an initial period of not more than one year, and in the case of a building, only upon application accompanied by a bond, approved by the City Solicitor, to be effective in case the building is not removed prior to the expiration date of the permit. Such bond shall be in an amount sufficient in the judgement of the Building Inspector to cover the cost of removal of such temporary building. Such a permit may be renewed by the Building Inspector for successive periods of not more than one year each.

- B. Customary uses of open land, such as circuses or carnivals, 4-H shows, benefit sale of Christmas Trees, and similar commercial or charitable uses of temporary nature;
- C. Seasonal sale of agricultural products, the major portion of which are raised or produced on the premises.

**SECTION 4.317 RADIOACTIVE WASTE DISPOSAL FACILITIES
(ORD #486-1981)**

No land within any use district in the City of Pittsfield may be used for the collection, treatment, storage, burial, incineration, or disposal of radioactive waste, including but not limited to wastes classified as low-level radioactive waste.

SECTION 4.318 REQUIREMENTS FOR LOTS ON LEGALLY EXISTING WAYS AS SHOWN ON PLANS PREPARED AND RECORDED PRIOR TO THE JULY 4, 1953 ENACTMENT OF THE SUBDIVISION CONTROL LAW, M.G.L. CH. 41, SECT 81-K THROUGH 81-GG (ORD #587-1987)(ORD #840 -1998)

Legally existing ways as shown on plans prepared and recorded prior to the July 4, 1953 enactment of the Subdivision Control Law can only be used to meet the requirements of Section 4.302 upon the vote of the Community Development Board authorizing the granting of a special permit. Each and every proposed building or structure to be erected or moved on such a way can only be used to meet the requirements of Section 4.302 upon the vote of the Community Development Board authorizing the granting of a special permit. **[Amended 6-28-2022 by Ord. No. 1250]**

Said special permit shall be subject to the following special requirements:

1. The minimum width for the traveled way shall be 22 feet.
2. The traveled way shall be constructed to or in excess of the following standards;
 - a. A 12" gravel base meeting Massachusetts State standards for roadways.
 - b. Installation of utilities, sewer and water in accordance with recommendations and specifications of the Department of Public Utilities.
 - c. Installation of a drainage system of pipe sizes and materials, depths and grades approved by the Department of Public Works.
 - d. Grading shall be in accordance with the recommendations of the Department of Public Works.
3. The Community Development Board may, in addition, impose other conditions to the special permit. **[Amended 6-28-2022 by Ord. No. 1250]**
4. Any special permit granted pursuant to this section prohibits the construction of paper streets to accepted street level through the Betterment Act.

5. Any special permit granted pursuant to this section prohibits grading and rolling of original gravel streets constructed under unaccepted street program.

SECTION 4.319 REGULATIONS PERTAINING TO MEDICAL AND/OR HAZARDOUS WASTE (ORD #685-1991)

- A. **PURPOSE.** The purpose of this section is to provide zoning regulations for the use of land or structures within the City of Pittsfield for the collection, treatment, storage, burial, incineration or disposal of medical and/or hazardous waste generated solely in the City of Pittsfield and to provide for the consideration to allow said collection, treatment, storage, burial, incineration or disposal of said waste generated outside the City of Pittsfield and the regulation thereof.
- B. **DEFINITION.** Medical and Hazardous Waste, for the purpose of this section, shall be as defined under Section 2, chapter 21D, M.G.L. as amended.
- C. **WASTE GENERATED IN PITTSFIELD.** Any use of land or structures in any zoning district for the collection, treatment, storage, burial, incineration or disposal of medical or hazardous waste generated solely in the City of Pittsfield shall require a site plan review by the Community Development Board subject to the following: **[Amended 6-28-2022 by Ord. No. 1250]**
 1. The submission of:
 - a. Plans prepared in accordance with the requirements of Section 7.3;
 - b. An Environmental Impact Report (EIR) prepared to Massachusetts Environmental Policy Act (MEPA) standards, whether or not the facility used would be of a size or scope to trigger a MEPA submission;
 - c. The submission of an Engineering and Planning Review Fee, a \$1,000.00 minimum amount. An additional amount may be required by the Community Development Board based on the scope of review. Said fee is to be placed in a City of Pittsfield account established for such purpose in accordance with law to be used for the expense of engineering consultant, testing and/or professional planning reviews and inspections. **[Amended 6-28-2022 by Ord. No. 1250]**
 2. Upon receipt of the applicant and the submission of the Engineering and Planning Review Fees and the EIR, the Community Development Board will have 90 days to review said application, or an additional amount of time as may be agreed upon. **[Amended 6-28-2022 by Ord. No. 1250]**
 3. The Community Development Board's review will include: **[Amended 6-28-2022 by Ord. No. 1250]**
 - a) Verification of compliance with zoning regulations pertaining to the use of the property;
 - b) Verification of the source of the medical or hazardous waste;

c) Verification that any of the adverse impacts as indicated in the EIR and/or by the consultant's report will be mitigated to a level where there is no adverse consequences to the community.

d) Receipt and review of public comments.

4. Requirements:

a) The minimum lot area and lot width shall be such to conform with the minimum dimensional requirements for the respective district.

b) If the use is accessory to another use already established, any new building or structures shall also conform to the requirements of the principal permitted use.

5. Exemptions:

a) Transmission lines such as but not limited to electrical or pipe lines shall be exempt from the foregoing provisions.

b) An exemption from the foregoing Subsections 1, 2, 3, and 4 will apply to an upgrade of existing equipment under the following conditions:

1. A mandate or order from a federal or state agency.

2. To utilize advanced technology to better process said waste and lessen environmental impacts.

3. To treat additional volume of waste created by normal business growth provided no significant expansion of said use will result. Minor changes to existing structures or buildings may be permitted.

The Community Development Board will be provided information verifying the conditions for exemptions and approve or disapprove the exemption. The Board's decision may be appealed to the Zoning Board of Appeals in accordance with requirements of Massachusetts General Law. **[Amended 6-28-2022 by Ord. No. 1250]**

6. Site Plan approval shall be given so long as the proposal complies with the provisions of this section and all other applicable provisions of the Zoning Ordinance.

D. **WASTE GENERATED OUTSIDE OF PITTSFIELD.** Any use of land or structure in any zoning district for the collection, treatment, storage, burial, incineration or disposal of medical or hazardous waste generated outside the City of Pittsfield shall require a Special Permit from the Community Development Board, acting as the Special Permit Granting Authority, subject to the following: **[Amended 6-28-2022 by Ord. No. 1250]**

1. The submission of:

- a) An application for a special permit from the Community Development Board accompanied by plans prepared in accordance with Section 7.3.
 - b) Environmental Impact Report (EIR) prepared to Massachusetts Environmental Policy Act (MEPA) standards whether or not the facility or use would be of a size or scope to trigger a MEPA submission.
 - c) The submission of an Engineering and Planning Review Fee of \$1,000.00 minimum amount. An additional amount may be required by the Community Development Board based on the scope of review. Said fee is to be placed in a City of Pittsfield account established for such purpose in accordance with law to be used for the expense of engineering consultant, testing, and/or professional planning reviews and inspections.
2. The Community Development Board's review will include:
- a) Verification that any of the adverse impacts as indicated in the EIR and/or by the consultant's report, will be mitigated to a level where there is no adverse consequences to the community.
 - b) Verification that zoning regulations have been complied with or that application for a special permit have been filed pertaining to the establishment of landfill, incinerator, or any other such principal use requiring a special permit.
 - c) Verification that no detrimental effect will be caused to the environment.
3. Requirements:
- a) No access to the site shall be over streets primarily designed to serve residential uses.
 - b) That all building or structures are to be so designed that all loading and unloading and/or storage of said material shall occur entirely within said structure or building.
 - c) All equipment used in the operation including motorized vehicles, shall be stored in an enclosed building or structure.
 - d) Landscaping and appropriate screening as approved by the Special Permit Granting Authority, shall be provided.
 - e) No building/structure or other disposal facility shall be closer to a property line than 200 feet.
4. Conditions and Restrictions
- The Special Permit granting Authority may impose such additional conditions and

safeguards as are needed in its judgment to minimize the effects of such use on the surrounding areas. This may include restrictions on access to the site by vehicles transporting hazardous and/or medical waste, limiting the hours of use of streets, limit on the number of vehicles per a given time period or a restriction on the size and type of vehicle used.

5. Exemptions

Transmission lines such as but not limited to electrical or pipe lines shall be exempt from the foregoing provisions.

SECTION 4.320 (RESERVED)²

SECTION 4.321 SMART GROWTH OVERLAY DISTRICT (SGOD). [Added 9-9-2008 by Ord. No. 1019]

A. PURPOSE.

It is the purpose of this Section to establish a Smart Growth Overlay District (SGOD) and to encourage smart growth in accordance with the purposes of MGL c. 40R, and to foster a range of housing opportunities in the urban center of the city. Other objectives of this Section are to:

- Promote the public health, safety and welfare by encouraging the development of a diversity of housing opportunities offering housing choices for households of all incomes, ages and sizes.
- Provide a mechanism for increasing the supply and diversity of housing to meet existing and anticipated housing needs.
- Establish requirements, standards and guidelines, and ensure predictable, fair and cost effective development review and permitting.
- Establish development standards to allow context-sensitive design and creative site planning.
- Enable the City to receive Zoning Incentive Payments and Density Bonus Payments in accordance with MGL c. 40R and 760 CMR 59.06, arising from the development of housing in the SGOD.

B. DEFINITIONS

For purposes of this Section 4.321, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this Section 4.321, or as set forth in the rules and regulations of the Permit Approval Authority ("Regulations"). To the extent that there is any conflict between the definitions set forth in this Section 4.321 and the Enabling Laws, the terms of the Enabling Laws shall govern.

² Editor's Note: Former Section 4.320, Downtown Arts Overlay District (D-A), added 10-28-2008 by Ord. No. 1021, as amended, was repealed 4-13-2021 by Ord. No. 1237.

Affordable Homeownership Unit: An Affordable Housing unit required to be sold to an Eligible Household.

Affordable Housing: Housing that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction: A deed restriction of Affordable Housing meeting statutory requirements in MGL c. 184, § 31, and the requirements of Section 4.321G of this Ordinance.

Affordable Rental Unit: An Affordable Housing unit required to be rented to an Eligible Household.

Artist and/or Creative Services Live/Work Unit: A residential use that permits up to 50% of the gross floor area of a residential dwelling unit to be used for the production, showing and sale of arts and crafts made on the premises by the occupant of said unit. Additionally, for the purposes of this SGOD, this term shall also mean a building or buildings where a portion of the total space is used for residential purposes and other portions, not to exceed 50% of the gross floor area of a building or buildings, for the production, showing and sale of arts and crafts produced by the residents thereof.

As-of-right Project or Project: A Multifamily Development, mixed use development, or townhouse development allowed under Section 4.321E as of right without recourse to a special permit, variance, zoning amendment or other form of zoning relief.

Eligible Household: An individual or household whose annual income is less than 80% of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Enabling Laws: MGL c. 40R and 760 CMR 59.00.

Multifamily Development: A residential structure containing four (4) or more dwelling units.

Plan Approval: Standards and criteria which a Project in the SGOD must meet under the procedures established herein and in the Enabling Laws.

Plan Approval Authority: For purposes of reviewing Project applications and issuing decisions on development Projects within the SGOD, the Community Development Board, consistent with MGL c. 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the "PAA"), and is authorized to approve a site plan to implement a Project.

Recreational Uses: Active recreational uses, including but not limited to ball fields, and passive recreational uses, including but not limited to walking and bicycle paths. Amusements or motorized use shall not be considered eligible recreational uses.

Townhouse Development: A residential structure containing two (2) or three (3) dwelling units.

Zoning Ordinance: The City of Pittsfield Zoning Ordinance.

C. OVERLAY DISTRICT

1. Establishment

The Smart Growth Overlay District, hereinafter referred to as the SGOD, is an overlay district comprised of nine subzones having a combined land area of approximately 10.72 gross acres that is superimposed over the underlying zoning district(s) applicable to a portion of the property shown on the map entitled "Downtown Smart Growth Overlay District (DSGOD) Zoning Map," dated June 30, 2008 (the "SGOD Map"). The SGOD Map is hereby made a part of the Zoning Ordinance and is on file in the Office of the City Clerk.

2. Subzones

There are hereby established nine (9) subzones within the SGOD:

Subzone A:	Wood Brothers
Subzone B:	New Amsterdam
Subzone C:	Clocktower
Subzone D:	Paul Rich & Sons
Subzone E:	Notre Dame
Subzone F:	Saint Mary's
Subzone G:	Mount Carmel
Subzone H:	Silk Mill
Subzone I:	White Terrace/Madison

The location of these subzones is shown on the SGOD Map.

3. Underlying Zoning

The SGOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section 4.321. Within the boundaries of the SGOD, a developer may elect either to develop a Project in accordance with the requirements of this Section 4.321, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s). When a building permit is issued for any Project approved in accordance with this Section 4.321, the provisions of the underlying district(s) shall no longer be applicable to the land shown on the site plan which was submitted pursuant to Section 4.321J for such Project, with the exception of the following:

- Article 23-10 of the Pittsfield Zoning Ordinance, entitled "Off-Street Parking and Loading," in effect as of March 31, 2005; and
- The City of Pittsfield Sign Ordinance, in effect as of June 28, 2005;

provided, however, that the requirements of said Section 23-10 and Sign Ordinance may be waived in accordance with Section 4.321M1 hereof.

D. APPLICABILITY OF SGOD

In accordance with the provisions of MGL c. 40R and 760 CMR 59.00, an Applicant for a Project located within the SGOD may seek Plan Approval in accordance with the requirements of this Section 4.321. In such case, notwithstanding anything to the contrary in this Zoning Ordinance, such application shall not be subject to any other provisions of this Zoning Ordinance, including limitations upon the issuance of building permits for residential uses related to a rate of development; a phased growth limitation; a local moratorium on the issuance of such permits; or building permit or dwelling unit limitations.

E. PERMITTED USES

The following uses are permitted as of right in the SGOD Subzones, except as specified below:

1. Multifamily Development

Multifamily Development is permitted in all Subzones; provided, however, that Multifamily Development in Subzones A and D shall include nonresidential uses on the first floor.

