

ARTICLE 23-7
CONDITIONAL USES
(Group SR and SP Uses)

SECTION 7.1 PURPOSE

This article provides regulations and conditions for certain uses which are unusual in their nature or complexity, require areas of extraordinary size, or are potentially incompatible with their surroundings unless special protective restrictions are applied; or which depends upon sound site planning and design to prevent them from becoming detrimental to the health, safety, or general welfare of the public or the neighboring land uses.

SECTION 7.2 CONFORMANCE AND EXCEPTIONS
[Amended 6-28-2022 by Ord. No. 1250]

Each conditional use (SR and SP Group Uses) shall comply with the regulations of the district in which it is located and with the requirements as set forth herein, except if more than one principal building or structure housing or serving a permitted conditional use is proposed to be erected on a lot, the Community Development Board may waive compliance with lot width or frontage requirements for each additional building or structure if the Board finds that this is not contrary to the intent and purpose of this ordinance and that the proposed development shall meet all reasonable site planning standards and other requirements of this ordinance. The uses requiring special use permits from the Board of Appeals (SP Group Uses) shall be further subject to such additional reasonable requirements and safeguards as may be imposed by the Board of Appeals.

SECTION 7.3 REQUIRED INFORMATION WITH APPLICATION
[Amended 6-28-2022 by Ord. No. 1250]

Applications for permits to establish any of the uses listed in the "Schedule of Use Regulations" as "Group SR or SP Uses" shall be accompanied by such plans and information as are require herein or as may be reasonably required by the Community Development Board, Board of Appeals, or the Building Inspector in order that the proposal of the applicant may be clearly understood and compliance with the provisions, intent and purpose of this ordinance be established.

SECTION 7.301

A key map at a scale of not less than one (1) inch to eight hundred (800) feet showing the relation of the subject property to adjoining properties, existing streets, roads and railroad right-of-ways within one thousand (1,000) feet of any part of the property.

SECTION 7.302

A map indicating the uses of all property within two hundred (200) feet of the proposed site, including any subdivided lands, parks, or other open space or uses, residences, business, industries, or other buildings or structures, such uses to be shown on a drawing to scale.

SECTION 7.303

Topographic map of the property at two (2) foot contour intervals, showing the existing and proposed grades and the location of natural features, such as streams, swamps, rock outcrops and major trees six (6) inches or more in diameter at a point four (4) feet above ground level.

SECTION 7.304

A site plan, indicating but not limited to the following:

- A. The proposed use or uses of land and buildings, and the proposed location, size and height of the building, including preliminary architectural drawings;
- B. The location and design of off-street parking and loading areas;
- C. All means of vehicular ingress and egress to and from the site onto public streets and the relationship to street circulation;
- D. Location and type of recreational facilities, if any;
- E. Location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of methods of water supply and sewage disposal, and location of such facilities; location of all proposed water lines, valves and hydrants;
- F. The proposed outdoor lighting, signs, screening and landscaping.

SECTION 7.305

A detailed computation of total lot area, of building floor area for each type of proposed use, and lot coverage by all buildings.

SECTION 7.306

The proposed accessory use or uses of buildings, structures or land.

SECTION 7.307

Site plan or any portion thereof, involving engineering, architecture or land surveying, shall be prepared by a duly authorized engineer, architect, landscape architect or land surveyor. A site plan may be prepared on one or more sheets to show clearly the information required herein and to facilitate the review and approval of the plan. Every site plan shall show the name of the development, the name and address of the record owner or developer, north point, scale, date, all easements or right-of-ways provided for public services or utilities. It shall reserve a blank space in the upper right corner three (3) inches wide and five (5) inches high for the use of the approving authority. site Plans shall be prepared to a scale of not smaller than one (1) inch equal one hundred (100) feet.

SECTION 7.4 LOCATION

Any conditional use shall be so located with relation to major thoroughfares and uses in the neighborhood as not to create traffic hazards or congestion.

SECTION 7.5 REVISION AND WAIVER OF PLANS AND REQUIREMENTS
[Amended 6-28-2022 by Ord. No. 1250]

Any site plan may be revised by following the same procedure as required for the original approval. Strict compliance with any of the foregoing requirements may be waived upon written requests by the applicant to the Community Development Board, or the Board may so waive strict compliance when in the judgment of the Community Development Board such waiver is not contrary to the public interest and not inconsistent with the provisions, intent and purpose of this ordinance.

SECTION 7.6 EXPIRATION AND EXTENSION

Approval of a site plan for any conditional use shall expire one year after the date of such approval, unless building permits have been obtained for construction in accordance therewith.

SECTION 7.7 CONDITIONAL USES SUBJECT TO SPECIAL REQUIREMENTS
(Use Group SR)

Group SR conditional uses are permitted in the respective districts subject to special requirements and standards as set forth herein.

SECTION 7.701 TRANSMITTAL OF BUILDING PERMIT APPLICATION
[Amended 6-28-2022 by Ord. No. 1250]

Any application for a building permit under this section shall be transmitted in duplicate by the Building Inspector to the Community Development Board, together with two sets of accompanying maps, plans and any other information as may be necessary for determination that the proposed use shall comply with the provisions, intent and purpose of this ordinance.

SECTION 7.702 SITE PLAN APPROVAL BY THE COMMUNITY DEVELOPMENT BOARD
[Amended 6-28-2022 by Ord. No. 1250]

Site plan approval by the Community Development Board shall be required for any Group SR uses. Such approval shall not be withheld unless the proposed development will violate any provisions of this ordinance in which case the Community Development Board may require such revision of the plan as may be necessary to insure compliance with applicable provisions of this ordinance. No building permit shall be issued for any building or structure in any area covered by the site plan, except in conformity with such site plan which has been duly approved, unless thirty (30) days have elapsed from the date of submission of the plan to the Community Development Board without any action by the Board. A site plan, once approved, shall become a part of a permit.

SECTION 7.703 CERTIFICATE OF OCCUPANCY, CONFORMITY WITH SITE PLAN

No certificate of occupancy shall be issued for use of any building or structure or use of land under this section, unless the building or structure is constructed or used or the land is developed or used in conformity with an approved site plan or any amendment of such plan.

(ORD #534-1986 REMOVE SECTION 7.710 SEE SECTION 7.836)

SECTION 7.711 (RESERVED)¹

SECTION 7.712 CLUBS, LODGES OR ASSOCIATIONS (Fraternal, Social Recreation Youth or Veterans Organizations Not conducted for Profit) REQUIREMENTS:

- A. Where such use is permitted in a Residence District or on a site abutting any residential or institutional use, the following requirements shall apply:
1. Minimum site size shall be two (2) acres;
 2. No structure, parking area or activity area shall be located less than twenty-five (25) feet from any property line;
 3. Parking or outdoor activity area located within forty (40) feet from any property line shall be screened in accordance with the screening regulations of this ordinance in such a manner as to be not visible from adjacent lots in residential or institutional use;
 4. Front setback shall be twenty (20) feet greater than the setback required for the Residence District in which it is located;
 5. Outdoor lighting shall be so shielded as to cast no direct light upon adjacent property or public ways;
 6. A public address system shall not be permitted except where such system is inaudible at any property line.
- B. Any such use located in an R-12 or R-6 Residence District shall conform to the requirements as set forth in this section and shall require a special use permit from the Board of Appeals in accordance with Section 7.8 of this ordinance.

SECTION 7.713 DRIVE-IN THEATERS, REQUIREMENTS

A. Setbacks

No structure or parking area shall be within twenty-five (25) feet of any side or rear lot line. The front setback shall be a minimum of seventy-five (75) feet.

B. Entrances and Exits

Vehicular entrances and exits shall be provided separately, and their location shall be subject to the approval of the Community Development Board in the interest of public safety. **[Amended 6-28-2022 by Ord. No. 1250]**

C. Waiting Spaces

¹ Former Section 7.711, Billboards, requirements, was repealed 6-14-2014 by Ord. No. 1083. See now Section 7.852.

Off-street reservoir space at the vehicular entrance for automobiles of patrons awaiting admission to the theater shall be provided in the amount of ten (10) percent of the automobile capacity of the theater. Such waiting space may be constructed within the front setback area.