2. Townhouse Development

Townhouse Development is permitted only in Subzones B, F, G and H.

3. Mixed-Use Development

Mixed-use development is permitted in all Subzones. However, the proportion of residential-to-nonresidential uses within a mixed-use development shall be as follows:

- a. At least 75% of the gross floor area of any Project shall be residential.
- b. All nonresidential uses shall be located on the first floor only, except in Subzone H, where nonresidential uses may be located on other floors provided said uses comprise no more than twenty-five percent (25%) of the overall square footage of the Project. Only nonresidential uses are permitted on the first floor in Subzones A and D.
- c. Free-standing nonresidential uses are not permitted, except in Subzone H, where free-standing nonresidential uses shall be permitted provided said uses comprise no more than ten percent (10%) of the overall square footage of the Project.

4. Nonresidential Uses

The following nonresidential uses are allowed as of right in a mixed-use development:

- a. Office uses: all.
- b. Retail and consumer services;
- c. Eating establishments, not including drive-in, -up or -through.

- d. If the development is located in the Downtown Arts Overlay District, any use allowed therein.

5. Other

The following uses are permitted in all Subzones:

- i) Artist and/or creative services live/work units;
- ii) Recreational uses;
- iii) Parking, including surface, garage-under and structured parking (e.g. parking garages); and
- iv) Accessory uses customarily incidental to any of the above-permitted uses and in accordance with this Ordinance.

6. Prohibited Uses

Any use not listed as an allowed use is expressly prohibited.

F. PROJECT PHASING

The PAA, as a condition of any Plan Approval, may require a Project to be phased in order to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the PAA shall assure the required number of Affordable Housing Units in the Project, as per Section G.2. Such assurance may be provided through use of the security devices referenced in MGL Ch. 41, § 81U, or through the PAA's withholding of certificates of occupancy until proportionality has been achieved. No Density Bonus Payment will be received by the City until such proportionality has been achieved by the issuance of occupancy permits for the Affordable Housing Units in the Project.

G. HOUSING AND HOUSING AFFORDABILITY

1. Marketing Plan

Prior to granting Plan Approval for housing within the SGOD, an Applicant for such approval must submit a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including individuals, households with children, households including individuals with disabilities and the elderly. These documents in combination, to be submitted with an application for Plan Approval pursuant to Section 4.321K below, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

2. Number of Affordable Housing Units

- a. For all Projects including more than twelve (12) dwelling units, not less than 20% of housing units constructed shall be Affordable Housing.
- b. Projects including twelve (12) or fewer total dwelling units are not required to

include Affordable Housing. For Projects that are approved and developed with less than 20% Affordable Housing, no Density Bonus Payment will be received by the City until not less than 20% Affordable Housing has been achieved for the district as a whole, as determined by the issuance of occupancy permits for Affordable Housing Units in the district. The PAA shall maintain records of permitting to assure the required number of Affordable Housing Units in the district as a whole, as per Section G.2.

c. Projects shall not be segmented to evade the size threshold for provision of Affordable Housing. Within its Plan Approval of a proposed development including twelve (12) or fewer total dwelling units, the PAA shall issue a written finding that the project was not segmented based on its review of relevant records including, but not limited to, ownership of directly abutting parcels. For the purposes of this Section G.2.c., parcels divided only by a right-of-way shall be deemed to abut one another. In the event that an applicant that receives Plan Approval proposes residential development of one or more directly abutting parcel(s) pursuant to this Section 4.321 within three years after plan approval, the PAA shall require as a condition of Plan Approval provision of a number of Affordable Housing dwelling units adequate to achieve not less than 20% Affordable Housing for the combined project based on the total number of dwelling units proposed in both development projects.

d. For purposes of calculating the number of units of Affordable Housing required, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

3. Requirements

Affordable Housing shall comply with the following requirements:

a. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30% of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by DHCD shall apply.

b. For an Affordable Homeownership Unit, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance and parking, shall not exceed 30% of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

c. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

4. Design and Construction

Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the development of which they are part and be comparable in initial construction quality and exterior design to other housing units in the development. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be proportionate to the number of bedrooms in all units in the Project of which Affordable Housing is part.

5. Affordable Housing Restriction

Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and contains the following:

- a. Specification of the term of the Affordable Housing Restriction which shall be no less than 30 years, but which may, as a requirement of Plan Approval, be for the longest period of time customarily allowed by law.
- b. The name and address of the Monitoring Agent, as hereinafter defined, with a designation of its power to monitor and enforce the Affordable Housing Restriction.
- c. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms, and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically-identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project without specific unit identification.
- d. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. If approved by DHCD, the housing marketing and selection plan may provide for local preferences in resident selection for the Affordable Housing Units. The plan shall designate the household size appropriate for a Unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size.
- e. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households, compiled in accordance with the housing marketing and selection plan.
- f. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set.
- g. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.
- h. A requirement that only an Eligible Household may reside in Affordable Housing, and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the Monitoring Agent.
- i. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent.
- j. Provision that the Restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and the City, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household.

k. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and the City, in a form approved by municipal counsel and shall limit rental and occupancy to an Eligible Household.

l. Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the Monitoring Agent, in a form specified by said Agency, certifying compliance with the affordability provisions of this Ordinance and containing such other information as may be reasonably requested in order to ensure affordability.

m. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

6. Monitoring Agent

A qualified housing entity shall be approved by the PAA as the Monitoring Agent for each Project in the SGOD. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon notification of this fact by the PAA or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA. In any event, such Monitoring Agent shall ensure the following both prior to issuance of a building permit for a Project within the SGOD and on a continuing basis thereafter, as the case may be:

a. Prices of Affordable Homeownership Units are properly computed and rental amounts of Affordable Rental Units are properly computed.

b. Income eligibility of households applying for Affordable Housing is properly and reliably determined.

c. The housing marketing and resident selection plan conforms to all requirements and is properly administered.

d. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan, with appropriate unit size for each household being properly determined and proper preference being given.

e. Affordable Housing Restrictions meeting the requirements of this Section are recorded with the proper registry of deeds.

7. Housing Marketing and Selection Plan

The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

8. Age Restrictions

The SGOD shall not include the imposition of restrictions on age upon the entire district, but the

development of specific Projects within the district may be exclusively for the elderly, for persons with disabilities or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than 25% of the housing units in such a restricted Project shall be further restricted as Affordable Housing. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.

9. Computation

Prior to the granting of any Plan Approval to a Project, the applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability, as applicable to the City of Pittsfield.

10. No Waiver

Notwithstanding anything to the contrary herein, the affordability provisions in this Section 4.321 shall not be waived.

H. DIMENSIONAL AND DENSITY REGULATIONS

The as-of-right densities permitted in the SGOD shall be no more than as follows:

Subzone	As-of-Right Density Permitted (dwelling units per acre)	Minimum Yards In Feet front / side / rear	Maximum Coverage By All Bldgs.	Maximum Height of Bldgs. (feet)
Subzone A	50	N/R / N/R / N/R	N/R	50
Subzone B	23	15 / 10 / 20	50%	60
Subzone C	24	N/R / N/R / N/R	N/R	80
Subzone D	24	N/R / N/R / N/R	N/R	80
Subzone E	31	15 / 10 / 20	50%	60
Subzone F	20	15 / 10 / 20	50%	60
Subzone G	20	15 / 10 / 20	50%	60
Subzone H	30	15 / 10 / 20	50%	60
Subzone I	49	N/R / N/R / N/R	N/R	50

NOTES:

Abbreviation N/R in the above schedule indicates no requirements.

I. PARKING REQUIREMENTS

1. General

The purpose of these parking requirements is to encourage the use of public transportation and to make

downtown Pittsfield more pedestrian-friendly. In the case of inconsistency between Article 23-10 of the Zoning Ordinance and this Section 4.321, the provisions of this Section 4.321 shall govern. Parking requirements within the SGOD are as follows:

- a. Surface parking lots and parking structures shall provide pedestrian walkways and connections to the sidewalk system.
- b. Parking structures shall be designed to be compatible with adjacent buildings and architecture.

2. Minimum Off-Street Parking Space Requirements

For residential uses, one (1) space shall be provided per dwelling unit. Such off-street parking spaces shall be established no further than 800 feet from the premises to which they are appurtenant, measured from the nearest property line of the proposed development to the closest property line of the parking facility.

For non-residential uses in Subzones A, B, C, D, E, F, G and I, off-street parking spaces shall be provided as required by Article 23-10 of the Zoning Ordinance. For nonresidential uses in Subzone H, one (1) space shall be provided per 550 square feet of floor area.

3. Shared Parking

The use of shared parking to fulfill the parking demands that occur at different times of day may be considered by the PAA. The minimum parking requirements above may be reduced at the discretion of the PAA, provided the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, the ITE Shared Parking Guidelines or other approved studies). The applicant is encouraged to use public parking facilities in the downtown area, if available.

4. Reduction of Parking Requirement

The required amount of parking may be reduced at the discretion of the PAA upon a showing that the proposed, lesser amount of parking will neither cause undue traffic congestion nor endanger public safety, or that the lesser amount will provide positive environmental or other benefits. The PAA may consider:

- a. The availability of surplus on-street and/or off-street parking in the vicinity of the use being served and/or the proximity of a bus or other public transit station.
- b. The availability of public or commercial parking facilities in the vicinity of the use being served.
- c. Shared use of off-street parking spaces serving other uses having peak user demands at different times.
- d. Age, income or other characteristics of the likely applicants which may result in a lower level of auto usage.

- e. Such other factors as may be considered by the PAA, including whether the reduction of the parking requirement is likely to encourage the use of public transportation or encourage a proposed development to be more pedestrian-friendly.

J. DESIGN STANDARDS

1. Design Standards

To ensure that new development will be complementary to nearby buildings and structures, consistent with public plans, and will provide for quality development, the PAA shall adopt the "Design Standards for the City of Pittsfield's Chapter 40R Smart Growth Overlay District," approved by the Department of Housing and Community Development on July 17, 2008, as may be amended as provided below, governing the issuance of Plan Approvals for development approved pursuant to the SGOD, and shall file a copy with the City Clerk. In addition to the standards set forth in this ordinance, the physical character of development approved pursuant to the SGOD shall comply with such Design Standards, except where a specific waiver is granted. In the event of any conflict between this ordinance and the Design Standards, this ordinance shall govern and prevail.

2. Amendments

The PAA may adopt, by majority vote, amendments to the Design Standards. Any amendment to the Design Standards must be objective and not subjective and may only address: the scale and proportions of buildings; the alignment, width and grade of streets and sidewalks; the type and location of infrastructure; the location of building and garage entrances; off-street parking; the protection of significant natural site features; the location and design of on-site open spaces; exterior signs; and buffering in relation to adjacent properties. DHCD may, at its discretion, require any amendment to the Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

3. DHCD Approval

Before adopting any Design Standard, the PAA shall submit the proposed Design Standard to DHCD for approval. Any amendment to the Design Standards shall not take effect until approved by DHCD and filed with the City Clerk. In submitting a proposed Design Standard for DHCD approval, the PAA shall also submit sufficient documentation clearly showing that the proposed Design Standard will not add unreasonable costs to Development Projects or unreasonably impair the economic feasibility of a Development Project. A letter from a developer, property owner or other interested party indicating that the Design Standards will not add unreasonable costs or unreasonably impair the economic feasibility of a Development Project may be submitted for consideration, but not be deemed to constitute sufficient documentation.

4. Plan Approval

An application for Plan Approval that has been submitted to the City Clerk pursuant to Section 4.321K shall not be subject to any Design Standard that has not been approved by DHCD and filed with the City Clerk.

K. APPLICATION FOR PLAN APPROVAL

1. Required Submittals.

The application for Plan Approval shall be accompanied by ten (10) copies of the following plans and documents, which shall demonstrate consistency with the standards set forth in this Ordinance. All site plans shall be prepared by a certified architect, certified landscape architect and/or civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1" = 40') or larger, or at a scale as approved in advance by the PAA, and shall show the following:

- a. The perimeter dimensions of the lot, and Assessor's Map, Lot and Block numbers.
- b. All existing and proposed buildings, structures, building setbacks, parking spaces, driveway openings, distances between buildings, plan view exterior measurements of individual buildings, driveways, service areas and open areas.
- c. Internal roads, sidewalks and parking areas (with dimensions of paving and an indication of the number of parking spaces).
- d. All facilities for sewage, refuse and other waste disposal and for surface water drainage. A capacity analysis may be required.
- e. All proposed landscaping features, such as fences, walls, planting areas, planting list of proposed species and walks on the lot and tract.
- f. Existing major natural features, including streams, wetlands and all trees six (6) inches or larger in caliper (a.k.a. the girth of the tree at approximately waist-height).
- g. Scale (at a minimum of one inch equals forty feet) and "North" arrow.
- h. Total site area in square footage and acres and the area to be set aside as public open space, if appropriate.
- i. Percentage of lot coverage (including the percentage of the lot covered by buildings) and open space, if appropriate.
- j. The proposed residential density in terms of dwelling units per acre, the types of proposed commercial uses in terms of their respective floor areas, recreation areas and the number of units proposed by type - i.e. the number of one-, two- and three-bedroom units, if appropriate.
- k. Location sketch map (indicating surrounding streets and properties, and any additional abutting lands owned by the applicant).

1. Representative elevation sketches of buildings (indicating the height of buildings and the construction material of exterior facades).
- m. Typical unit floor plan for residential uses and for each type of unit proposed, and the area in square feet of each typical unit.
- n. Developer's (or his/her/its representative's) name, address and phone number.
- o. Draft housing marketing and selection plan, as required by Section 4.321G.
- p. Evidence that the Project complies with the cost and eligibility requirements of Section 4.321G.
- q. Project plans that demonstrate compliance with the requirements of Section 4.321G.
- r. A form of Affordable Housing Restriction that satisfies the requirements of Section 4.321G.
- s. Any other information, including but not limited to traffic, school and/or utilities impact studies required to adequately evaluate the scope and potential impacts of the Project.