D. Fences or Walls

A solid fence or wall not less than eight (8) feet in height shall be erected and suitably maintained so that the theater area will be entirely enclosed, except the driveways. No such fence or wall shall contain any advertising other than permitted accessory sign.

E. Theater Screen

The theater screen shall not be permitted to face the street, and it shall be screened, as much as possible, in such a manner that it cannot be observed from outside the development.

F. Sound

Individual loudspeakers for each car shall be provided, and public address systems shall not be permitted except where such system is inaudible at any property line.

G. Circulation

Vehicle circulation shall be so designed as to permit only one-way traffic within the development. Exits and aisles or passageways leading to them shall be kept adequately lighted when open to the public whenever natural light is inadequate.

H. Lighting

Lighting shall be so shielded as to cause no direct light upon adjacent property or public ways.

I. Landscaping

Front setback area and all other open areas shall be suitably landscaped and maintained with grass, trees, or shrubs. A roadway may be constructed within the front setback area to provide the required waiting space for vehicles entering the theater.

SECTION 7.714 DWELLINGS, GARDEN APARTMENT, REQUIREMENTS:

A. In addition to or in modification of other applicable provisions and requirements of this ordinance, the following special provisions and requirements shall apply in the case of garden apartments:

1. The minimum lot area for a garden apartment development shall be two (2) acres.
2. In a garden apartment development, more than one principal building shall be permitted on a lot provided that such lots meet the minimum lot width requirements for the respective district as set forth in Section 4.203 of this ordinance, and further provide that there shall be at least three thousand five hundred (3,500) square foot of lot area for each dwelling unit.

3. The maximum lot coverage of buildings, structures, internal roads, and parking areas, shall not exceed twenty-five (25) percent of the total lot area.
4. No portion of any enclosing wall of any building and no portion of any other permissible structure shall be nearer than fifty (50) feet to any property line.
5. Within the development usable land areas shall be provided for playgrounds and other recreational uses, suitably graded and landscaped, to serve the needs of the proposed development in accordance with reasonable site planning standards.
6. No space above the second story or below the first story of such building shall be used for dwelling purposes, except that a basement where the floor is less than three (3) feet below grade may contain living quarters of the building superintendent and his family.
7. No structure shall exceed two and one-half (2-1/2) stories of thirty-five (35) feet in height.
8. No more than twelve (12) dwelling units shall be provided for in any one building.
9. No space shall be considered available for parking which reduces the effective width of a driveway, providing access to more than one dwelling unit, to less than sixteen (16) feet.
10. Parking and play areas shall be so designed and located as to be safely and conveniently accessible from the buildings which they are intended to serve.
11. A garden apartment development having more than forty (40) dwelling units shall have a minimum of two access roadways from a public way.
12. Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.
13. All streets throughout the development shall conform with the standards as set forth in the "Subdivision Rules and Regulations" of the City of Pittsfield.
14. Front yards and all open areas shall be suitably landscaped and maintained with grass, trees, shrubs or walks.
15. The proposed development shall be so located with relation to major thoroughfares and uses outside the development as not to create traffic hazards or congestion.
16. The proposed development shall be so located that essential community services, including water supply, sewerage system, drainage, police and fire protection shall be available and adequate for the development based on reports and recommendations from appropriate city agencies, or that suitable provision will be made assuring these services.
17. Unless the installation of public services and construction of common facilities such as internal streets, walkways, parking and play areas, drainage, landscaping and screening has been completed, no certificate of occupancy shall be issued by the Building Inspector for any part of the development until the applicant shall have filed in the Office of the City Clerk a bond with surety satisfactory to the Building Inspector and approved as to form and legality by the City Solicitor. Such bond shall be in the amount sufficient in the

judgment of the Department of Public Works to secure the completion of such work in compliance with all applicable statutes, ordinances, and regulations and in accordance with the site plan approved by the Community Development Board. **[Amended 6-28-2022 by Ord. No. 1250]**

- B. Development Containing More than 60 Dwelling Units in R-G District.
 - 1. Any proposed Garden Apartment development containing more than sixty (60) dwelling units in any one R-G zoning district, shall conform to the requirements as set forth in this section and shall require a special permit from the City Council under the provisions of Section 4, Chapter 40A of the General Laws.
- C. Spacing of Residential Buildings
See Plate 3 and Section 4.301

**SECTION 7.715 DWELLINGS, MULTI-FAMILY REQUIREMENTS
(ORD #655, 1990)**

A. Purpose

It is the intent of these provisions to encourage the erection of multi-family dwellings in areas appropriate to such use, subject to conditions and safeguards which will promote the purpose of zoning and the comprehensive plan.

B. Requirements.

In addition to, or in modification of, other applicable provisions and requirements of this ordinance, the following special provisions and requirements shall apply in the case of multi-family dwellings;

1. More than One Building on a Lot

In a multi-family apartment development, more than one principal building may be permitted on a lot provided that such lot meets the minimum lot width requirements for the respective district as set forth in Section 4.203 of this ordinance.

2. Lot Area

The minimum lot area for the first dwelling unit shall be six thousand (6,000) square feet. For each additional dwelling unit, another fifteen hundred (1500) square feet of lot area shall be provided.

3. Height Lot Coverage Percent and Yard Requirements

- a. Maximum building height lot coverage percent and minimum yard requirements for multi-family dwellings erected in R-M District area as set forth in Section 4.203, "Schedule of Intensity Regulations", provided, however, if building is over two stories in height, the minimum setback from side lot lines shall be increased by ten (10) feet per each story over two, and from rear lot line by five (5) feet per each story over two.
- b. The minimum side yard requirements for any proposed multi-family dwelling located on a lot which abuts an R-6, R-12, R-20 or R-43 zoning district shall be increased by an additional ten (10) feet.

4. Multi-Family Dwellings in B-G and B-N Districts.

- a. Multi-family dwellings erected in a B-G or a B-N district shall be subject to all the requirements for an R-M District as set forth in Section 4.203, Schedule of Intensity Regulations, and the requirements of this section, except that such structures shall be no greater in height than four (4) stories or fifty (50) feet. **[Amended 1-11-2005 by Ord. No. 938]**
- b. Multi-family dwelling units may be established as a secondary or accessory use in a building which has as its primary use, other principal permitted uses. The multi-family dwelling units will be exempt from the requirements of Section 7.715 provided that fifty (50) percent or less of the gross floor area of the building, excluding basement, cellar or attic areas used only for storage, heating or other mechanical equipment, and appurtenance to the structure used as enclosed stairway, balconies, bay windows, or functioning as a cover for walkways, is devoted to multi-family dwelling units.

5. Open Space Requirements

- a. The minimum area of developed playgrounds, recreational areas or otherwise usable, suitably landscaped open space shall be one hundred (100) square feet per bedroom. This required open space must be provided in addition to the required yard setbacks.
- b. Credits to Open Space: One half of the area developed as recreational space in the form of solariums, roof gardens or terraces on roofs of buildings or structures for general use of residents, may be credited toward total recreational requirements under Section 7.715, B, 5, a, if in the judgment of the Community Development Board, they are functional and in accordance with reasonable site planning standards. **[Amended 6-28-2022 by Ord. No. 1250]**
- c. Parking and play areas shall be so designed and located as to be safely and conveniently accessible from the buildings which they are intended to serve.

6. Access and Internal Ways

- a. Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.
- b. A multi-family development having a total of forty (40) dwelling units or more, shall have a minimum of two access ways from the public way, which shall conform with the standards set forth in the "Subdivision Rules and Regulations", of the City of Pittsfield.
- c. A multi-family development, consisting of between five (5) and thirty-nine (39) units shall have a minimum width driveway of sixteen (16) feet or two (2) driveways of lesser width. No space shall be considered available for parking which reduces the effective width of a driveway to less than the required width.

7. Location

Applicant shall provide such maps, plans, drawings or reports as are necessary to indicate:

- a. That suitable major streets are available to the property and that the property can be reached without creating undue traffic congestion on minor streets in residential neighborhoods;
- b. That the property, if developed as proposed, will not be subject to hazards such as objectionable smoke, noxious odors, unusual noise, probability of flood or erosion; and that conditions of soil, ground water level, drainage, rock formations and topography will not create hazards to the property or to the health and safety of the occupants;
- c. That the proposed development shall be so located that essential community services, including water supply, sewerage system, drainage, police and fire protection shall be available and adequate for the development based on reports and recommendations from appropriate city agencies, or that suitable provisions will be made assuring these services.

8. Bond Required

Unless the installation of public services and construction of common facilities, such as internal streets, walkways, parking and play areas, drainage, landscaping and screening has been completed, no certificate of occupancy shall be issued by the Building Inspector for any part of the development until the applicant shall have filed in the Office of the City Clerk, a bond with surety satisfactory to the Building Inspector and approved as to form and legality by the City Solicitor. Such bond shall be in the amount sufficient in the judgment of the Department of Public Works to secure the completion of such work in compliance with all applicable statutes, ordinances, and regulations and in accordance with the site plan approved by the Community Development Board. **[Amended 6-28-2022 by Ord. No. 1250]**

9. Spacing of Residential Buildings

See Plate 3 of Section 4.301.

C. Affordable Housing Bonus

A Special Permit may be granted by the Community Development Board allowing an increase in density, and/or the reduction or elimination of any of the foregoing requirements for any applicant providing affordable housing units, based on the following criteria: **[Amended 6-28-2022 by Ord. No. 1250]**

1. Any rental development which includes thirty (30) percent or more of total units, whether subsidized or non-subsidized, to be available to households with an income at or below eight (80) percent of the median income for the City of Pittsfield, will be eligible.

- a. The median income adjusted for household size is as established by HUD (U.S. Department of Housing and Urban Development pursuant to 42 USC 1437 et. seq.) calculated as per regulations.
2. Rents will be limited to the existing local fair market rents as established by HUD. This information must be submitted with the application.
3. Any development which includes thirty (30) percent or more of its total units, whether subsidized or non-subsidized, to be available for homeownership to households with an income level at or below the median income for the City of Pittsfield. The median income is determined according to Section C(1)(a).
 - a. Sales prices and building requirements shall be based on guidelines described in the Massachusetts Housing Partnership's Home Ownership Program if the applicant so chooses to pursue the state subsidy, or
 - b. The applicant must establish sales price which address the same household income group as stated in Section C(3), but will not require a state subsidy, or which meet any local public or private affordable housing ownership programs. Details evidencing the feasibility and affordability of the sales prices of the affordable units must be submitted with the application.
4. The applicant must demonstrate that the increased number of units, or that the reduction or elimination of any of the requirements of Section 7.715 will be in harmony with the purpose of zoning and intent of this section.

SECTION 7.716 FLAMMABLE LIQUIDS OR GASES, BULK STORAGE, REQUIREMENTS:

- A. No building or structure on the premises may be used for gas storage in quantities exceeding five hundred thousand (500,000) cubic feet within one hundred (100) feet of any property line; or in quantity exceeding two hundred (200) cubic feet, if the pressure is greater than one hundred (100) pounds per square inch, within fifty (50) feet of any property line; or for oil storage in quantity exceeding ten thousand (10,000) gallons above the ground within fifty (50) feet of any property line.
- B. Such use shall not be located within two hundred (200) feet of a Residence District or a site used for residential or institutional purposes.
- C. Before any building permit or certificate of occupancy may be issued for keeping, storage, or selling of flammables, such use shall comply with all applicable provisions of the "City Code".

SECTION 7.717 TERMINALS, TRUCK, RAIL, OR FREIGHT, REQUIREMENTS

- A. The applicant shall provide such maps, plans, drawings or reports as are necessary to indicate:
 1. That suitable major streets are available to the development, and that the development shall not draw vehicular traffic to and through local streets in nearby residential areas;

2. Such uses shall not be located within two hundred (200) feet of a Residence District. **(ORD #667-1990)**
- B. Any such use located in a LDI District shall: **(ORD #438-1983)**
1. Require a special use permit from the Pittsfield Community Development Board under the provisions of Chapter 40A of the General Laws as amended. **[Amended 6-28-2022 by Ord. No. 1250]**
 2. Conform to the requirements as set forth in Subsection A.
 3. No driveway for ingress and/or egress shall be wider than twenty-five feet (25') at the street line of the property.
 4. Lighting shall be so shielded to cast no direct light upon adjacent property or public way.

SECTION 7.718 GOLF COURSES, REGULAR OR PAR 3, OR GOLF DRIVING RANGES, REQUIREMENTS:

- A. The following requirements shall apply to all golf courses or golf driving ranges individually or as a part of a country club or athletic club or association:
1. The minimum front setback of all buildings or structures shall be seventy-five (75) feet. Off-street parking and loading shall be prohibited in this area.
 2. Side and rear yard shall be not less than seventy-five (75) feet, except when such use abuts a residential use or land zoned for residential purposes, the side and rear yards shall be not less than one hundred (100) feet.
 3. Parking or loading facilities which are located within thirty (30) feet of any property line of abutting residential or institutional use shall be provided with a continuous screen along such property line, in accordance with the screening regulations of this ordinance.
 4. No green shall be located nearer to any property line than one hundred fifty (150) feet.
 5. Lighting shall be so shielded as to cast no direct light upon adjacent property or public ways.
 6. The area between the front property line and building setback line shall be suitably landscaped and maintained with grass, trees, shrubs or walks.
 7. Where outdoor lighting is provided for activities after normal daylight hours, such lights shall be extinguished no later than 11:00 p.m.
 8. Golf Driving Ranges shall provide a driving range of not less than three hundred fifty (350) yards in depth along the driving axis measured from the location of the tees and a breadth of not less than two hundred (200) yards at a distance of three hundred fifty (350) yards measured from the location of the tees.

SECTION 7.719 HOSPITALS OR SANATORIUMS, REQUIREMENTS:

- A. The minimum lot size for any such use shall be five (5) acres.
- B. Front and rear yards shall be at least fifty (50) feet in depth.
- C. Side yards shall be at least fifty (50) feet in width.
- D. The maximum portion of the lot to be covered by all buildings or structures shall be twenty-five (25) percent.
- E. Any driveway for ingress or egress for such use shall be located at least forty (40) feet from any adjacent lot line.
- F. Sources of potential nuisance factors, including laundry operations power plants, restaurants or cafeterias, kitchens, ambulance or emergency patient entrances, unloading areas for supplies and food, garbage loading areas, incinerators, and animal laboratories shall be located at least two hundred (200) feet from any adjacent lot line.
- G. Off-street parking and loading areas shall comply with design standards and all other applicable provisions of this ordinance.
- H. The front yard and all open areas shall be suitably landscaped and maintained with grass, trees, shrubs or walks.
- I. Outdoor lighting shall be so shielded as to cast no direct light upon adjacent property or public ways.
- J. Within the development, vehicular circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.
- K. The special requirements set forth in this section 7.719A through E inclusive shall not apply to Hospitals or Sanatoriums in a B-G District **(ORD #647, 1989)**.
- L. The maximum height of a Hospital or Sanatorium in a B-G district shall not exceed 4 stories or 50 feet unless the following additional special requirements are found to have been satisfied by the Community Development Board in its site plan review, in which case the maximum height may be increased to a height not to exceed 13 stories or 125 feet. **[Amended 6-28-2022 by Ord. No. 1250]**
 - 1. A fire suppression system, approved by the local fire department, will be installed in the Building.
 - 2. The traffic impact from such increase on immediately adjacent surrounding streets and intersections can be accommodated in accordance with reasonable traffic engineering standards; and
 - 3. The increase in height is consistent with the master plan, existing surrounding uses and the character of the surrounding neighborhood **(ORD #647, 1989)**

**SECTION 7.720 LUMBER OR BUILDING MATERIAL YARDS, REQUIREMENTS
(ORD #635, 1989).**

- A. Such use shall not be located within two hundred (200) feet of a Residence District.
- B. Before any building permit or certificate of occupancy may be issued for lumber or building material yards, such use shall comply with all applicable provisions of the "City Code", including, but not limited to, Section 4.309, Screening.