2. Rehabilitation Plan

If living quarters are to be rehabilitated or areas converted into living quarters, in addition to the required site plan, ten (10) copies of the following described plan shall be furnished:

- a. A floor plan of each floor on which remodeling is to be done or areas converted into living quarters.
- b. A floor plan showing the stairways, halls, door openings into the halls and exit doors of each floor or floors where remodeling or converting is to, be done.
- c. An elevation of the parts of the building where outside stairways or fire escapes are to be located.

The plans and elevations shall be clearly illustrated. The size of each plan shall be 11 inches by 17 inches or 22 inches and shall be drawn to scale of 1/4 inch equals one (1) foot.

3. Records

All plans and elevations presented with the application shall remain a part of the records of the PAA. The provision of the plan and the application shall be the sole responsibility of the applicant.

L. PROCEDURES

1. Filing

An applicant for Plan Approval shall file the application and all required submittals with the City Clerk, and shall file forthwith the required number of copies of the application form and the other required submittals as set forth above with the PAA, including notice of the date of filing with the City Clerk. A filing fee of \$500 plus \$25 per housing unit shall apply, and shall be submitted with said application.

2. Circulation to Other Boards

Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Community Development Board, the Board of Appeals, the Board of Health, the Conservation Commission, the Fire Department, the Police Department, the Building Inspections Department, the Department of Public Works and Utilities, the City Planner and all other municipal officers, agencies, departments and/or boards designated by the PAA for comment. Any such officer, agency, department or board shall provide written comments, if any, within 60 days of its receipt of a copy of the plan and application for approval.

3. Hearing

The PAA shall hold a public hearing for which notice has been given as provided in MGL c. 40A, § 11. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within 120 days of the receipt of the application by the City Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan.

4. Peer Review

The applicant shall be required to pay reasonable consulting fees to provide for peer review of the Plan Approval application, pursuant to MGL c. 40R, § 11. Such fees shall be held by the City in a separate account and used only for expenses associated with the review of the application by outside consultants, including but not limited to attorneys, engineers, urban designers, architects, housing consultants, planners and others. Any surplus remaining after the completion of such review, including any accrued interest, shall be returned to the applicant.

M. DECISION

1. Waivers

Except where expressly prohibited herein, upon the request of the applicant, the PAA may waive dimensional and other requirements of this Section 4.321 either (a) in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGOD, or (b) if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses and/or physical character allowable under this Section 4.321.

2. Plan Review

An application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such plan review shall be construed as an as-of-right review and approval process as

required by and in accordance with the Enabling Laws.

3. Plan Approval

Plan Approval shall be granted where the PAA finds, by majority vote of the members present, all of the following:

- a. The applicant has submitted the required fees and information as set forth in this Section 4.321.
- b. The Project and site plan meet the requirements and standards set forth in this Section 4.321, or a waiver has been granted therefrom.
- c. Potential extraordinary adverse impacts of the Project on nearby properties have been adequately mitigated.

4. Plan Disapproval

A site plan may be disapproved only where the PAA finds one of the following:

- a. The applicant has not submitted the required fees and information as set forth in this Section 4.321.
- b. The Project and site plan do not meet the requirements and standards set forth in this Section 4.321, or a waiver therefrom has not been granted.
- c. It is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.

5. Form of Decision

The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected and the plans that were the subject of the decision and certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in said decision are on file with the PAA. If 20 days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the City Clerk shall make such a certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located, and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

N. CHANGE IN PLANS AFTER APPROVAL BY PAA

1. Minor Change

After Plan Approval, an applicant may apply to make minor changes involving any of the following: (a)

minor utility or building orientation adjustments; (b) minor adjustments to parking or other site details that do not affect the overall build-out or building envelope of the site; (c) the provision of open space; (d) the number of housing units; or (e) the housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan reflecting the proposed change(s), and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the City Clerk.

2. Major Change

Those changes deemed by the PAA to constitute major changes either because of the nature of the changes in relation to the prior approved plan or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to this Section 4.321.

O. ENFORCEMENT AND APPEAL

The provisions of the SGOD shall be administered by the Building Inspections Department, except as otherwise provided herein. Any appeal arising out of action by the PAA regarding application for Plan Approval shall be governed by the applicable provisions of MGL c. 40R. Any other request for enforcement or appeal arising under this Section 4.321 shall be governed by the applicable provisions of MGL c. 40A.

P. SEVERABILITY

If any provision of this Section 4.321 is found to be invalid by a court of competent jurisdiction, the remainder of Section 4.321 shall remain in full force and effect. The invalidity of any provision of this Section 4.321 shall not affect the validity of the remainder of the City of Pittsfield Zoning Ordinance.

SECTION 4.322. WIRELESS COMMUNICATION FACILITIES. [Added 1-8-2019 by Ord. No. 1210]

A. Purpose. The Zoning Board of Appeals, together with the Community Development Board (hereafter "Board") finds that it is necessary and beneficial for the health, safety and welfare of the community to update the regulations for development of Wireless Communications Facilities ("Facilities") in the City for the purposes articulated in the Siting and Design Guidelines for Wireless Communications Facilities adopted by the Zoning Board of Appeals (the "Guidelines");

B. Wireless Communications Facilities. This Section 4.322, together with the Guidelines, establishes standards and requirements for the locating of Wireless Communications Facilities. All capitalized terms used herein are defined in the Guidelines. Reference to the Guidelines should be made for application processes and development standards.

C. Permit Required; Exemptions.

1. No Wireless Communications Facility shall be altered, added to, installed, constructed or permitted unless the applicant has shown compliance with all the requirements of this section and the Guidelines. The requirements of Section 4.322 apply to all Wireless Communications Facilities, whether Concealed or not, whether aboveground or underground, including but not limited to existing Towers, proposed Towers, public Towers, Replacement of Towers, Ancillary Structures and equipment, Co-location on existing Towers, Base Stations, temporary Personal Wireless Service Facilities (PWSF), PWSF facilities, Distributed Antenna Systems (DAS) facilities, Small Wireless Facility sites and/or networks, and broadcast Towers, except that the following are exempt and no permit is required:

a. An Amateur Radio Tower less than 70 feet in height that is used exclusively for noncommercial purposes and which may not be used to collocate commercial Wireless Services;

b. A government-owned Wireless Communications Facility erected for a state of emergency officially declared by a federal, state or local government and where the Mayor or designee has made a written determination of public necessity for the facility, and only during the duration of the state of emergency;

c. A government-owned public safety facility;

d. Over-the-air reception devices (OTARD), including Satellite Earth Stations, so long as the device does not require construction of a Tower or other structure exceeding 12 feet above the home or building and the device is no more than one meter in diameter in a residential zone or two meters in any other zone district.

2. Wireless Communication Facilities shall be located in accordance with the Use Table in Section D. One or more of several types of permits may be required for a given facility or group of facilities.

a. Zoning Permit (ZP). For those types of facilities that are allowed in the given zone district, and for qualified Co-locations, an administrative permit (a permit issued by the Building Inspector) is required. The permit shall be processed and decided in accordance with this Section 4.322.

b. Site Plan Review (SPR). For those types of facilities that require a Site Plan Review (see Section D Use Table), the Community Development Board shall hold a site plan review hearing for the application and may approve, approve with conditions, or deny the application in accordance with this Section 4.322 and Section 7. 702 of the Zoning Ordinance.

c. Special Permit (SP). For those types of facilities that require a Special Permit (see Section D Use Table), the Community Development Board shall hold a site plan review hearing for the application and make a recommendation to the Zoning Board of Appeals who shall hold a public hearing on the application and who may approve, approve with conditions, or deny the application in accordance with this Section 4.322, Section 7.8, and Section 13.204 of the Zoning Ordinance.

d. Right-of-way work/use permit. Facilities/structures located in the public right-of-way shall be placed so as not to interfere with vehicular or pedestrian use of the rights-of-way or with traffic safety. Any/all work in the public right-of-way requires a separate permit pursuant to the requirements of the City's Engineering Department. The provider shall comply with all the provisions and terms of the right-of-way work permit. As-built construction drawings, including product details, shall be provided to the City for all structures, equipment, cable, pipes and conduit located within the public right-of-way or

within a public or City-owned utility or multipurpose easement, which must include, for fiber optic cable, the number of strands of fiber in the conduit. The depth of bury for underground facilities in the right-of-way shall be a minimum of 24 inches for communications and low-voltage cable lines.

e. Consolidated application/permit. For the following facility types, the applicant shall be allowed, at the applicant's discretion, to file a single, consolidated application for multiple facilities and receive a single review/permit/decision instead of filing separate applications for each facility [however, right-of-way work permit(s) may also be required]:

(i) For Small Wireless Networks involving multiple individual Small Wireless Facilities within the City;

(ii) For an applicant desiring to co-locate on several Wireless Service Facilities within the City.

(f) Shadow conduit. For all Wireless Communications Facility development/installation that involves trenching or excavation in the public rightof-way or in a public or City-owned utility or multipurpose easement, the applicant shall notify the City 30 days prior to commencing such excavation and provide the City the opportunity to install conduit in the same trench/excavation area.

D. Use Table. [Amended 10-8-2024 by Ord. No. 1282]

SP = Special Use Permit

N = Not Permitted

ZP = Zoning Permit

Zoning District	Residence Districts – R-43, R-20, R-12, R-6, R-G, R-M	Business Districts – B-C, B-G, C-W- S	Industrial Districts – I-L, I- G	L-D-I, B-N, D-C- D
Colocation/- Combined Facility	ZP	ZP	ZP	ZP
DAS - Attached	ZP	ZP	ZP	ZP
Antenna Replacement Facility	ZP	ZP	ZP	ZP
Dual Purpose Facility	SPR	SPR	SPR	SPR
Concealed Small Wireless Facility	SPR	SPR	SPR	SPR
Nonconcealed Small Wireless Facility	SPR	SPR	SPR	SPR
DAS Freestanding	SPR	SPR	SPR	SPR
Concealed Base Station	SPR	SPR	SPR	SPR
Nonconcealed Base Station	SPR	SPR	SPR	SPR

Tower Replacement Facility	SPR	SPR	SPR	SPR
Concealed New Tower	SP	SP	SP	SP
Nonconcealed New Tower	SP	SP	SP	SP
Broadcast Tower	SP	SP	SP	SP

Eligible Collocations Under 47 U.S.C. § 1445 shall be administratively approved.

E. Siting Preferences For New Wireless Communications Facilities.

1. Siting of new PWSF of any type shall be in accordance with the Siting Preferences below and with the Use Table in Subsection D. Where a lower ranked alternative is proposed, the applicant must demonstrate through relevant information including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed facilities, by clear and convincing evidence. The applicant must provide such evidence in its application in order for the application to be considered complete.

The Siting Preferences are, in order:

- a. Dual Purpose Facility.
- b. Replacement of existing Wireless Communications Facility in any zoning district.
- c. Concealed antenna(s) on a base station.
- d. Concealed Small Wireless Facility site.
- e. Distributed Antenna System (DAS) facility.
 - 1) Attached.
 - i. Concealed on City-owned property, right-of-way or public easement.
 - ii. Concealed on other public property.
 - iii. Concealed on nonpublic property.
 - iv. Nonconcealed on City-owned property, right-of-way or public easement.
 - v. Nonconcealed on other public property.
 - vi. Nonconcealed on non-public property.
2. New Freestanding DAS Facility.

- i. Concealed on City-owned property, right-of-way or public easement.
- ii. Concealed on other public property.
- iii. Concealed on nonpublic property.
- iv. Nonconcealed on City-owned property, right-of-way or public easement.
- v. Nonconcealed on other public property.
- vi. Nonconcealed on nonpublic property.
- f. Nonconcealed Small Wireless Facility site.
- g. Nonconcealed Antenna(s) on a Base Station.
 - i. On City-owned property in any nonresidential zoning district.
 - ii. On other public property in any nonresidential zoning district.
 - iii. On nonpublic property in any Business Zone.
 - iv. In other zone districts in accordance with the Use Table in Section D.
- h. Co-location or combined PWSF.
 - i. Concealed freestanding towers.
 - i. On City-owned property in any nonresidential zoning district.
 - ii. On other public property in any non-residential zoning district.
 - iii. On nonpublic property in any Business Zone or other zone districts, in accordance with the Use Table in Section D.
- j. Preferred concealment type shall be determined by the Community Development Board or Zoning Board of Appeals as applicable and shall be dependent upon the location and geography of each proposed facility, but may include, but is not limited to, a "faux" tree, church steeple, building parapet, bell, clock tower or other existing type of structure which ordinarily has a different purpose or use.
- k. Nonconcealed towers
 - i. On City-owned property in any nonresidential zoning district.
 - ii. On other public property in any nonresidential zoning district.
 - iii. On nonpublic property in any Business Zone.

I. Preferred tower type (wherever located).

i. Monopole.

ii. Lattice.

iii. Guyed.

2. Broadcast towers are not subject to the siting preferences; they may be sited in accordance with the Use Table (Section 4.322D) and pursuant to the development standards contained in the Guidelines.

F. No Interference with Public Safety Communications.

a. Applicants shall, regardless of the type of facility, comply with "Good Engineering Practices" as defined by Federal Communications Commission (FCC) regulations and shall provide a composite analysis of all users of the site to determine that the proposed facilities will not cause radio frequency interference with any governmental public safety communications and shall implement appropriate technical measures to prevent such interference.

b. When the City notifies a wireless service provider that it believes the provider's Antenna(s) or Array(s) are creating such interference, the provider shall investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Enhanced Best Practices Guide," released by the FCC in Appendix D of FCC 04-168 (released August 6, 2004), including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time in any successor regulations.

C. If the provider fails to comply with this Subsection F, including but not limited to by initiating an appropriate response within 24 hours of the City's notification, the provider and the property owner shall be jointly and severally responsible for reimbursing the City for all costs associated with ascertaining and resolving the interference.

G. Temporary PWSF Specifications and Requirements.

Development Standards. Temporary PWSF shall require a zoning permit in those zone districts specified in the Use Table in Section 4.322D where all of the following are met:

a. It will be in place for no more than 60 days (subject to a one-time extension of an additional 60 days for good cause);

b. Notification of construction is provided by the applicant to the Federal Aviation Administration (FAA);

c. It does not require marking or lighting by the FAA;

d. It will be less than 200 feet in height;

e. It does not involve any excavation (or excavation where prior disturbance exceeds proposed

excavation by at least two feet).