**SECTION 7.721 MANUFACTURING, PROCESSING OR FABRICATION, LISTED USES
IN I-L DISTRICTS - MANUFACTURING OR PROCESSING OF
FOODSTUFFS, TEXTILES, ELECTRICAL COMPONENTS,
FABRICATION OF WOOD, LEATHER, PAPER, WATER OR PLASTIC
PRODUCTS , FABRICATION OR ASSEMBLY OF PRODUCTS FROM
PREVIOUSLY PREPARED MATERIALS, REQUIREMENTS:**

- A. Performance Standards

Any newly established use under this section shall conform with the performance standards as set forth in this ordinance. 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. Landscaping

Any front yard shall be suitably landscaped with grass, trees, shrubs or walks in accordance with plans filed with the application for a building permit, the approval of which plans by the Community Development Board shall be a prerequisite to granting of a permit. **[Amended 6-28-2022 by Ord. No. 1250]**

**SECTION 7.722 MANUFACTURING, PROCESSING OR FABRICATION OF ANY
UNLISTED PRODUCT OR MATERIAL, REQUIREMENTS.**

- A. Performance Standards

Any newly established use under this subsection shall conform with the performance standards set forth in this ordinance. 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. Evidence of Conformity

With respect to any application for a building permit or a certificate of occupancy for any use, under this subsection, the Community Development Board may require the applicant, at his own expense, to provide such evidence as the Board may deem necessary to determine whether or not the proposed use will conform to the performance standards set forth in this ordinance, and in connection therewith, the Board may obtain expert advice at the expense of the applicant; and payment in advance of the expense of the applicant; and payment in advance of the amount of such expense shall be a condition of further consideration of the application. Where appropriate,

the Community Development Board may require the installation, maintenance and operation by the applicant, at the applicant's expense of continuous recording instruments, to demonstrate the operation or effect of operations of any machines or devices used to control or lessen noise, vibration, glare, air pollution, water pollution, fire hazards or safety hazards. **[Amended 6-28-2022 by Ord. No. 1250]**

C. Fire and Explosion

No production or manufacture of solid materials or products which have a low ignition temperature, a high rate of burning, or create great heat, and no materials producing flammable or explosive gasses or vapors under ordinary temperature conditions shall be permitted.

SECTION 7.723 NURSERIES (RETAIL), LANDSCAPE GARDENING OR GREENHOUSES, REQUIREMENTS.

- A. The minimum lot size for any one or combination of the above named use shall be five (5) acres.
- B. The minimum lot width, yard requirements, and maximum lot coverage percent shall conform to the respective requirements of the district where such uses are located.
- C. No fertilizers, materials, equipment or machinery shall be stored within the required front, side or rear yards.
- D. Parking and loading facilities which are located within thirty (30) feet of any property line of abutting residential or institutional use shall be provided with a continuous screen along such property line, in accordance with the screening regulations of this ordinance.
- E. Where such property is located in a Residence District or adjacent to land in residential or institutional use, no driveway for ingress or egress to such property shall be closer than fifty (50) feet from any adjacent property line.
- F. Lighting shall be so shielded as to cast no light upon adjacent property or public way.

SECTION 7.724 OFFICES, ADMINISTRATIVE, DEVOTED TO SINGLE USE, REQUIREMENTS

- A. The minimum size of the lot for such use shall be fifteen (15) acres.
- B. The minimum width of the lot shall be five hundred (500) feet.
- C. The maximum portion of the lot to be covered by buildings shall be ten (10) percent.
- D. No building or structure, except signs as specified below, shall be located within less than one hundred (100) feet of any street line or property line.
- E. Except with a special permit from the Board of Appeals, no more than two signs with combined total area not exceeding one-half square foot for each linear foot of lot frontage may be erected, but in no event shall such total sign area exceed one hundred (100) square feet, provided they are set back at least fifty (50) feet from the front and side lot lines.

- F. Only transient automobile parking may be located between a principal building and a street line but not within the required front yard.
- G. Parking or loading facilities which are located within thirty (30) feet of any property line of abutting residential or institutional use shall be provided with a continuous screen along such property line, in accordance with the screening regulations of this ordinance.
- H. Where such property is located in a Residence District or adjacent to land in residential or institutional use, no driveway for ingress or egress to such property shall be closer than fifty (50) feet from any adjacent property line.

SECTION 7.725 PARKING LOT, COMMERCIAL, REQUIREMENTS:

- A. The proposed development shall be so located with relation to major thoroughfares and uses outside the development as not to create traffic congestion and as not to adversely affect such uses adjacent to such thoroughfares.
- B. No driveway for ingress or egress for such use shall be wider than twenty-five (25) feet at the property line.
- C. Where such use is located at the intersection of two streets, the location of such ingress or egress shall be not less than fifty (50) feet from the point of intersection of the property line in each direction.
- D. Where such use is adjacent to a Residence District or residential or institutional use, the location of such ingress or egress shall be not less than fifty (50) feet from such adjacent lot line.
- E. No driveway for ingress or egress for such use shall be within one hundred (100) feet of any adjacent park or playground.
- F. Within the development, vehicular circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.
- G. Any such parking lot shall comply with design standards for parking areas and all other applicable provisions of Section 23-10.1 of this Ordinance.
- H. Parking lots shall not be used for storage of new or used motor vehicles for sale or hire.

SECTION 7.726 PLANNED OFFICE USES IN R-M DISTRICT, REQUIREMENTS:

In addition to or in modification of other applicable provisions and requirements of this ordinance, the following special requirements shall apply in case of office use in R-M Districts designed exclusively for such uses:

- A. Intensity Regulations
 - 1. No structure shall exceed four (4) stories or fifty (50) feet.

2. Front setback line shall be at least thirty(30) feet.

B. Ingress or Egress

No driveway for ingress or egress shall be wider than twenty-five (25) feet at the street line and at least twenty-five (25) feet from adjacent lot lines.

C. Screening

A continuous screen shall be provided along any property line abutting upon a residential or an institutional use, in accordance with screening regulations of this ordinance.

D. Lighting

Lighting shall be so shielded as to case not direct light upon adjacent property or public way.

E. Landscaping

Front yard and all open areas shall be suitably landscaped and maintained with grass, trees, shrubs or walks.

F. Signs

Not more than two development signs with total sign area not exceeding thirty-two (32) square feet, denoting the name and address of the development or the names of occupants, may be erected and maintained on the premises provided they are setback at least one half the depth of the required front yard.

G. Off-Street Parking

Off-street parking shall be provided in the amount equal to the total of the requirements for all uses in accordance with off-street parking regulations of this ordinance.

H. Circulation

Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.

SECTION 7.727 RIDING STABLES, COMMERCIAL, REQUIREMENTS

A. Any commercial riding stable and its customary appurtenances hereafter established shall have a minimum lot of not less than five (5) acres.

B. Such riding stable and accessory buildings, shall be set back at least seventy-five (75) feet from any property line.

C. The riding area or riding ring shall be located no nearer a public right-of-way than the front setback requirements for the district in which such use is located, and no nearer than twenty-five (25) feet to any side or rear property line.

- D. Lighting shall be so shielded as to cast no direct light upon adjacent property or public ways.
- E. Areas for manure heaps or composting shall be located a minimum of two hundred (200) feet from any property line and shall be screened in such a manner as to be not visible from adjacent properties, in accordance with the screening regulations of this ordinance.

SECTION 7.728 EDUCATIONAL USES, REQUIREMENTS:

- A. In addition to meeting all dimensional requirements as set forth in the "Schedule of Intensity Regulations" of this ordinance, schools with residence accommodations shall provide an additional five hundred (500) square feet of usable lot area for each site resident. Residents shall include students, staff members and their families, and caretakers and their families who reside for any part of the school year on the premises.
- B. Any driveway for ingress or egress for such use shall be located at least forty (40) feet from any residential zoning lot.
- C. Sources of potential nuisance factors, including cafeterias, power plants, kitchens, gymnasiums, unloading areas for supplies and food, garbage loading areas, and outdoor play areas shall be located a minimum of two hundred (200) feet from any residential zoning lot and shall be screened, in accordance with screening regulations of this ordinance, so as to be not visible from adjacent lots in residential use. Outdoor recreation areas are exempt from the screening requirements.
- D. Off-street parking and loading areas shall comply with all applicable provisions of this ordinance.
- E. The front yard shall be suitably landscaped and maintained with grass, trees, shrubs or walks.
- F. Outdoor lighting shall be so shielded as to cast no direct light upon adjacent property or public way.
- G. Private schools shall comply with Department of Health regulations and any other laws and regulations pertaining to the establishment and maintenance of such use.
- H. Any Educational Use renting space in a B-D, B-C, B-G, C-W-S, I-L and I-G zone will be exempt from the foregoing requirements, but must comply with all other applicable zoning requirements.

SECTION 7.729 SHOPPING CENTERS, PLAZAS, MALLS, REQUIREMENTS (BD DISTRICT ONLY)

- A. The proposed use shall be so located with relation to major thoroughfares and uses in the neighborhood as not to create traffic hazards, and as not to adversely affect such other uses in the neighborhood.
- B. The proposed use shall not draw excessive traffic to and through local streets in nearby residential areas.
- C. Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.

- D. Off-street parking and loading areas shall comply with the design standards and all other applicable provisions of "Article 23-10" of this ordinance.
- E. Except with a special permit from the Board of Appeals, no more than two development signs, with total sign area not exceeding one hundred (100) square feet, may be erected and maintained in addition to one or more accessory signs for each business establishment not exceeding in aggregate surface area five (5) square feet per linear foot of frontage of the facade of the particular business establishment or of the lot on which it is located, subject to all other applicable sign regulations of this ordinance.

SECTION 7.730 SKIING AREAS, COMMERCIAL, INCLUDING THE USE OF SUCH AREAS FOR RECREATIONAL PURPOSES SUCH AS SWIMMING, TENNIS, HEALTH CLUBS, HORSEBACK RIDING, CHAIR LIFT RIDES, AND RELATED ACCESSORY USES INCLUDING SPORT SHOPS, RESTAURANT AND LODGING FACILITIES, REQUIREMENTS.

- A. The minimum site size for such use shall be one hundred (100) acres.
- B. The minimum setback of all buildings, and structures from any property line shall be one hundred (100) feet, with the exception of lodging facilities which shall be set back at least five hundred (500) feet from any street line and two hundred fifty (250) feet from any other property line.
- C. Off-street parking shall be provided on the premises for maximum use of all facilities. Parking facilities which are located fifty (50) feet from any property line shall be provided with the screening regulations of this ordinance.

SECTION 7.731 SLAUGHTERHOUSES OR DRESSING PLANTS, REQUIREMENTS

- A. All slaughterhouses, scalding, dressing of carcasses, smoking of meat, or other processing, as well as storage of any animal products, shall be conducted with a building designed and constructed to comply with the requirements of the Massachusetts Department of Health and the City of Pittsfield Health Department.
- B. No portion of a building or other enclosure to be used for retention of animal products shall be located less than three hundred (300) feet from a Residence District or site used for residential or institutional purposes.
- C. Character and quantity of fluid waste discharged into a public sewerage disposal system shall conform to the standards governing such uses set by the Massachusetts Department of health and the City of Pittsfield Health Department.
- D. Evidence of Conformity. With respect to any application for a building permit or a certificate of occupancy for such use, the Community Development Board may require the applicant, at his own expense, to provide such evidence as the Board may deem necessary to determine whether or not the proposed use will conform tot he performance standards as set forth in this ordinance, and in connection therewith, the Board may obtain expert advise at the expense of the applicant;

and payment in advance of the amount of such expense shall be a condition of further consideration of the application. Where appropriate, the Community Development Board may require the installation, maintenance and operation by the applicant, at the applicant's expense, of continuous recording instruments to demonstrate the operation or effect of operations of any machines or devices used to control or lessen noise, vibration, glare, air pollution, water pollution, fire hazards or other hazardous conditions. **[Amended 6-28-2022 by Ord. No. 1250]**

SECTION 7.732 AGRICULTURAL USES, INVOLVING, LIVESTOCK SUCH AS, BUT NOT LIMITED TO, DAIRY, POULTRY, STOCK FARMING, PIGGERIES, OR FUR FARMS, REQUIREMENTS:

- A. The minimum lot size for any one or combination of the above-named uses shall be five (5) acres.
- B. The minimum lot width, yard requirements, and a minimum lot coverage percent shall conform to the respective requirements of the district where such uses are located.
- C. No fertilizers, materials, equipment or machinery shall be stored within the required front, rear or side yards.
- D. Parking and loading facilities which are located within thirty (30) feet of any property line of abutting residential or institutional use shall be provided with a continuous screen along such property line, in accordance with the screening regulations of this ordinance.
- E. Where such property is located in a Residence District or adjacent to land in residential or institutional use, no driveway for ingress or egress to said property shall be closer than fifty (50) feet from any adjacent property line.
- F. Lighting shall be so shielded as to cast no light upon adjacent property or public way.
- G. Where such land is located in a Residential District or adjacent to land in residential or institutional use, no areas for manure heaps or composting shall be located nearer than two-hundred (200) feet from any property line and shall be screened in such a manner as to be not visible from adjacent properties, in accordance with the regulations of this ordinance.

SECTION 7.733 GROUP HOMES (ORD. #489-1984 & ORD.#821-1997)

- A. Lot area, width, yards, frontage, percent of lot coverage and building height shall conform to respective requirements of the district where such use is located, or in the case of business and industrial districts, the Schedule of Intensity Regulation for RM Districts shall apply.
- B. All required yards shall be suitably landscaped and maintained with grass, shrubs or walks.
- C. Office space shall be limited to a maximum of 20% (percent) of the gross floor area.
- D. Use of premises for counseling may be allowed.
- E. The number of people occupying a group home shall be in accordance with the definition of a groups home as set forth in this ordinance.

- F. Outdoor lighting shall be shielded so as to cast no direct light upon adjacent properties or public ways.
- G. No public address system shall be permitted.
- H. It is recommended that a minimum of four (4) off-street parking spaces be provided. The parking area must be screened from adjacent residential or institutional uses in accord with the requirements of Section 4.309B of this ordinance.

SECTION 7.734 ANIMAL SHELTER REQUIREMENTS (ORD.#861 – 1999)

A. PURPOSE:

To assure the compassionate care, treatment and, whenever possible, the placement of homeless animals through an animal shelter operation.

To promote and improve the welfare of all animals through community education.

B. REQUIREMENTS:

1. The minimum lot size for any such use shall be five (5) acres. In the event a lot is transected by a District Boundary Line, the combined acreage may be used as long as the use is permitted in both Districts;
2. Front and rear yard shall be at least fifty (50) feet in depth;
3. Side yards shall be at least fifty (50) feet in width;
4. The maximum portion of the lot to be covered by all buildings or structures shall be twenty-five (25%) percent;
5. Sources of potential nuisance factors, including animal housing and storage shall be located at least 75 feet from any adjacent lot line;
6. Off-street parking and loading areas shall comply with design standards and all other applicable provisions of this Ordinance;
7. The front yard and all open areas shall be suitably landscaped and maintained with grass, trees, shrubs or walks
8. Outdoor lighting shall be so shielded as to cast no direct light upon adjacent property or public ways;
9. Within the development, vehicular circulation facilities shall be provided for a safe and convenient use in accordance with reasonable site planning standards for the site;
10. Municipal sewer and water shall be available to the site and shall serve all uses as required;

11. Accessory uses shall be primarily for the use, convenience of the staff, shelter animals and the public served as well as for educational and fund raising purposes associated therewith;
12. Animal Shelters in the IL and the IG Zones are exempt from the following requirements of this section: B1, B2, B3, B4, B5.

SECTION 7.735 -- MARIJUANA CULTIVATION, MANUFACTURING, PROCESSING; MARIJUANA TESTING AND RESEARCH IN I-L, I-G, C-W-S, OR L-D-I ZONING DISTRICTS. [Added 4-10-2018 by Ord. No. 1202]

- A. Purpose. The intent of this section is to address local siting and land use concerns in relation to the legalization of medical and recreational marijuana in the commonwealth following ballot initiatives in 2012 and 2016. The granting of a site plan approval by the City of Pittsfield does not supersede state or federal laws or preempt an applicant from complying with all relevant state and federal laws.
- B. Applicability. Site plan review under this section shall be required for any principal or accessory use or combination of uses which also involves the cultivation, manufacturing and processing and/or laboratory testing and research of marijuana and marijuana-derived products in a I-L, I-G, C-W-S, L-D-I Zoning District. Commercial scale (non-personal) outdoor marijuana cultivation is prohibited throughout the City. **[Amended 2-23-2021 by Ord. No. 1233]**
- C. Performance standards.
 - (1) No marijuana cultivation, manufacturing, processing use or laboratory testing and research use shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades 1 through 12, any public playground, or licensed day care.
 - (2) Applications for site plan review shall include a project impact statement which addresses potential impacts of the use on traffic, on-site parking, stormwater runoff, lighting, and landscaping.