H. Wireless Communications Facility, Co-Location and Combination.

Development Standards. The Board requires co-location and combining of Wireless Communications Facilities on existing Towers, existing Base Stations or existing Dual Purpose Facilities as a highest priority where such co-location is possible. A zoning permit shall be required for co-location of facilities on an existing Tower, existing Base Station or Dual Purpose Facility. Co-location or combination of Wireless Communications Facilities requires a zoning permit, and is subject to the following:

- a. A co-located or combined Antenna or Antenna Array shall not exceed the maximum height prescribed in the applicable land use permit or increase the height of an Existing Tower by more than 20 feet and shall not affect any Tower lighting, except as provided for herein below. A PWSF co-location that does not create a Substantial Change in the Tower or Dual Purpose Facility or Small Cell Facility shall be approved within 60 days (subject to tolling) in accordance with Section 4 of the Guidelines.
- b. If the applicant who seeks to co-locate PWSF demonstrates a coverage gap that cannot be addressed by a co-location that meets the height limitations of Section 4.322Mc below, the applicant may request a variance of the height limitation. If the co-location is a qualified co-location under 47 U.S.C. §332(c)(7), the Building Inspector shall render a decision within 90 days, subject to tolling, in accordance with Section 4 of the Guidelines.
- c. New antenna mounts shall be flush-mounted onto existing structures, unless it is demonstrated through radio frequency (RF) propagation analysis that flushmounted antennas will not meet the network objectives of the desired coverage area.
- d. The Equipment Cabinet shall be subject to the setback requirements of the underlying zoning district.
- e. When a co-located or combined Antenna is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.
- f. No signage shall be permitted on an Antenna or Antenna Array that is combined with or co-located on an alternative Dual Purpose Facility; however, the Dual Purpose Facility may itself be an existing sign, so long as the sign was approved through a non-Wireless Communications Facility development permit or sign permit.

I. New Base Stations: Concealed and Nonconcealed. Antennas and equipment may be mounted onto a structure which is not primarily constructed for telecommunications purposes in accordance with the Use Table of Section 4.322D. A site plan review is required for base station antennas and equipment mounted onto such an alternative structure. In residential districts, the following structures shall not be used as Base Stations or to support PWSF or commercial antenna(s): single-family dwelling, two-family dwelling, multifamily dwelling of fewer than three stories in height, group living facility, or day care.

Development Standards. Antenna(s) and equipment to be located on an alternative structure shall be subject to the following:

- a. If the facility is concealed, the top of Antenna(s) shall not be more than 35 feet above the existing

or proposed building or structure, except that Antenna(s) located on the perimeter of the Supporting Structure shall not be more than 10 feet above the Supporting Structure;

b. If the facility is nonconcealed, the top of the Antenna shall not be more than 20 feet above the existing or proposed building or structure and shall not be located on the perimeter of the Supporting Structure;

c. New Antenna mounts shall be flush-mounted onto existing structures, unless it is demonstrated through radio frequency (RF) propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area;

d. New Antenna mounts shall meet the setbacks and height restrictions of the underlying zone district;

e. When attached Base Station antenna(s) and equipment is/are to be located on a nonconforming building or structure, the existing permitted nonconforming setback or height shall prevail;

f. Concealed Base Station attached Antennas, feed lines and Antennas shall be designed to architecturally match the facade, roof, wall, and/or structure on which they are affixed so that they blend with the existing structural design, color, and texture; and

g. No signage shall be allowed on an Antenna or Antenna Array that is located on an Alternative Structure; however, the Alternative Structure itself may have a sign that was otherwise approved as part of a non-Wireless Communications Facility development application or sign permit.

J. Antenna Element Replacement or Modification.

Development Standards. A zoning permit is required for any Replacement or modification of existing antenna(s) and associated equipment, and the replacement or modification must comply with the following:

a. Height. The increase in height of a PWSF that is modified shall not create a "Substantial Change" in the PWSF.

b. Equipment Cabinets and Equipment Shelters. Electronic equipment shall be contained in either (a) Equipment Cabinets or (b) Equipment Shelters. Equipment Cabinets shall not be visible from pedestrian and right-of-way views. Equipment Cabinets may be provided within the principal building on the lot, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

c. Sounds. No unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency generators are allowed. Sound levels shall not exceed 0.65 db as measured at the property boundaries for the facility.

d. Signage. Commercial messages shall not be displayed on any concealed tower. Required noncommercial signage shall be subject to the following:

i. The only signage that is permitted upon a concealed tower, equipment cabinets, shelters or fence shall be informational, and for the purpose of identifying the tower (such as Antenna Structure

Registration (ASR) registration number), as well as the party responsible for the operation and maintenance of the facility, and any additional security and/or safety signs as applicable.

ii. If more than 220 voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high-contrast letters, minimum height of each letter four inches, the following: "HIGH VOLTAGE - DANGER."

iii. Name plate signage shall be provided, in an easily visible location, including the address and telephone number of the contact to reach in the event of an emergency or equipment malfunction, including property manager signs as applicable.

e. Lighting. Lighting on concealed PWSF towers shall not exceed FAA minimum standards. All other lighting shall be subject to the following.

i. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required with strobe during daytime and red flashing lights at night unless prohibited by the FAA.

ii. Lights shall be filtered or oriented so as not to project directly onto surrounding property or rights-of-way, consistent with FAA requirements.

K. Tower / Dual Purpose Facility Replacement. A site plan review is required for Replacement of a Tower and Dual Purpose Facility. Applicant must demonstrate by clear and convincing competent evidence that Replacement will accomplish at least one of the following:

a. Reduction in the number of Wireless Communications Dual Purpose Facilities or Towers;

b. Replacement of a Nonconcealed Tower with a Concealed Tower;

c. Significant reduction of the visual impact of a Wireless Communications Facility;

d. Replacement of an existing Tower with a new Tower so as to improve network functionality resulting in compliance with this section; and/or

e. Replacement of an existing Dual Purpose Facility to increase the number of Personal Wireless Service Providers located on such structure.

Development Standards.

a. Setbacks: A new Tower approved for Replacement shall not be required to meet new setback standards so long as the new Tower and its Equipment Compound are no closer to any property lines or dwelling units as the tower and Equipment Compound being replaced. The intent is to encourage the replacement process, not penalize the tower owner for the change out of the old facility. (For example, if a new Tower is replacing an old Tower, the new Tower is permitted to have the same setbacks as the Tower being removed, even if the old Tower had nonconforming setbacks.)

b. Height: The height of the Replacement Tower or Dual Purpose Facility shall not create a Substantial Change of the facility being replaced.

c. Breakpoint technology: A Replacement monopole tower shall use breakpoint technology in the design of the replacement facility.

d. Visibility: Replacement Towers or Dual Purpose Facilities shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots.

e. All Replacement Towers shall be constructed and maintained to meet ANSI/EIA/TIA Class III, Exposure C structural standards.

L. DAS and Concealed Small Wireless Facilities

a. Attached DAS Development Standards.

i. A zoning permit is required for New attached DAS Facility & Concealed Small Wireless Facility.

ii. Where feasible, Antennas can be placed directly above, below or incorporated with vertical design elements of a building or structure to help in concealment. The top of the Antenna(s) shall not exceed more than seven feet above the tallest level of the structure on which it is attaching.

iii. Attached Equipment box and power meter shall be located on the pole at a height that does not interfere with pedestrian or vehicular traffic or visibility and where applicable shall not interfere with street name signs or traffic lighting standards.

iv. Freestanding equipment box and/or power meter not attached to an existing structure shall be located no farther than two feet from the base of the structure and shall not interfere with pedestrian or vehicular traffic. Screening materials may be required if the equipment box and/or meter are adjacent to a public right-of-way or along a pedestrian sidewalk or pathway.

v. All cables and surface mounted wires shall be enclosed within conduit or a similar cable cover which should be painted to match the structure or building on which that DAS is mounted.

b. New Freestanding DAS Facility and Concealed Small Wireless Facility Development Standards.

i. A site plan review is required for New Freestanding DAS Facility and Concealed Small Wireless Facility.

ii. Height. The total height of DAS /Small Wireless Facility including antenna shall not exceed one foot above the height of existing public utility poles for power or light in the same geographic area.

iii. Setbacks for DAS/Small Wireless Facility outside of the right-of-way shall meet the same setbacks of the underlying zoning district for similar structures.

iv. The use of either (a) foliage or vegetation as screening, or (b) design wrapped in accordance with the Pittsfield Paintbox Project around ground equipment may be required by the City based on conditions

of the specific area where the ground equipment is to be located. In order to avoid the clustering of multiple items of ground equipment in a single area, a maximum of two ground equipment boxes may be grouped together in any single location. In addition, such locations must be spaced a minimum of 500 linear feet of right-of-way apart from each other. Individual ground equipment boxes shall not exceed three feet wide by three feet deep by five feet high in size. The size and height of new freestanding DAS and concealed Small Wireless Facility poles shall be no greater than the size and height of any other telecommunications facility poles located in the same or similar type of rights-of-way in the City.

v. Visibility of new DAS/Small Wireless Facility poles.

i. New DAS/Small Wireless Facility structures shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots. Concealment design is required to minimize the visual impact of wireless communications facilities.

2. All cables, conduits, and surface mounted wires shall be enclosed within the structure. All equipment should be contained within the vertical infrastructure installed in the right-of-way except where insufficient interior physical space or incapable loading issues are present, in which event external cabinets, boxes and vaults may be used.

3. Small Wireless Facilities shall be no larger in size than what is specified in the Definitions within the Guidelines.

4. New DAS/Small Wireless Facility structures shall be located in nonresidential roadway rights-of-way whenever possible. Placement of new DAS/Small Wireless Facility structures in rights-of-way other than nonresidential roadways shall be justified by an engineering analysis from the applicant to the satisfaction of the City engineer prior to the issuance of any permit. Whenever new DAS/Small Wireless Facility structures must be placed in a right-of-way with residential uses on one or both sides of the street, no pole, equipment, Antenna or other structure may be placed directly in front of a residential structure. If a right-of-way has residential structures on only one side of the street, the new DAS/Small Wireless Facility structure shall be located on the opposite side of the right-of-way whenever possible. All new DAS/Small Wireless Facility structures shall be located such that views from residential structures are not significantly impaired. Newly installed poles for new DAS/Small Wireless Facility structures should be located in areas with existing foliage or other aesthetic features in order to obscure the view of the pole.

5. New DAS/Small Wireless Facility structures located in rights-of-way shall be constructed and maintained so as not to interfere with, displace, damage, inhibit or destroy any other utilities or facilities, including but not limited to sewer, gas or water mains or service lines, storm drains, pipes, cables or conduits, or any other facilities lawfully occupying the right-of-way, whether public or private. All wireless communications facilities shall be placed and maintained so as not to create interference with the operations of public safety telecommunications service. The City reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other utilities and facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in public rights-of-way occupied by the new DAS/Small Wireless Facility structure.

vi. Equipment Cabinets. Equipment Shelters or Cabinets shall be consistent with the general character of the neighborhood and historic character if applicable.

Equipment Shelters or Cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with the surrounding backdrop.

1. Screening enclosures shall be allowed when the design is architecturally compatible with the building.

2. Screening materials shall consist of materials and colors consistent with the surrounding backdrop and/or textured to match the existing structure.

3. The use of foliage and vegetation as screening around ground equipment may be required based on conditions of the specific area where the ground equipment is to be located.

4. Small Wireless Facility equipment cabinets shall comply with the size requirements set forth in the Definitions above.

5. The location in the public rights-of-way of any equipment or equipment cabinets, boxes or vaults associated with Small Wireless Facilities shall be subject to the approval of the City. Any such cabinets, boxes, vaults, or equipment must be approved by the City as to structural design and structural/electrical safety in accordance with applicable structural and electrical codes, and shall not physically interfere with the use of the public rights-of-way by pedestrian or vehicular traffic and shall not obscure or block sight lines between traffic on the adjacent roadway and pedestrian pathways/sidewalks. No generators utilized in connection with wireless communications facilities may be placed in the public rights-of-way, except temporarily in the case of emergency and only if approved within 48 hours of placement by the City.

c. DAS Hub Development Standards.

a. Setbacks for DAS hubs outside of the right-of-way shall meet the setback standards of the underlying zoning district.

b. DAS hubs, Equipment Shelters or Cabinets shall be consistent with the general character of the neighborhood and historic character if applicable. Equipment Shelters or Cabinets shall be screened from the public view by using landscaping, or materials and colors consistent with the surrounding backdrop, or consistent with the Pittsfield Paintbox Project.

i. Screening enclosures shall be allowed when the design is architecturally compatible with the building.

ii. Screening materials shall consist of materials and colors consistent with the surrounding backdrop and/or textured to match the existing structure.

iii. The use of foliage and vegetation around ground equipment may be required based on conditions of the specific area where the ground equipment is to be located.

M. Concealed and Nonconcealed Wireless Communications Towers (not including DAS or Broadcast Tower, which are addressed in other subsections).

- a. A special permit and site plan review shall be required for a new Wireless Communications Tower.
- b. No new Tower shall be permitted unless the applicant demonstrates that no Existing Tower or Dual Purpose Facility can accommodate the applicant's proposed use, or that Co-location on such existing facilities would have the effect of prohibiting personal Wireless Services in the geographic search area to be served by the proposed Tower.
- c. Development Standards.
 - i. Height.
 1. New Concealed Towers shall be limited to 135 feet in height. Height calculations shall be made in accordance with FAA standards and shall include all appurtenances.
 2. New Nonconcealed (nonbroadcast) Towers shall be limited to 115 feet in height.
 - ii. Setbacks. A new Concealed Tower shall be subject to the setbacks described below for breakpoint technology:
 1. If the Concealed Tower has been constructed using Breakpoint Design Technology (see Definitions in Guidelines), the minimum setback distance shall be equal to 110% of the distance from the top of the structure to the breakpoint level of the structure, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the Commonwealth of Massachusetts of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant. [For example, on a 100-foot-tall monopole with a breakpoint at 80 feet, the minimum setback distance would be 22 feet (110% of 20 feet, the distance from the top of the monopole to the breakpoint) plus the minimum side or rear yard setback requirements for that zoning district.]
 2. If the concealed tower is not constructed using breakpoint design technology, the minimum setback distance shall be equal to the height of the proposed tower.
 - iii. Equipment Cabinets and Equipment Shelters. Electronic equipment shall be contained in either (a) Equipment Cabinets or (b) Equipment Shelters. Equipment Cabinets shall not be visible from pedestrian and right-of-way views. Equipment Cabinets may be provided within the principal building on the lot, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.
 - iv. Fencing. All Equipment Compounds shall be enclosed with an opaque fence or masonry wall in residential zoning districts and in any zoning district when the equipment compound adjoins a public right-of-way. Alternative equivalent screening as described in Subsection v5 below may be approved through the site plan approval process.
 - v. Buffers. The equipment compound shall be landscaped with a minimum ten-foot-wide perimeter buffer containing the following planting standards:
 1. All plants and trees shall be indigenous to western Massachusetts.

2. Existing trees and shrubs on the site should be preserved and may be used in lieu of required landscaping as approved by the Building Inspector.

3. One row of evergreen trees with a minimum two-inch caliper, twenty-five feet on center.

4. Evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet shall be planted, minimum three gallons or 24 inches tall at the time of planting, five feet on center.

5. Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative locating on the entire subject property may be considered and approved by the Building Inspector, provided the proposed alternative maximizes screening as provided above and is otherwise consistent with the requirements of this section.

vii. Signage. Commercial messages shall not be displayed on any Concealed Tower. Required noncommercial signage shall be subject to the following:

1. The only signage that is permitted upon a Concealed Tower, Equipment Cabinets, Shelters or fence shall be informational, and for the purpose of identifying the tower (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, and any additional security and/or safety signs as applicable.

2. If more than 220 voltage is necessary for the operation of the facility and is present in a ground grid or in the Tower, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high-contrast letters, minimum height of each letter four inches, the following: "HIGH VOLTAGE -DANGER."

3. Nameplate signage shall be provided, in an easily visible location, including the address and telephone number of the contact to reach in the event of an emergency or equipment malfunction, including property manager signs as applicable.

viii. Lighting. Lighting on Concealed Towers shall not exceed the Federal Aviation Administration (FAA) minimum standards. All other lighting shall be subject to the following.

1. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required with strobe during daytime and red flashing lights at night unless prohibited by the FAA.

2. Lights shall be filtered or oriented so as not to project directly onto surrounding property or rights-of-way, consistent with FAA requirements.

ix. Equipment Compound. The fenced-in compounds shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower equipment compound. The compound shall not be used as habitable space.

x. Structural Standards. All new concealed or nonconcealed PWSF towers on public property shall be constructed and maintained to meet ANSI/EIAffIA Class III, Exposure C structural standards.

xi. Visibility.

1. Concealed:

a) New Concealed Towers shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.

b) New Antenna mounts shall be concealed and match the Concealed Tower.

c) In residential zoning districts and in mixed-use zoning districts that include residential uses, new Concealed Towers shall not be permitted on lots where the primary use or principal structure is single-family or two-family residential, group living, day care, or a multifamily structure of fewer than three stories. Examples of land uses/structure types in residential areas where the site may include a Concealed Tower are: school, religious assembly, fire station, hospital, or other similar institutional / civic uses/structures.

2. Nonconcealed: New Antenna mounts shall be flush-mounted, unless it is demonstrated through RF propagation analysis that flush-mounted Antennas will not meet the network objectives of the desired coverage area.

3. Concealed and Nonconcealed:

a) New Concealed and Non-concealed Towers shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties.

b) A balloon test shall be required subsequent to the receipt of the photo simulations in order to demonstrate the proposed height and concealment solution of the PWSF. The applicant shall arrange to raise a red or orange colored balloon no less than three feet in diameter at the maximum height of the proposed tower, and within 25 horizontal feet of the center of the proposed tower. The applicant shall meet the following for the balloon test:

- Applicant must inform the Building Inspector, City Planner, and abutting property owners in writing of the date and times, including alternative date and times, of the test at least 14 days in advance.

- A three-foot-by-five-foot sign with lettering no less than three inches high stating the purpose of the balloon test shall be placed at closest major intersection of proposed site.

- The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven but no more than 14 days in advance of the test date.

- The balloon shall be flown for at least four consecutive hours during daylight hours on the date chosen. The applicant shall record the weather, including wind speed, during the balloon test.

- Readvertisement will not be required if inclement weather occurs.

c) All macro towers shall be constructed structurally to accommodate no fewer than four Antenna Arrays of equal loading capacity.

d) Grading shall be minimized and limited only to the area necessary for the new Tower and Equipment Compound.

e) Sounds. No unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency generators are allowed. Sound levels shall not exceed 0.65 db as measured at the property boundaries.

N. Broadcast Towers

No new Broadcast Facilities shall be constructed or installed without a site plan review and a permit under this section. No new Broadcast Facilities shall be permitted unless the applicant demonstrates that no existing broadcast tower can accommodate the applicant's proposed use. A preapplication conference shall be required for any new Broadcast Facility.

Development Standards.

a. Height. Height for Broadcast Facilities shall be evaluated on a case-by-case basis; the determination of height contained in the applicant's FCC Form 351/352 construction permit or application for construction permit and an FAA determination of no hazard (FAA Form 7460/2) shall be considered prima facie evidence of the tower height required for such Broadcast Facilities.

b. Setbacks. New Broadcast Facilities and anchors shall be setback a minimum of 500 feet from any single-family dwelling unit on same zone lot; and a minimum of one foot for every one foot of tower height from all adjacent lots of record.

c. Equipment Cabinets. Except for AM Broadcast Facilities, cabinets shall not be visible from pedestrian views.

d. Fencing. All Broadcast Facility towers, AM antenna(s) towers, and guy anchors shall each be surrounded with an anticlimbing fence compliant with applicable FCC regulations.

e. Buffers.

i. Except for AM Broadcast Facilities, it is the intent that all pedestrian views from public rights-of-way and adjacent residential land uses be screened from proposed Broadcast Facilities. AM Broadcast Facilities shall, where practicable, use artificial screening devices in lieu of natural vegetation for screening its ground equipment located at the base of AM tower(s).

ii. Alternative landscaping plans which provide for the same average canopy and understory trees but propose alternative siting on the entire subject property on which the proposed facility is projected may be considered and approved by the Department of Community Development, provided the proposed alternative maximizes screening as provided above and is otherwise consistent with the requirements of this section.

f. Signage.

i. Commercial messages shall not be displayed on any tower.

ii. The only signage that is permitted upon an antenna Support Structure, Equipment Cabinets, or fence shall be informational and for the purpose of identifying the antenna Support Structure (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, i.e., the address and telephone number, security or safety signs, and property manager signs (if applicable).

g. If more than 220 volts are necessary for the operation of the facility, signs located every 20 feet and attached to the fence or wall shall display in large, bold, high contrast letters (minimum height of each letter four inches) the following: "HIGH VOLTAGE – DANGER."

h. Lighting.

i. Lighting on towers shall meet and not exceed the FAA minimum standards.

ii. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding property, consistent with FAA requirements.

i. Equipment Compound. The fenced in compounds shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a tower Equipment Compound. The compound shall not be used as habitable space.

j. Grading shall be minimized and limited only to the area necessary for the new tower and equipment.

k. Sounds. No unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. Emergency generators are allowed. Sound levels shall not exceed 0.65 db as measured at the closest property boundaries for the facility.

l. Parking. One parking space is required for each tower development area. The space shall be provided within the leased area, or equipment compound or the development area as defined on the site plan.

SECTION 4.323. TYLER STREET OVERLAY DISTRICT (TS). [Added 2-11-2020 by Ord. No. 1221]

A. PURPOSE. The purpose of the Tyler Street Overlay District is to provide greater opportunities for neighborhood and economic revitalization. This will be accomplished through flexibility of allowable land uses and parking requirements while encouraging best practices for design and form of new construction that complement the neighborhood's historic land use pattern and built environment. This overlay will:

- Establish a mix of complementary uses in the TS Overlay District.
- Reduce urban sprawl and make more economical and more efficient use of energy and resources, utilities, streets, and municipal services.
- Help stimulate and revitalize the Tyler Street area with increased on-street activity for greater portions of the day

B. DISTRICT DELINEATION AND APPLICATION. The TS Overlay District shall be considered

as overlying other districts as shown on the Zoning Map of the City of Pittsfield. The boundaries are as shown on the TS Overlay District Zoning Map hereby adopted and attached to the Official Zoning Map. All regulations of the underlying zoning districts shall apply except as modified by the regulations of the TS Overlay District.

C. PERMITTED USES.

1. Mixed-use development, especially the mixture of residential and commercial units in one structure with residential located above the first floor. For the purposes of this section of the Zoning Ordinance, "mixed-use development" is defined as pedestrian-friendly development that blends two or more residential, commercial, cultural, institutional, and/or light, neighborhood-scale industrial uses.
2. Creative industries, including, but not limited to: co-work spaces (whether as office or creative work spaces); stage and screen theaters (excluding adult entertainment); shops selling locally created goods; art centers (community educational arts-related activities); art galleries; studio space (including dance, photography, filmmaking, music, writing, painting, sculpturing, or printmaking); arts services; performing arts spaces; cabarets; musician rehearsal space; dinner theaters; museums; television and radio broadcast studios; and specialty food and beverage manufacturing, such as cheesemaking, baking, fermenting, brewing, and distilling.
3. Manufacturing, processing and production of products conducive to a mixed-use urban neighborhood, including, but not limited to: textiles, plastics, and uses not included previously in this section. Uses falling into this category will be made allowable via a special permit through the Community Development Board to ensure the adequate evaluation of impacts to residential and commercial neighbors.
4. Residential development, both as stand-alone development as two-family, threefamily, or multifamily residential development, or in conjunction with other permitted uses, including artist or other combined live/work space. Two- and three-family residences are permitted by right and are exempt from the special permit requirements outlined in Subsection E.

For the purposes of this section, "multifamily residential development" is defined as greater than three residential dwelling units (whether as a standalone or mixed-use development). Multifamily residential development in the TS Overlay District is exempt from the requirements of Section 7.715. This use category is subject to a special permit through the Community Development Board to ensure the adequate evaluation of impacts to the neighborhood. Evaluation of the special permit shall include the following:

- a. Height and siting of buildings;
- b. Screening buffers, planting strips, fences, or walks;
- c. Off-street parking and loading;
- d. Open space and common areas; and
- e. Design of the building in the context of the surrounding neighborhood.

D. DEVELOPMENT AND REDEVELOPMENT STANDARDS.

1. All standards and regulations in the underlying zoning district are valid in the TS Overlay District, except as modified in this article.
2. The minimum requirements for multifamily development as cited in Section 7.715 of this chapter do not apply.
3. Townhouse development in the TS Overlay District has no minimum lot size. For the purposes of this section, this townhouse-style development is considered two-family, three-family, or multifamily depending on the number of proposed attached units.
4. Off-street parking.
 - a. The parking requirement for residential development is one space per dwelling unit.
 - b. Retail, consumer service establishments, or eating establishments of 3,000 square feet or less in size, to be located in existing buildings in the TS Overlay District, are not required to provide parking.
 - c. Off street parking as required by Section 10.1 of this chapter or as otherwise provided for in this section may be provided through one or a combination of the following:
 - i. On site, but not located between Tyler Street, Kellogg Street, or Woodlawn Avenue and the front of the building. Where there is no building present, parking may not be constructed within the first 15 feet from the three aforementioned streets;
 - ii. Off site, in public or private off-street parking facilities, located within an 800-foot walking distance as measured from the nearest property line of the proposed development to the closest property line of the parking facility.
 - iii. Those seeking relief from these parking requirements and those of Section 10.1 of this chapter may do so as part of the parking waiver special permit through the Community Development Board as provided in Section 10.110F. of this chapter.

E. APPLICATION REQUIREMENTS.

The following types of projects shall require a special permit and site plan approval from the Community Development Board, in accordance with Section 7.802 of this chapter:

1. The development or redevelopment of land equal to or in excess of 5,000 square feet;
2. The development of new construction equal to or in excess of 1,500 square feet; or

3. Any change of use, repair, reconstruction, improvement or expansion of an existing structure or portion thereof equal to or in excess of 3,000 square feet within a five-year period.

Any intended future phases of the development must be designated on the site plan. All applications for new construction shall be accompanied by elevations or architectural renderings that illustrate the exterior design of the building.

§ 4.324. Downtown Creative District. [Added 4-13-2021 by Ord. No. 1237]

- A. Purpose. This district is established to enhance vitality in downtown by fostering a mix of uses through increasing downtown housing opportunities and fostering arts-related development and activities by creating a core of arts, cultural, and residential activities; encouraging greater pedestrian activity as part of entertainment and residential uses mixed with traditional retail and business activities; encouraging economic revitalization and active evening uses; contributing to public safety; and nurturing artistic contributions to the City and region. The reduction of urban sprawl and efficient use of City infrastructure by concentrating a compatible mix of uses is an important component of this district.
- B. District delineation and application. The boundaries of the Downtown Creative District are as shown on the Downtown Creative District Zoning Map hereby adopted and attached to the Official Zoning Map on file in the Office of the Building Commissioner.
- C. Permitted uses. Permitted Uses are governed by Street Type and are shown in the Table below. Any uses not explicitly allowed are not permitted within this district, with the exception of those that fall under Article 23-8, as noted in Subsection E, Application Requirements, below. Where the uses of this section are in conflict other sections of this Zoning Ordinance, the requirements of this section take precedence within this district.

Street Types	General Description
Primary Street	Active ground floor uses with highest transparency requirement; highest building height; no front yard setback unless for public spaces (outdoor eating, activated plaza, etc.).
Secondary Street	Principal cross streets: mix of ground floor uses but must be active on corner with Primary Street; building height may step down
Transitional Street	Mix of setbacks depending on relationship to other streets; active ground floor uses required/encouraged at corners with Primary Streets and Secondary Streets; landscape and pedestrian-scaled lighting treatments required to separate public sidewalk from parking; heights step down from Secondary Streets.
Residential Street	Mix of setbacks depending on relationship to existing buildings; active ground floor uses required/encouraged at corners with Primary Streets and Secondary Streets; heights consistent with single-family/two-family/three-family development.
All Streets	Creation of ADUs by right

On Primary, Secondary, and Transitional Streets, Arts and arts-related uses are allowed By Right (BR) on all floors. These include, but are not limited to:

- a. Art centers (community educational arts-related activities).