SECTION 7.736 – (RESERVED)²

SECTION 7.737 -- SMALL-SCALE GROUND-MOUNTED SOLAR ENERGY SYSTEMS, PRINCIPAL USE. [Added 3-12-2019 by Ord. No. 1214]

- A. Intent and Purpose. The purpose of this section is to provide for the construction and operation of solar energy systems and to establish standards for the placement, design, construction, monitoring, modification and removal of solar energy systems that address public safety, minimize impacts on scenic, natural and historic resources of the City, and provide adequate financial assurance for decommissioning. The provisions set forth in this section shall take precedence over all other sections of the Pittsfield Zoning Ordinance when considering applications related to the construction, operation and/or repair of solar energy systems.

² Editor's Note: Former Section 7.736, Outdoor marijuana cultivation requirements, added 4-10-2018 by Ord. No. 1202, was repealed 2-23-2021 by Ord. No. 1233.

- B. Establishment. This section is adopted pursuant to MGL c. 40A. This section applies to the installation, siting and approval of solar energy systems within the various zoning districts of the City.

The Community Development Board shall act as the administering authority for any site plan review procedure associated with this section according to Section 7.3 and Section 7.7 of the Pittsfield Zoning Ordinance.

C. Applicability.

1. Requirements under Section 7.737D shall apply to all solar energy systems. Applicants for small-scale ground mounted solar energy systems shall require site plan review pursuant to Section 4.202 of this chapter, and shall adhere to the criteria and procedures found in Section 7.3 and Section 7.7 of the Pittsfield Zoning Ordinance.
2. Expiration. A special permit issued pursuant to this section shall expire if: i) the solar energy system is not installed and functioning within 24 months from the date the permit is issued; or ii) the solar energy system is abandoned. The Pittsfield Zoning Board of Appeals may extend the special permit if it deems there are unique circumstances that justify a delay in the installation and/or functioning of the solar energy system.

D. Requirements.

1. General requirements for all solar energy systems.
 - a) Compliance with laws. The construction and operation of all proposed solar energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.
 - b) Construction deadlines. If the solar energy system is not installed and functioning within 24 months from the date the building permit is issued, the solar energy system is considered abandoned unless an extension of the special permit has been approved.
 - c) System conditions: Owners of solar energy systems shall be responsible for maintaining them in good condition. Maintenance shall include, but not be limited to, structural repairs and integrity of security measures. Site access shall be maintained to a level acceptable to the Pittsfield Fire Chief. The project owner shall be responsible for the cost of maintaining the solar energy system and any access road(s), and the cost of repairing any damage occurring as a result of operation and construction.
 - d) Modifications: All material modifications, including but not limited to alterations to the type, size, location or configuration of a solar energy system, made after issuance of any approval issued pursuant to this section shall require approval by the Zoning Board of Appeals as provided in this section.
2. Roof-mounted and accessory small-scale solar energy systems. Roof-mounted and accessory solar energy systems shall be permitted in accordance with Section 9.207 of the Zoning Ordinance.

3. Small-scale ground-mounted solar energy systems, principal use.
 - a) Small ground-mounted solar energy systems shall not be erected, constructed, installed or modified as provided in this section without first obtaining a building permit.
 - b) Small scale ground-mounted solar energy systems shall be sited in accordance with the table of permitted uses under section 4.202
 - c) Small-scale ground-mounted solar energy systems shall be located at least 25 feet from all property lines or outside of the required setbacks for a primary structure in the zoning district the property is located, whichever is greater.
 - d) Small-scale ground mounted solar energy systems shall be located at least 200 feet from any abutting residential zoning district or residential use.
 - e) In addition to preserving as much existing vegetation as possible, screening shall be provided to shield the system from public view, as determined by the Zoning Board of Appeals.

E. Operation, Monitoring and Maintenance.

1. Facility Conditions. The small-scale ground mounted solar energy system's owner or operator shall maintain the facility in good condition. Maintenance shall address all elements of the project, including but not limited to, structural repairs, landscaping and screening, fencing and other security measures, stormwater management, and access. The project owner shall be responsible for the cost of maintaining the solar energy system and any access road(s), and the cost of repairing any damage occurring as a result of operation and construction.
2. Operation and Maintenance Plan. The project applicant shall submit a plan for the operation and maintenance of the small-scale solar energy system as part of the special permit application. This plan shall include measures for maintaining safe access to the installation, stormwater management control, and general procedures for operational maintenance of the facility.
3. Modifications. All material modifications to a solar energy facility made after issuance of the permit shall require site plan approval by the Community Development Board.

- F. Municipal Solar Energy Systems. Solar energy systems, whether ground mounted or roof mounted, of any scale, may be installed as of right on municipally-owned or leased property in all zoning districts.

**SECTION 7.8 CONDITIONAL USES REQUIRING SPECIAL USE PERMIT
(USE GROUP SP)**

SECTION 7.801 SPECIAL USE PERMIT ISSUED BY BOARD OF APPEALS

The Board of Appeals, or such other Special Permit Granting Authority as set forth elsewhere herein, may issue a special use permit for any SP GROUP USES in accordance with requirements, standards and procedures as set forth herein and in "Article 23-13" of this ordinance.

SECTION 7.802 SITE PLAN APPROVAL BY COMMUNITY DEVELOPMENT BOARD
[Amended 6-28-2022 by Ord. No. 1250]

A site plan recommendation by the Community Development Board shall be required for any GROUP SP USES. Such approval shall not be withheld unless the proposed development will violate any provision of this ordinance in which case the Community Development Board may require such revision of the plan as may be necessary to insure compliance with applicable provisions of this ordinance. No special use permit shall be issued by the Special Permit Granting Authority for any GROUP SP USES except in conformity with an approved site plan unless thirty (30) days have elapsed from the date of submission of the plan to the Community Development Board without any action by the Board as provided in Section 13.2 of this ordinance. A site plan, once approved, shall become a part of a permit.

SECTION 7.803 CONFORMITY WITH SITE PLAN

No building permit or certificate of occupancy may be issued for any building or use of land, grouped as SP USES, unless the building is constructed or used, or the land is developed and used in conformity with an approved site plan or any amendment of such plan.

SECTION 7.804 ADDITIONAL REQUIREMENTS FOR PROTECTION OF PUBLIC
[Amended 6-28-2022 by Ord. No. 1250]

The Community Development Board may recommend and the Special Permit Granting Authority may impose additional requirements as in its judgment are necessary for the protection of the public health, safety and welfare.

SECTION 7.811 AIRPORTS OR HELIPORTS, REQUIREMENTS:

A. Requirements:

1. Any airport or heliport shall be developed in compliance with regulations of the Federal Aviation Agency.
2. No area used by any aircraft under its own power shall be located within a distance of two hundred (200) feet from any property line, or one thousand (1,000) feet from any lot in residential or institutional use, or one thousand (1,000) feet from any business districts on the approach and departure ends of the runways.
3. All buildings, hangers, or other structures shall be at least two hundred (200) feet from any property line.
4. No off-street parking areas shall be permitted within one hundred (100) feet of any property line.
5. Every land area used by an aircraft under its own power shall be provided with an all-weather surface.

B. Accessory Uses

Any use which is either necessary to the operation of an airport or heliport, or customarily incidental to such use, shall be permitted including restaurants, snack bars, shops, car rental, taxi and limousine service facilities, and accessory buildings or structures for aircrafts sales, rental, repair and storage.