- b. Art galleries.
- c. Art schools and studios (including dance, photography, film-making, music, writing, painting, sculpturing, or printmaking).
- d. Arts services, including set design and restoration of artworks.
- e. Concert halls or other performing arts spaces.
- f. Cabarets.
- g. Creative Services.
- h. Dinner theaters.
- i. Musician rehearsal space.
- j. Museums.
- k. Performing arts ticket offices or booking agencies.
- l. Picture framing shops.
- m. Record or musical instruments stores.
- n. Restaurants, brewpubs, bars, nightclubs, or cocktail lounges.
- o. Stage and screen theaters (excluding adult entertainment).
- p. Specialty Artistic Manufacturing establishments.
- q. Television and radio broadcast studios.

The remaining permitted uses are described in the table below:

	Primary	Secondary	Transitional	Residential
Residence Uses				
One-family	Not allowed	Not allowed	Not allowed	BR
Two-family	Not allowed	Not allowed	Not allowed	BR
Three-family	Not allowed	Not allowed	BR	BR
Multi-Family	BR – Upper Floors	BR – Ground Floor, not on a Primary Street; Upper Floors		BR – Ground Floor with Frontage on Secondary Street BR – Upper Floors with Frontage on Primary or Secondary Street
Garden Apartments	Not allowed	BR – Ground Floor, not on a Primary Street; Upper Floors		BR – Ground Floor with Frontage on Secondary Street
Accessory Dwelling Unit Attached	BR – Upper Floors	BR – Ground Floor, not on a Primary Street; Upper Floors		BR
Accessory Dwelling Unit Detached	Not allowed	Not allowed	BR	BR
Assisted Living Residences	BR – Upper Floors	BR	BR	BR

	Primary	Secondary	Transitional	Residential
Artist housing or Artist live/work units	BR – Upper Floors	BR	BR	BR
Hotels	BR	BR	BR	Not allowed
Rooming Lodging House	Not allowed	BR	BR	BR
Bed-and-Breakfast	Not allowed	BR	BR	BR
Institutional, Recreational, and Educational Uses				
Charitable, Welfare or Health Centers or Institutions, or Day Care Services for Children	BR – Upper Floors	BR – Ground Floor, not on a Primary Street; Upper Floors		BR
Churches, Temples, or Other Places of Worship	BR	BR	BR	BR
Commercial Recreation (General)	BR	BR	BR	Not allowed
Community Centers – Senior Citizen and Other Neighborhood Centers	BR	BR	BR	BR
Fraternal, Social, Recreational, Youth, or Veterans Organizations Not Conducted for Profit	BR – Upper Floors	BR – Ground Floor, not on a Primary Street; Upper Floors		
Governmental Archives	BR – Upper Floors	BR – Ground Floor, not on a Primary Street; Upper Floors		Not allowed
Hospital	Not allowed	SR	SR	SR
Libraries, Public or Private	BR	BR	BR	BR
Nursing Homes	BR – Upper Floors	BR	BR	BR
Parks and Playgrounds	BR	BR	BR	BR
Schools				
Educational Uses	BR	BR	BR	BR
Office Uses				
Banking, Governmental, Real Estate, or Insurance	BR – Upper Floors or Ground Floor not on principal façade	BR – Ground Floor, not on a Primary Street; Upper Floors		Not allowed
Co-Working	BR	BR	BR	Not allowed
General Business, Medical, or Professional	BR – Upper Floors	BR – Ground Floor, not on a Primary Street; Upper Floors		Not allowed
Research & Development, Laboratories, and Life Sciences	BR – Upper Floors	BR – Ground Floor, not on a Primary Street; Upper Floors		Not allowed

	Primary	Secondary	Transitional	Residential
Automotive Sales and Services Uses				
Parking Garages and Structures	Not allowed	SR	SR	Not allowed
Parking Lots, Commercial	Not allowed	SR	SR	Not allowed
Retail and Consumer Services Uses				
Maker Space	BR	BR	BR	Not allowed
Marijuana Retail	SP (Section 7.850)	SP (Section 7.850)	SP)Section 7.850)	Not allowed
Retail Sales and Services	BR	BR	BR	BR – Ground Floor with Frontage on Primary or Secondary Street
Veterinary Hospital or Kennels	Not allowed	Not allowed	SP	Not allowed
Utilities, Communication, and Transportation				
Bus Terminals	SP	SP	SP	Not allowed
Rooftop Solar Energy Systems	SP	SP	SP	Per Section 9.207
Wireless Communication Infrastructure	Per Section 4.322	Per Section 4.322	Per Section 4.322	Per Section 4.322
Industrial, Manufacturing, and Storage Uses				
Marijuana Cultivation/ Manufacturing	Not allowed	SP Per (Section 7.853)	SP Per (Section 7.853)	Not allowed
Manufacturing, Food and Beverage	BR – Upper Floors or Ground Floor not on principal façade unless use includes a sales component	BR	BR	Not allowed
Manufacturing, General	BR – Upper Floors or Ground Floor not on principal façade	BR	BR	Not allowed
Storage and Warehousing, Accessory to Manufacturing	BR – Upper Floors or Ground Floor not on principal façade	BR– Ground Floor not on principal façade	BR	Not allowed
Retail or food service Accessory to Manufacturing	BR	BR	BR	Not allowed

	Primary	Secondary	Transitional	Residential
Uses				
Storage Warehouse and Yard	Not allowed	Not allowed	SP	Not allowed
Governmental Uses and Services				
Fire Station	BR	BR	BR	BR
Police Station	BR	BR	BR	BR
Other Principal Uses				
Crematoriums	Not allowed	BR	BR	Not allowed
Funeral Homes	Not allowed	BR	BR	BR

D. DEVELOPMENT AND REDEVELOPMENT STANDARDS.

Certain Standards are governed by Frontage Type, as shown in the tables below. The Frontage Types are complementary to the Street Types.

Ground floor windows must meet the highest requirement for transparency to create an active relationship between storefront and sidewalk.

Parking is not allowed in the front yard setback, but is allowed on the side yard setback. A landscape buffer is required to separate the public sidewalk from the parking areas.

Parking is not allowed in the front yard setback, but is allowed on the side yard setback. A landscape buffer is required to separate the public sidewalk from the parking areas.

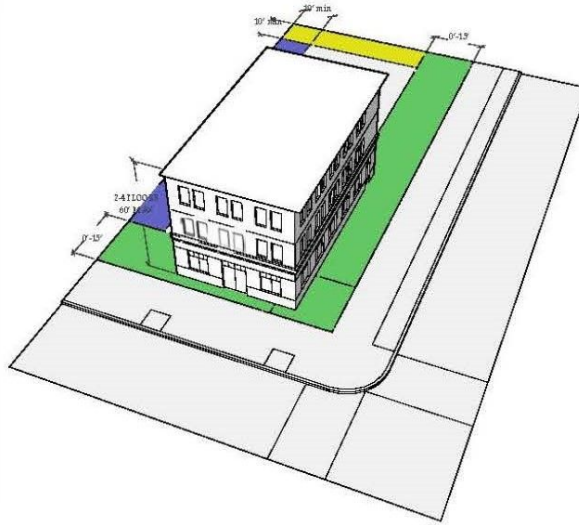
1. *Journal of the American Medical Association*, 1997; 278: 1039-1044.

Secondary Frontage

Buildings with principal frontage on a **Secondary Street** will have a mix of uses on the ground floor, but active ground floor uses are required on any corner with a Primary Street. Residential and office uses are allowed on the ground floor after the first parcel depth from a Primary Street. Building heights will range from two to four stories.

Transparency requirements for ground floor windows are less than those of a Primary Street.

Parking is not allowed in the front yard setback, but is allowed on the side yard setback. A landscape buffer is required to separate the public sidewalk from the parking areas.



Height	
Minimum (stories)	2
Maximum (stories)	4
Maximum (feet)	60
Setback	
Front Yard	
Minimum (feet)	0
Maximum (feet)	15
Side Yard	
Minimum (feet)	0
Minimum from adjacent residential lot (feet)	10
Rear Yard (feet)	10
Transparency	
Ground Floor: minimum as percentage of a 4'x4' visibility zone between 4' and 8' in height above sidewalk and extending 4' from the surface of the window glass inside the building. Signs may occupy no more than one-third of the window in which they are placed.	50%

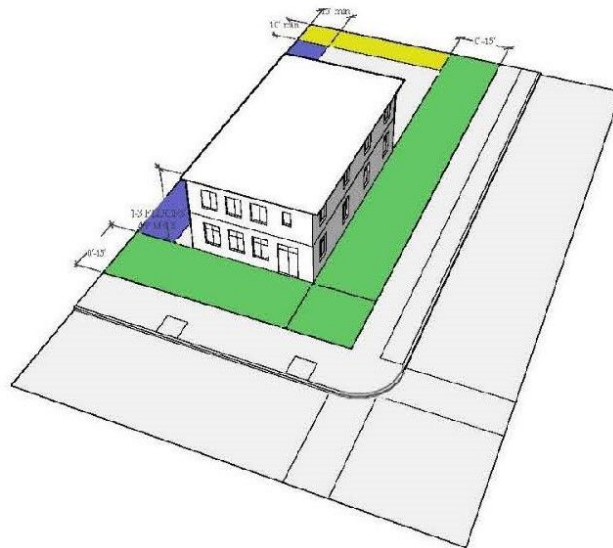
Parking	
Location	
In front of the primary façade	N
Front yard	N
Side yard, not within the front yard setback	BR
Side yard, within the front yard setback	N
Rear yard	BR

Transitional Frontage

The setbacks for buildings with principal frontage on a Transitional Street will depend on the building's relationship to other streets. Active ground floor uses are required at corners with Primary Streets. Residential and office uses are allowed on the ground floor after the first parcel depth from a Primary Street. Building heights will range from one to three stories.

Transparency requirements for ground floor windows are less than those of a Secondary Street.

Parking is only prohibited from the front yard setback in front of a building. Larger parking areas visible from a public way require landscape and pedestrian-scaled lighting treatments to separate the public sidewalk from parking.



Height	
Minimum (stories)	2
Maximum (stories)	3
Maximum (feet)	45
Setback	
Front Yard	
Minimum (feet)	0
Maximum (feet)	15
Side Yard	
Minimum (feet)	0
Minimum from adjacent residential lot (feet)	10
Rear Yard (feet)	10
Transparency	
Ground Floor: minimum as percentage of a 4'x4' visibility zone between 4' and 8' in height above sidewalk and extending 4' from the surface of the window glass inside the building. Signs may occupy no more than one-third of the window in which they are placed.	40%

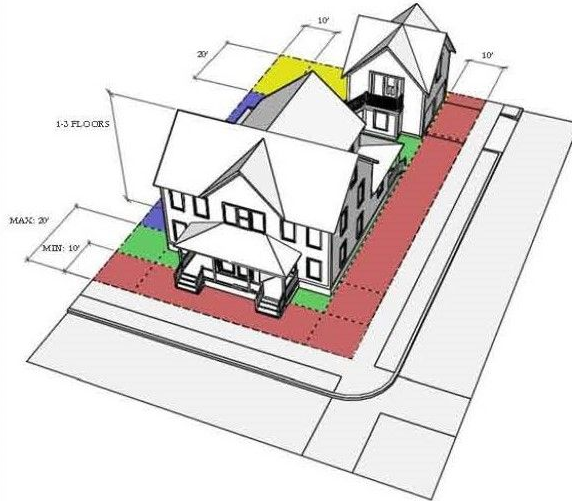
Parking	
Location	
In front of the primary façade	N
Front yard	BR if no building on site
Side yard, not within the front yard setback	BR
Side yard, within the front yard setback	BR
Rear yard	BR

Residential Frontage

The setbacks for buildings with principal frontage on a Residential Street will vary depending on the existing neighborhood standards. Neighborhood retail and services uses are encouraged at corners with Primary Streets. Residential and office uses are allowed on the ground floor after the first parcel depth from a Primary Street. Building heights will range from one to three stories.

Transparency requirements for ground floor windows are consistent with those of a residential building.

Parking is prohibited from the front yard setback in front of a building. However, encroachments such as porches, stoops, bays, and window boxes are allowed within the front yard setback.



Height (including accessory structures)	
Minimum (stories)	1
Maximum (stories)	3
Maximum (feet)	35
Setback	
Front Yard	
Minimum (feet)	10
Maximum (feet)	20
Side Yard	
Minimum (feet)	10
Minimum from adjacent residential lot (feet)	10
Rear Yard (feet)	20
Between Buildings on same lot (feet)	10
Encroachments: Porches, stoops, awning allowed within front setback	
Transparency	
Consistent with standards for single-family, two-family, or three-family.	

Additional Parking Requirements	
Location	
In front of the primary façade	N
Side yard, not within the front yard setback	BR
Side yard, within the front yard setback	BR
Rear yard	BR

Additional standards are as follows:

1. Uses and dimensional standards along corner lots are governed as follows:
 - a. For corner lots on Primary and Secondary Streets, the Primary Frontage

governs for 80 to 100 feet along the Secondary Street.

b. For corner lots on Secondary and Transitional Streets, the Secondary Frontage governs for 80 to 100 feet along the Transitional Street.

c. For corner lots on Residential Streets and any other Street Type, the non-Residential Frontage governs for 80 to 100 feet along the Residential Street.

2. The minimum required building height, lot area, lot coverage percent, and yard requirements for multifamily development as cited in Section 7.715 of this Ordinance do not apply.
3. Off-street parking, as required by Section 10.1 of this Ordinance or as otherwise provided for in this section, may be provided through one or a combination of the following means:
 - a. On site, but not located between the street and the principal facade of the building;
 - b. Off site, with a Parking Management Plan approved by the Director of the Department of Community Development or his or her designee. Parking management plans shall include one or more of the following components: shared parking and shared curb cuts among adjacent owners; bicycle racks close to building entries and/or indoor bicycle storage; electric vehicle charging stations; and/or spaces for shared vehicle services.
4. No parking is required for the adaptive reuse of buildings listed or eligible for listing on the National or State Register of Historic Places.
5. No parking is required for ground floor uses on a Principal or Secondary Street.
6. All parking areas (except for driveways on Residential Street designations) must have a buffer between the parking and the public right-of-way and between the parking and any adjacent residential use.
 - a. A buffer with a fence of no more than three feet high and planted with small native or non-native, non-invasive shrubs or perennials must be no less than five feet in depth. Soil or other planting medium and substrate must be appropriate for the proposed plantings. The fence may not be of wire and must not be a solid fence.
 - b. A buffer with native or non-native, non-invasive trees, shrubs and perennials must be no less than 10 feet in depth. Soil or other planting medium and substrate must be appropriate for the proposed plantings.
 - c. Plants that are defined as invasive or likely invasive by the Massachusetts Invasive Plant Advisory Group are not permitted.
7. Building and site lighting will be shielded so as to prevent light from being directed upward, overspill onto adjacent properties or the public right-of-way, and glare visible from nearby properties or the public right-of-way. A light fixture with a 90° cut-off is preferred.

8. Pedestrian and vehicular Access Ways to the site and building(s) on the site must be designed for public safety, convenience, and so as to not cause congestion within and about the site. Access ways shall have adequate construction and be approved by the Commissioner of Public Services.
 9. Residential development is required to provide one space per dwelling unit in accordance with the above referenced means for providing access to parking.
 10. Drive up or drive-through windows are prohibited in this district, except for buildings with principal frontage on a Secondary Street that contain a banking use, which buildings may be permitted to have a drive-up or drive-through window or windows in accordance with Section 7.841 of the Zoning Ordinance. Existing drive-through services will operate per the requirements of Section 8 of the Zoning Ordinance.
 11. Residential development of five units or more, including phased developments, shall provide no less than 20% of the total number of dwelling units (up to the maximum allowed as of right) as Affordable Units, with the remaining units being market rate. Where the application of that formula results in a fractional dwelling unit, a fraction of 1/2 of a dwelling unit or more shall be considered as one Affordable Unit. Affordable Units shall be distributed evenly throughout the site and be indistinguishable for market rate units. The Affordable Units shall remain thus for a period of 30 years from the date of issuance of the certificate of occupancy for the unit(s), regardless of any modifications or sale of said units.
 - a. A waiver from this provision requires a Special Permit from the Community Development Board. In granting such approval, the Community Development Board must find that the property owner has demonstrated that providing the Affordable Units as required would create a significant hardship. To have such a request considered, the burden of proof shall be on the Applicant, who must make full disclosure to the Community Development Board of all relevant information.
 - b. The Community Development Board reserves the right to require reasonable contributions to an affordable housing trust or alternative in exchange for the waiver of affordable units.
 12. The Community Development Board shall adopt Design Guidelines that correspond to development with the Downtown Creative District. These Design Guidelines shall help guide new development and redevelopment with best practices consistent with the character of the downtown area.
 13. Where the requirements of this section are in conflict other sections of this Zoning Ordinance, the requirements of this section take precedence within this district.
- E. APPLICATION REQUIREMENTS.
1. All projects within this district are subject to site plan review by the Director of the Department of Community Development or his or her designee. Applicants shall submit applications for building permits in accordance with Section 12.201 of this Ordinance.

Applicants found not to be consistent with the parameters of this ordinance or the Community Development Board Design Guidelines may be required to seek approval through a Site Plan Review application through the Community Development Board.

2. Applicants that request a waiver from one or more provisions of this Section shall require a Special Permit from the Community Development Board, in accordance with Section 13.2 of this Ordinance. Applicants may request a waiver from the dimensional standards shown in the Frontage Types and/or where the use is allowed within the building. Applicants must show good cause for such waiver and that the granting of one or more waivers is consistent with the purpose of this District, the intent of the Street Type and Frontage Type, and does not pose a detriment to the public good.
3. Non-conformities as defined under Article 23-8 must follow the requirements of Sections 8.3 through 8.4 with the exception that the Special Permit Granting Authority under Sections 8.3 and 8.4 in relation to buildings, uses or property within this district is the Community Development Board.

SECTION 4.330 DFC DAN FOX CORRIDOR DISTRICT. [Added 6-28-2005 by Ord. No. 958]

A. Intent and purpose.

1. The intent and purpose of this ordinance is to provide and manage access or curb cuts to land development, while preserving the regional flow of traffic in terms of safety, capacity and speed on Dan Fox Drive. Dan Fox Drive serves as part of the county's primary network for moving people and goods and also provides access to businesses and homes. If access systems on Dan Fox Drive are not properly managed and designed, this corridor will be unable to accommodate the access needs of development and retain its primary transportation function. This ordinance balances the right of reasonable access to the private property on Dan Fox Drive with the right of the citizens of Pittsfield, Berkshire County, Massachusetts, to safe and efficient travel.

2. To achieve this policy intent, existing unused access or curb cuts on Dan Fox Drive have been consolidated, and planned reasonable access has been provided to properties adjacent to the road. Regulations have been applied to the Dan Fox Corridor District for the purpose of reducing traffic accidents, personal injury, and property damage attributable to poorly designed access systems, and to thereby improve the safety and operation of the roadway network. These regulations will discourage unplanned subdivisions of land and protect the community character and the environment.

B. District delineation and application. The DFC District shall be considered as overlying other districts as shown on the Zoning Map of the City of Pittsfield. The boundaries of the DFC District shall extend 50 feet beyond the public right-of-way on either side of Dan Fox Drive and are as shown on the Dan Fox Corridor District Overlay Zoning Map on file in the office of the Building Commissioner. All regulations of the underlying zoning districts shall apply except as modified by the regulations of the DFC District.

C. Access management regulations.

1. All the existing land development requirements in the underlying zoning district will be

applicable to the DFC District.

2. The access or curb cuts to the land developments on this corridor are limited to the 10 shown on the DFC Overlay Zoning Map, except as permitted in Subsection 4.330C3.

3. One additional access or curb cut not shown on the DFC Overlay Zoning Map may be permitted upon approval of the Mayor. Such additional access or curb cut must meet the requirements of Subsection 4.330C5.

4. No clearing of vegetation or land alteration shall occur within 50 feet of the edge of the right-of-way of Dan Fox Drive east of the driveway for Berkshire West Athletic Club to South Street, except for the purposes of installing an access or curb cut in an approved location, installation of required utilities, or installation of an approved development sign as shown on a site plan approved by the Community Development Board in accordance with the requirements of Section 7.802 of this ordinance. Limits of clearing and disturbance required for approved purposes must be clearly shown on the site plan and delineated in the field to protect the buffer zone from unnecessary and unapproved clearing and disturbance. Undisturbed land in this buffer will be owned by the property owner with a permanent conservation restriction to be granted to the City under the provisions of MGL c. 184, §§ 31 through 33. **[Amended 6-28-2022 by Ord. No. 1250]**

5. Site plan approval by the Community Development Board shall be required for any development abutting Dan Fox Drive. **[Amended 6-28-2022 by Ord. No. 1250]**

6. All access roads/driveways/curb cuts and changes to access roads:

a. Shall be approved by the Pittsfield Department of Public Works and be issued an access permit by the Commissioner of Public Works.

b. Shall be located as indicated on the DFC Zoning Map Overlay.

c. Driveway design should be in compliance with standard Massachusetts Highway Department design criteria.

d. Intersection design should be in accordance with the latest American Association of State Highway and Transportation Officials (AASHTO) guidelines for intersection design.

e. The intersections should provide appropriate traffic control devices in accordance with the Manual of Uniform Traffic Control Devices. If traffic signals are proposed or warranted, proposed signals must be consistent with all other Pittsfield policies and regulations governing traffic signals.

f. The number of lanes and the length of the access roads should be in accordance with the AASHTO design standards. The number of lanes and the length should accommodate the traffic generated by the proposed development.

D. Variance.

1. The Board of Appeals, as established in Article 23-11 of this ordinance, shall have the power to consider any request for a variance from the regulations of the DFC District, including the location of

access/curb cuts, in accordance with its established rules and regulations, in accordance with the usual tests for a variance that would apply under MGL c. 40A and subject to the following requirements.

a. The granting of the variance shall be in harmony with the purpose and intent of these regulations and shall not be considered until all reasonable efforts have been made and documented to obtain access through existing points of access.

b. Applicants for a variance from these regulations must provide proof of unique or special conditions that make strict application of the provisions impractical. This shall include proof that:

- (1) Indirect access cannot be obtained;
- (2) No engineering or construction solutions can be applied to mitigate the condition; and
- (3) No alternative access is available from the access curb cuts permitted on Dan Fox Drive.

2. Under no circumstances shall a variance be granted which may endanger public health, welfare or safety. No variance shall be granted where the hardship is created by the past or present owners of the property.

SECTION 4.331 BATTERY ENERGY STORAGE SYSTEMS, BATTERY ENERGY STORAGE SYSTEM FACILITIES, AND BATTERY ENERGY STORAGE SYSTEMS (AND FACILITIES) IN THE CITY OF PITTSFIELD AND IN THE BATTERY ENERGY STORAGE SYSTEM OVERLAY DISTRICT [Added 2-13-2024 by Ord. No. 1274]

- A. **PURPOSE.** The Community Development Board (hereafter, collectively, the “Board”) finds that it is necessary and beneficial for the health, safety and welfare of the community to implement regulations for the development of battery energy storage systems and battery energy storage system facilities (“facilities”) for the purposes articulated in the Siting and Design Guidelines for Battery Energy Storage Systems and Battery Energy Storage System Facilities.
- B. **ESTABLISHMENT.** The Battery Energy Storage System Overlay District is comprised of those districts, except residential zoning districts, that fall within the measured one-tenth of a mile wide buffer zone measured from the boundaries of an industrial zoning district. A portion of the buffer zone that would otherwise fall within a residential district is excluded from the Battery Energy Storage System Overlay District.
- C. **BOUNDARIES, TECHNOLOGY AND DELINEATION.**
1. The Battery Energy Storage System Overlay District is comprised of those districts that fall within the tenth of a mile wide buffer zone measured from the boundaries of an industrial zoning district, excluding any portion of the buffer zone that would otherwise fall within a residential district.
 2. Commercial/Industrial-scale battery energy storage system facilities shall not be permitted in any residential district.

3. Where the BESS-OD includes a residence outside of a residential district no BESS or facility may be located within a tenth of a mile of such residence.
4. Batteries in the BESS-OD shall utilize mechanical energy, iron-air, or aluminium-air technology - for example, iron-air batteries or flywheel mechanical batteries. Batteries such as lithium-ion batteries shall not be permitted.
5. Setback requirements for small-scale and commercial/industrial-scale BESS facilities in the BESS-OD are listed below:
 - a. Front setback: 10 feet from the legally accepted way.
 - b. Side setback: five feet.
 - c. Rear setback: five feet.

D. APPLICATION.

1. The requirements of this article shall apply to all battery energy storage systems permitted, installed, or modified in the City of Pittsfield in accordance with the scale of use in the zoning district where the system or facility is located.
2. Battery energy storage systems constructed or installed prior to the effective date of this article shall be required to meet the remediation plan requirements of this article.
3. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system design, discharge, duration or power rating shall be subject to the requirements of this article and the Siting and Design Guidelines for Battery Energy Storage Systems and Battery Energy Storage System Facilities.

E. GENERAL REQUIREMENTS FOR SPECIAL PERMIT FOR COMMERCIAL/INDUSTRIAL-SCALE BATTERY ENERGY STORAGE SYSTEMS AND FACILITIES.

Commercial/Industrial-scale battery energy storage systems that are used to capture and store electricity for commercial and industrial use in conjunction with but not limited to ground-mounted solar, rooftop solar, electrical substations, other future sources of renewable energy, or directly from the grid are permitted as a principal or accessory use through the granting of a special permit from the Community Development Board in accordance with Section 4.2 (District Regulations) and Section 4.3 (Supplementary District Regulations) of the Zoning Ordinance.

Commercial/Industrial-scale battery energy storage systems and/or battery energy storage system facilities may be located within the City of Pittsfield only within the industrial districts and/or the BESS Overlay District. Any small-scale or commercial/industrial-scale proposed BESS or BESS facility shall be subject to the following requirements. Such requirements are in addition to, or in modification of, other applicable provisions and requirements of this ordinance. The granting of a special permit is contingent upon meeting the following criteria:

1. Commercial/Industrial-scale battery energy storage systems have an aggregate energy capacity greater than 10 MWh.
2. Applications for a special permit must meet the requirements as detailed in Section 7.3 through Section 7.703 of the Zoning Ordinance.
3. Those seeking a special permit from the Community Development Board shall submit a remediation plan as discussed in Section 4.331E of this ordinance.
4. The applicant shall apply for a floodplain special permit from the Community Development Board where and when applicable.
5. A copy of the remediation plan shall be submitted to the Community Development Board when applying for a floodplain special permit in accordance with Section 4.331E.
6. Applicants shall also provide evidence as to how the BESS and BESS facility will adhere to the Stormwater Ordinance.
7. For the purpose of this ordinance, the requirements for a remediation plan do not apply to EV charging stations in any of the districts.
8. Accessways shall be designed in accordance with the guidelines and rules of the City Code with a view to emergency vehicle access, public safety and convenience so as not to cause congestion within and about the site. Accessways shall have adequate construction and shall be in keeping with the standards of the Department of Public Works.
9. Provisions for parking shall be consistent with the parking requirements for each district as found in Section 10.111.
10. Any application for a special permit in the BESS Overlay District shall meet all procedural requirements for site plan approval governing Group SP uses pursuant to Article 23-7, Section 7.7, and special permit applications pursuant to Article 23-7, Section 7.8, of the Zoning Ordinance. The application shall include a statement and signature from the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
11. Applicants shall comply with all applicable federal, state and local environmental laws and regulations, and consult with the Pittsfield Conservation Commission, or its agent to determine any wetlands permitting requirements.
12. If a wetlands permit is required, the applicant shall include in the remediation plan in the appendices all documents filed with the Conservation Commission and/or MassDEP along with the decision from the Conservation Commission or any superseding order of conditions issued by MassDEP.
13. All commercial/industrial-scale battery energy storage systems, battery energy storage system facilities, dedicated-use buildings, and all other buildings or structures that contain or are otherwise associated with a battery energy storage system shall be designed, erected, and

installed in accordance with all applicable state provisions of the codes, state regulations, and state and industry standards.