SECTION 7.812 AUTO SERVICE STATIONS, REQUIREMENTS:

Any proposed Auto Service Station shall:

- A. Require a special permit from the City Council under the provisions of Section 9, Chapter 40A, of the General Laws.
- B. Be subject to all the applicable provisions as set forth in Section 7.1 to 7.703 and Sections 7.801 to 7.804 of this ordinance, except that the authority delegated to the Board of Appeals shall be exercised by the City Council.
- C. Comply with all provisions of the City Code, pertaining to the establishment and maintenance of such uses.
- D. Comply with the following minimum requirements:
 1. No driveway for ingress or egress shall be wider than twenty-five (25) feet at the property line and shall be curbed.
 2. Where such use is located at the intersection of two streets, the location of any driveway shall be no closer than thirty (30) feet from the point of intersection of the property line in each direction.

3. Where such use is adjacent to a Residence District or a site in residential or institutional use, the ingress or egress for such use shall be located not less than forty (40) feet from the adjacent property line.
4. Lighting shall be so shielded as to cast no direct light upon adjacent property or public ways.
5. No gasoline pump shall be located nearer than twenty (20) feet to any street boundary line.
6. Parking of motor vehicles for a fee or awaiting damages estimates, and storage or display of trailers, campers, boats or similar equipment is expressly prohibited.

SECTION 7.813 BUS TERMINALS, REQUIREMENTS

- A. The proposed development shall be so located with relation to major thoroughfares and uses outside the development as not to create traffic congestion and as not to adversely affect such uses adjacent to such thoroughfares.
- B. If a bus terminal is located adjacent to any residential or institutional use, there shall be erected a wall or solid hedge, or both, as a protective device for such adjacent properties in the manner as approved by the Board of Appeals.
- C. No automobile or bus parking space shall be located in any required front setback area of the district where such use is located.
- D. Major servicing and repairing of buses are expressly prohibited.
- E. In addition to the plans and information required in Article 23-7, Section 7.3, the following information and development data shall be filed with the Board of Appeals.
 1. Movement of all buses, both arriving and departing between the bus terminal and the City limits, including a daily schedule of all buses;
 2. Relation of terminal to local transit routes;
 3. The location and design of off-street bus loading stations and parking areas for patrons, including adequate temporary bus parking and turning movements;
 4. Vehicular and pedestrian circulation facilities provided for safe and convenient uses within the development in accordance with reasonable site planning standards.

SECTION 7.814 CAMPING FACILITIES, REQUIREMENTS:

- A. Purpose

The purpose of these requirements is to provide regulations for areas developed for rental of cabins and site for tents, campers or travel trailers for the use of vacationers and travelers, including sanitary, cooking, recreation and parking facilities for patrons.

B. Requirements

1. No building or structure shall be located within one hundred (100) feet of any property line.
2. No driveway for ingress or egress for such use shall be located within forty (40) feet of any lot line.
3. Camping sites, parking spaces for campers or trailers, and unenclosed recreational facilities shall be located not less than one hundred (100) feet from any property line and shall be screened in such a manner as to be not visible from adjacent lots in residential or institutional use, in accordance with the screening regulations of this ordinance.
4. The number of parking sites for travel trailers or similar vehicles shall not exceed the total number of cabins and camping sites.
5. Lighting shall be so shielded as to cast no light upon adjacent property or public ways.
6. Where outdoor lighting is provided for activities after normal daylight hours, such lights shall be extinguished not later than 11:00 p.m.
7. No public address system shall be permitted except where such system is inaudible at any property line.
8. Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.
9. Camping areas shall comply with Department of Health regulations and any other laws and regulations pertaining to the establishment and maintenance of such use. No special use permit shall be issued by the Board of Appeals unless and until the Commissioner of Public Health of the City of Pittsfield has approved those aspects of the development which come under his jurisdiction.

SECTION 7.815 CAMPS: PRIVATE CAMPS, REQUIREMENTS: (ORD # 509, 1985)

- A. No building or structure shall be located less than one hundred (100) feet from any lot line.
- B. No driveway for ingress or egress for such use shall be located within forty (40) feet of any lot line.
- C. Parking or loading facilities which are located within thirty (30) feet from any property line of abutting residential or institutional use shall be provided with a continuous screen along such property line, in accordance with the screening regulations of this ordinance.
- D. Lighting shall be so shielded as to cast no light upon adjacent property or public way.

- E. No public address system shall be permitted except when such system is inaudible at any property line.
- F. Camping areas shall comply with Department of Health regulations and any other laws and regulations pertaining to the establishment and maintenance of such a use. No special use permit shall be issued by the Board of Appeals unless and until the Commissioner of Public Health of the City of Pittsfield has approved those aspects of the development which come under this jurisdiction.

**SECTION 7.816 CHARITABLE, WELFARE, OR HEALTH CENTERS OR INSTITUTIONS,
OR DAY CARE SERVICES FOR CHILDREN, REQUIREMENTS:**

- A. The minimum front or rear yard depth and the minimum side yard width shall each be fifty (50) feet.
- B. Sources of potential nuisance factors such as kitchens, cafeterias, unloading areas for supplies and food, and garbage loading areas shall be located at least one hundred (100) feet from any adjacent residential zoning lot line.
- C. Any driveway for ingress or egress for such use shall be located at least forty (40) feet from any adjacent residential lot line.
- D. Day care services for children, as defined in this ordinance and Chapter III, Section 58, of the General Laws of the Commonwealth of Massachusetts, are exempt from the dimensional requirements as stipulated above under "A", "B" and "C", but shall comply with all dimensional requirements as set forth in Section 4.203, "Schedule of Intensity Regulations" of this ordinance.
- E. Outdoor recreation or play areas shall be screened, in accordance with the screening regulations of this ordinance, so as to be not visible from adjacent lots in residential use.
- F. Off-street parking and loading areas shall comply with all applicable provisions of this ordinance.
- G. The front yard shall be suitably landscaped and maintained with grass, trees, shrubs, or walks.
- H. Outdoor lighting shall be so shielded as to cast no direct light upon adjacent property or public ways.
- I. No public address system shall be permitted except where such system is inaudible at any property line.

**SECTION 7.817 CLUBS, NON-COMMERCIAL, OUTDOOR RECREATIONAL,
INCLUDING OUTDOOR SWIMMING CLUBS, TENNIS CLUBS,
SPORTSMEN'S CLUBS, OR ANY OTHER NON-COMMERCIAL
RECREATIONAL OPEN USES OF LAND WHICH ARE COMPATIBLE
WITH A RESIDENTIAL ENVIRONMENT, REQUIREMENTS:**

- A. In any district, where permitted, no building shall be located within one hundred (100) feet of any property line.

- B. Unenclosed recreational facilities shall be located not less than forty (40) feet from any property line, except where greater distances are otherwise required in this ordinance, and shall be screened from adjoining residential or institutional uses, in accordance with the screening regulations of this ordinance.
- C. The area between the front property line and building setback line shall be landscaped. Off-street parking or loading shall be prohibited in this area.
- D. Parking or loading facilities which are located within thirty (30) feet of any property line of abutting residential use shall be screened along such property line, in accordance with the screening regulations of this ordinance.
- E. Outdoor lighting shall be so shielded as to cast no direct light upon adjacent property or public way.
- F. Where outdoor lighting is provided for activities after normal daylight hours, such lights shall be extinguished not later than 10:00 p.m.
- G. No public address system shall be permitted except where such system is inaudible at any property line.

SECTION 7.818 CONCRETE OR BITUMINOUS CONCRETE BATCHING PLANTS, REQUIREMENTS:

- A. No batching, processing, weighing, loading or other operation, structures or facilities shall be closer than one hundred (100) feet to any property line and no closer than two hundred (200) feet from an adjoining property in institutional use or residentially zoned or occupied. These setback areas shall not be used for any use in conjunction with the operation, except access roads or permitted signs.
- B. No egress or ingress with reference to such property shall be from or to any residential street.
- C. The Board of Appeals may impose conditions and restrictions with regard to length of time the permit will remain in force, the routes of transporting materials to and from the premises, and the provision of landscaping, screening, fencing or other barriers against nuisances and hazards to the public safety and welfare.