14. Commercial/Industrial-scale battery energy storage systems and/or facilities shall be permitted as an accessory use through the granting of a special permit from the Community Development Board when the principal use of a parcel is for the generation of electricity via solar panels, wind turbines, or other future sources of renewable energy in the Battery Energy Storage System Overlay District, the business districts and the industrial districts.
15. Commercial/Industrial-scale battery energy storage systems and/or facilities shall be permitted through the granting of a special permit from the Community Development Board as a principal use exclusively in the industrial districts.
16. The applications for a special permit shall include a remediation plan (hereafter the “plan”) and agree to a third-party review of such plan at the City of Pittsfield Community Development Board’s discretion and at the expense of the applicant if a third-party review of said plan is deemed necessary. The plan shall consist of several components which include but are not limited to the mitigation, compensation, treatment and cleanup of hazardous chemicals and materials for various emergent events, including but not limited to natural and climate-related hazards or disasters, flooding and other climate-initiated events or acts of nature that may result in hazardous conditions posing a threat to the health, safety and well-being of those communities and land uses in the vicinity of the areas affected by battery energy storage systems and their facilities.
 - a. Development Impact Statement. Shall discuss the site design and development of the location, spacing, bulk, and height of proposed buildings and structures, and their effects on adjacent uses and the nearby area. Discussion regarding the type, size, location and design of landscaping, plantings, screening, and other design features contributing to public health, safety and welfare of the land and the people shall be included.
 - i. Discuss how the site will retain soil stability and limit erosion through vegetation, geotextiles or other means of soil bioengineering best practices.
 - b. Commissioning Plan. As a condition of the special permit, the permittee will provide the Community Development Board with a commissioning plan that documents and verifies that the proposed system and its associated controls and safety systems are in proper working order. Where commissioning is required, the inspection shall be conducted by a Massachusetts State (MAS) licensed professional engineer after the installation is complete but prior to final approval and sign-off.
 - i. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning.
 - ii. Shall include the results of the initial acceptance testing which shall be provided to the Community Development Board prior to final inspection and approval and maintained at an approved on-site location.

iii. Operation and maintenance manual. Shall describe proper battery energy storage system and facility operations, maintenance and property upkeep.

iv. The design, construction, installation, testing and commissioning information regarding the BESS and/or BESS facility shall meet all local, state and federal regulations and requirements and will be required to continue to meet these requirements while the BESS is operational.

v. The Community Development Board shall impose these conditions upon any special permit that is issued. The Building Inspector's office will enforce these conditions.

c. Emergency Preparedness Plan. In the event of a system failure or malfunction within the facility or the BESS. This plan shall outline the following:

i. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.

ii. Emergency contact information for the owner and operators, clearly visible with twenty-four-hour contact information, which shall be kept current and in compliance with the Sign Ordinance.

iii. Procedures for inspection and testing of associated alarms, interlocks, and controls.

iv. Procedures to be followed in response to notifications from the battery energy storage management system that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed-upon notification to Fire Department personnel for potentially hazardous conditions in the event of a system failure.

v. Emergency procedures to be followed in the event of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions.

vi. A safety data sheet (SDS) that will address response safety concerns and extinguishment.

vii. Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergent event, including contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.

viii. Other procedures as determined necessary by the Planning Board to provide for the safety of occupants, neighboring properties, and

emergency responders.

ix. A copy of the appropriate response procedures shall be provided to the Fire Chief and the Chief of Police.

x. These requirements and conditions shall be enforced by the Building Inspector's office.

d. Hazard Mitigation Plan. This plan provides a detailed procedural report regarding site clean-up, removal, and proper disposal of hazardous materials and chemicals in light of a climate-related emergent event or other acts of nature. Such report shall provide a timeline for the complete physical removal of all battery energy storage system and facility components, structures, equipment, security barriers, and other related structures and improvements from the site. The steps for reclamation of the battery energy storage system, its site and the surrounding land at the end of its useful life and/or as a result of a natural disaster, damage by fire or other emergent event and/or upon the decision to vacate the premises and leave Pittsfield shall address the following points:

i. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.

ii. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.

iii. A detailed plan of action for the disposal of all solid and hazardous waste in compliance with local, state, and federal hazardous waste disposal best practices and regulations at the end of anticipated life of the battery and/or battery energy storage system.

e. Decommissioning Plan. This plan shall document the process and steps that will be implemented regarding the removal/proper disposal and reclamation of a BESS and its site, at the end of its useful life and/or as the result of damage by fire or other emergent event.

i. Decommissioning Fund. The owner and/or operator of the battery energy storage system shall continuously maintain a fund, either through escrow account, bond or otherwise payable to the City of Pittsfield, in a form and amount approved by the Fire Chief, City Engineer, Building Commissioner and City Commissioner, for the decommissioning and removal of the battery energy storage system and/or facility, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant.

ii. The estimated decommissioning costs, prepared by a licensed

professional engineer, and how said estimate was determined.

iii. The method of ensuring that funds will be available for decommissioning and restoration.

iv. The method by which the decommissioning cost will be kept current and the manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed.

v. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

f. Fire Safety Compliance Plan. This plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Massachusetts Fire Code and the City of Pittsfield Fire Chief. Enforcement of these standards shall remain with the Pittsfield Fire Department.

g. Erosion, Sediment Control and Stormwater Management Plans. These plans shall meet Massachusetts Department of Environmental Protection standards, if applicable, and such standards as may be established by the Community Development Board in consultation with the City Engineer and the City's Conservation Agent.

h. Accessways Design Plan. This plan shall meet the guidelines and rules of the City Code with a view to public safety and convenience and so as not to cause congestion within and about the site. Accessways shall have adequate construction and be approved by the Building Department, the Commissioner of Public Works or their designated party.

F. REQUIREMENTS FOR RESIDENTIAL-SCALE BATTERY ENERGY STORAGE SYSTEMS IN RESIDENTIAL DISTRICTS.

Residential-scale battery energy storage systems that are used to capture and store electricity for private residential use in conjunction with but not limited to ground-mounted solar, rooftop solar, other future sources of renewable energy, or directly from the grid are permitted by-right as an accessory use in accordance with Article 23-4, District Regulations, of the Zoning Ordinance and the regulations of that particular residential district so long as they meet the following conditions:

1. For residential-scale BESS in a residential zone implemented for private residential use, all new units constructed to contain battery energy storage systems will be required to adhere to the performance standards for new structures in accordance with Article 23-4 of the Zoning Ordinance as it relates to the applicable zone.
2. If constructing a new structure to house a BESS in the Residential District, the dedicated-use

building must meet the minimum setback requirements for accessory buildings in the designated Residential District as outlined in Sections 4.203 and 4.304 through 4.306 in the Zoning Ordinance.

3. No residential-scale battery energy storage system shall be altered, added to, installed, constructed or permitted unless the applicant has obtained a building permit from the Building Department and is in compliance with the requirements and conditions of the Fire Department and any other relevant departments as necessary to deem the structure safe and ready for use.
 4. Electric vehicles for the purposes of this ordinance are not considered battery energy storage systems in the BESS Overlay District and are not subject to the requirement to produce a remediation plan.
 5. Residential-scale battery energy storage systems may be housed within a garage or other dedicated-use building so long as the garage or other dedicated-use building meets the minimum setback requirements as outlined in Article 23-4, District Regulations.
 6. Accessways in residential districts shall be designed in accordance with the guidelines and rules of the City Code with a view to emergency vehicle access, public safety and convenience so as not to cause congestion within and about the site. Accessways shall have adequate construction and shall be in keeping with the standards of the Department of Public Works.
 7. Provisions for parking shall be consistent with the parking requirements for each district as found in Section 10.111.
- G. REQUIREMENTS FOR SMALL-SCALE BATTERY ENERGY STORAGE SYSTEMS THAT FALL WITHIN THE BOUNDARIES OF THE BATTERY ENERGY STORAGE SYSTEM OVERLAY DISTRICT.

Small-scale battery energy storage systems that are used to capture and store electricity for residential use (i.e., multifamily homes or housing developments), schools or colleges or commercial use (i.e., small businesses) in conjunction with but not limited to ground-mounted solar, rooftop solar, electrical substations, other future sources of renewable energy, or directly from the grid are permitted as an accessory or principal use in the Battery Energy Storage System Overlay District through the granting of a special permit from the Community Development Board in accordance with Section 4.2 and Section 4.3 of the Zoning Ordinance. The granting of special permit is contingent upon meeting the following criteria:

1. Small-scale battery energy storage systems have an aggregate energy capacity greater than 30 kWh and up to 10 MWh.
2. Small-scale and commercial/industrial-scale battery energy storage systems and/or facilities shall not be permitted as a principal use or accessory to a principal use in any residential district; this includes and is applicable to the BESS Overlay District.
3. In the DCD and Business Districts, a small-scale battery energy storage system and/or facility shall be permitted through the granting of a special permit from the Community Development Board as an accessory use.

4. Small-scale BESS for private residential use, schools or colleges or commercial use that utilize mechanical energy or iron-air technology are strongly encouraged due to their proximity to children and the general public.
5. Applications for special permit must meet the requirements as detailed in Section 7.3 through Section 7.703 of the Zoning Ordinance.
6. Applicants seeking a special permit shall submit a remediation plan as discussed in Section 4.331D of this ordinance.
7. The owner and/or operator of the energy storage system shall implement the procedures outlined in the decommissioning component of the remediation plan prior to vacating the site and/or facility.
8. A copy of the remediation plan shall be submitted to the Community Development Board when applying for a floodplain special permit in accordance with Section 4.331D.
9. If a wetlands permit is required, the applicant shall include in the remediation plan in the appendices all documents filed with the Conservation Commission and/or MassDEP along with the decision from the Conservation Commission or any superseding order of conditions issued by MassDEP.
10. Applicants shall also provide evidence as to how the BESS and BESS facility will adhere to the Stormwater Ordinance.
11. Accessways shall be designed in accordance with the guidelines and rules of the City Code with a view to emergency vehicle access, public safety and convenience so as not to cause congestion within and about the site. Accessways shall have adequate construction and shall be in keeping with the standards of the Department of Public Works.
12. Provisions for parking shall be consistent with the parking requirements for each district as found in Section 10.111.

H. PROHIBITED USES.

Battery energy storage systems and facilities shall not be located in the following areas:

1. Flood hazard zones.
2. Parks and land set aside for open space and recreation.
3. Parcels or property of historical, cultural, archeological or religious significance which includes First Nations and Indigenous Sacred Sites.³

³ The Massachusetts Historical Commission (MHC) tasks town commissions with compiling local surveys and inventories of cultural and historic resource areas. Databases of historic properties are necessary for, among other things, National Register of Historic Places (NRHP) nominations. In situations where federally involved development projects occur, both municipal historical commissions and the MHC play a role. Indigenous sites are

4. Designated conservation areas, including but not limited to lands purchased through the Community Preservation Fund, and properties that are preserved via the purchase of development rights.

5. Within 500 feet or less of wetlands.

I. FENCING REQUIREMENTS.

1. Battery energy storage systems, including all mechanical equipment and buildings dedicated to battery energy storage systems, except for electric vehicles, shall adhere to the standards pursuant to Article 23-4 of the Zoning Ordinance and shall be enclosed by a privacy fence, with the design subject to the discretion of the Building Department and the Community Development Board, in keeping with a maximum height of up to eight feet, with a self-locking gate to prevent unauthorized access, and shall not interfere with ventilation or exhaust ports.
2. The required fence or screening shall be sited in such a way that it encompasses the entire battery energy storage system if said system is not housed within a facility.
3. All required fencing shall not be located within the required front yard pursuant to Article 23-4.
4. The Community Development Board shall require landscaping located between the fence and the surrounding properties, including the public right-of-way, as appropriate and necessary.

J. SIGNAGE.

1. Signage shall be in compliance with the City of Pittsfield Sign Ordinance and Article 23-4, Section 4.314C of the City of Pittsfield Zoning Ordinance and all other applicable codes and standards and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and twenty-four-hour emergency contact information, including reach-back phone number.
2. Disconnect and other emergency shutoff information shall be clearly displayed on a light-reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

K. LIGHTING.

Lighting of the battery energy storage systems shall be in compliance with Article 23-4, Section 4.315 of the City of Pittsfield Zoning Ordinance and limited to minimum requirements for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.

still eligible for NRHP inclusion, even if traditional communities have abandoned them for long periods. To confirm that the parcel is not of historical, archaeological or religious significance, applicants shall engage in respectful consultation with Tribal representatives of Tribal Historic Preservation Offices, or any other relevant organizations or parties. A letter from the respective organization is required in order to move forward in the application for special permit process.

L. NOISE.

The noise generated from battery energy storage systems, components, and associated ancillary equipment shall not exceed 40dB in residential and business districts and 70dB in the Battery Energy Storage System Overlay District. All systems shall comply with noise standards found in Article 23-4, Section 4.315, Performance Standards, of the Zoning Ordinance and Chapter 13 1/2 of the Code of the City of Pittsfield. Applicants may submit equipment and component manufacturers' noise ratings to the Community Development Board to demonstrate compliance. The applicant may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.

M. VEGETATION AND TREE CUTTING.

Areas within the required distance as determined by the Fire Department and Fire Code on each side of a small-scale and commercial/industrial-scale battery energy storage system and facility shall be cleared of combustible vegetation and other combustible growth.

N. OWNERSHIP CHANGES.

If the owner of the battery energy storage system changes or the owner of the property changes, all of the obligations of the special use permit and remediation plan become assumed by the new owner/operator. A new owner or operator of the battery energy storage system and/or facility shall notify the Planning Department, Building Department, the Department of Public Works and Fire Marshal's office of such change in ownership or operator, in writing, within 30 days of the ownership change. All permits and approvals for the battery energy storage system shall be void if a new owner or operator fails to provide written notification to the Planning Department, Building Department, the Department of Public Works and Fire Marshal's office within the required time frame. Reinstatement of a voided special permit will be subject to the approval process for new applications in which time the battery energy storage system(s) and the facility(ies) shall immediately cease operation until the approval process is complete.