SECTION 7.819 CORRECTIONAL INSTITUTIONS, REQUIREMENTS:

- A. Lot area, width, yards, lot coverage percent, and building height shall conform to the respective requirements of the district where such use is located.
- B. Any driveway for ingress or egress for such use shall be located at least forty (40) feet from any lot in residential use.
- C. Sources of potential nuisance factors, including laundry operations, power plants, restaurants or cafeterias, kitchens, unloading areas for supplies and food, garbage loading areas and incinerators shall be located a minimum of two hundred (200) feet from any lot in residential use.

- D. The front yard shall be suitably landscaped and maintained with grass, trees, shrubs or walks.
- E. Outdoor lighting shall be so shielded as to cast no direct light upon adjacent property or public ways.
- F. No public address system shall be permitted except where such system is inaudible at any property line.

SECTION 7.820 LANDFILLS, SANITARY, REQUIREMENTS:

A. Purpose

It is the principal intent of these requirements to make possible the sanitary landfill method of disposing of putrescible and non-putrescible refuse while grading land so that it will eventually be usable for recreation, storage, or parking areas, or for other uses not requiring thoroughly compacted subsoil.

B. Requirements:

1. Relation to Property Lines

No excavation, dumping, processing, weighing, or other operations or facilities shall be closer than one hundred (100) feet to any property line and no closer than two hundred (200) feet from adjoining property residentially zones or occupied. These setback areas shall not be used for any use in conjunction with the operation, except access roads, permitted signs, and stockpiling of topsoil or other soil materials for restoration purposes.

2. Conditions and Restrictions

The Board of Appeals may impose conditions and restrictions with regard to the routes of transporting materials to and from the premises, the control of the underground and surface drainage, and the provisions of landscaping, screening, fencing or other barriers against nuisances and hazards to the public safety and welfare and in order to protect the area from becoming an eyesore.

C. General Standards for Granting of Special Use Permit

The following standards shall be applied by the Board of Appeals when reviewing applications for special use permits under this section.

- 1. The intended use must be carried on in such a manner as not to substantially injure appropriate use of adjoining property or adversely affect the existing development or character of the neighborhood.
- 2. The intended use shall not be located in or adjacent to developed residentially areas or areas subject to future intensive residential development, in accordance with City's "Land Use Plan".

3. All means of access to the property from any street shall be so located and designed as to avoid the routing of vehicles to and from the property and over streets that serve residential developments.

D. Operation Standards

1. Sanitary landfill shall be operated, in accordance with accepted engineering practice, in such a manner as to conform to the performance standards as set forth in this ordinance.
2. Refuse shall be arranged in cells, regardless of whether the trench method or the area method is used, and compacted daily to a density of not less than six hundred (600) pounds per cubic yard.
3. At the end of each day's operation, the compacted refuse shall be covered with a seal layer of earth which shall then be compacted.
4. Any area of a sanitary landfill shall be brought to proposed grade, which shall be specified in the information and exhibits accompanying the application, by a final covering of at least two (2) feet of compacted earth.
5. Sanitary landfill shall be not impede a natural drainage way.
6. Burning of refuse on the site of a sanitary landfill is expressly prohibited.

SECTION 7.821 MOBILE HOME PARKS, REQUIREMENTS:

A. Purpose

The purpose of these requirements is to provide suitable sites for mobile home parks at appropriate locations which include the basic amenities akin to those in medium density residential areas.

B. Permitted Uses

The specific use permitted in this area shall be only the following:

1. Mobile Homes as one-family residences. For the purpose of this section, the term "Mobile Home" includes travel trailers incorporating the characteristics of mobile homes as defined in this ordinance;
2. Living quarters for the owner, his family and bona-fide employees;
3. Business office for owner or operation;
4. Service and recreational facilities for the use of the mobile home park only;
5. Any appurtenance specifically required for public health, safety or general welfare by any municipal agency having jurisdiction in the matter.

6. One accessory sign not exceeding twenty-four (24) square feet in area subject to the provisions of Section 9.402 of this ordinance.

C. Area Requirements

1. **Size.** Each mobile home park shall be located on an area of at least five (5) acres.
2. **Sites.** Each mobile home site within a park shall be at least five thousand (5,000) square feet. Each mobile home site shall be clearly marked off by means of stakes, fences or hedges.
3. **Recreation Space.** Recreation space equal to two hundred (200) square feet for each mobile home space shall be provided within the mobile home park as a common recreation area.
4. **Waste Disposal.** There shall be satisfactory design and location of collection points for disposal of solid wastes.
5. **Utilities.** All utilities shall be placed underground.
6. **Lighting.** Adequate lighting shall be provided on streets and other public spaces as deemed necessary by the Community Development Board. **[Amended 6-28-2022 by Ord. No. 1250]**
7. **Parking Spaces.** There shall be at least one-car parking space provided on each mobile home site, and provisions shall be made for visitor parking at the ratio of one (1) space to every three (3) mobile home sites. This visitor parking provision shall be dispersed throughout the park to be conveniently located for all parts of the park, and shall not be used for storage of boats, trailers, etc.
8. **Landscaping.** All areas of a mobile home park not occupied by mobile homes, internal roads, footpaths, driveways, permanent buildings and other development facilities shall be fully landscaped.
9. **Screening.** Screen fences or walls shall be provided around laundry yards, refuse collection points and playgrounds in accordance with reasonable site planning standards. All mobile homes shall have durable skirtings to screen the view of the undercarriage. The screening regulations, as set forth in Section 4.309 shall apply to the property lines of the lot.

D. Setback and Yards

Mobile home spaces shall be laid out in such a manner that the outer boundaries of the mobile home spaces closest to the front, side and rear property lines shall meet the setback and yard requirements of the applicable district. Neither the end-to-end clearance nor the lateral clearance between mobile homes, including extensions thereof, shall be less than twenty (20) feet to any building on the premises.

E. Walkways

Walkways shall be provided to connect each mobile home space with common facilities. Such walkways shall be not less than three (3) feet in width, shall be graded, and shall be finished with an all-weather surface.

F. Roadways and Parking

Every mobile home space shall abut upon a roadway within the mobile home park. Roadways shall be graded to a minimum width of twenty (20) feet, finished with an all-weather surface, and adequately maintained. All roadways which are dead-ended shall be provided with a turn around having a radius of not less than forty (40) feet. Roadways within a mobile home park shall not be regarded as satisfying the off-street parking requirements of this ordinance, unless the following provisions are met.

1. Roadways which are twenty-six (26) feet wide may have parallel parking spaces on one side.
2. Roadways which are thirty-six (36) feet wide may have parallel parking on both sides.

G. Compliance with Required Procedures

1. If a mobile home park is to be developed in sections, the plans submitted to the Board of Appeals shall clearly indicate the total area planned for ultimate development and the extent of the area to which the immediate application for a permit applies. No special use permit shall be issued for the initial establishment of any section of a mobile home park to occupy any area of less than five (5) acres or to provide fewer than ten (10) mobile home spaces. The building permit and certificate of occupancy shall indicate clearly that portion of the mobile home park to which such documents apply.
2. All required permits shall be kept posted in a conspicuous location on the premises.
3. Mobile home parks shall comply with Department of Health regulations and any other laws and regulations pertaining to the establishment and maintenance of such use. No special use permit shall be issued by the Board of Appeals, unless and until the Commissioner of Public Health of the City of Pittsfield has approved those aspects of the development which come under his jurisdiction.

SECTION 7.822 NURSING HOMES, TYPES AND REQUIREMENTS:

- A. Urban Nursing Homes, identified by availability of public transportation, close proximity to convenience shopping as to hospitals, medical offices and fire stations. Those locations within and around the downtown area indicated as "Urban" on a map, dated June 15, 1967, on file in the Office of the City Clerk and a copy thereof in the office of the Building Inspector entitled "Nursing Home Districts", and having higher density uses, shall be considered as urban sites, which map is hereby adopted by reference as a part of this ordinance.

1. The minimum site area for a facility having fifty (50) beds or less shall be three (3) acres. For each successive fifty (50) beds, or fraction thereof, the minimum acreage requirements shall be increased by one (1) acre.

2. The minimum lot width shall conform to the requirements of the district where such use is located.
3. The minimum front yard depth shall be fifty (50) feet. The area between the front property line and the building setback line shall be landscaped. Off-street parking and loading shall be prohibited in this area.
4. The minimum side yard width shall be twenty-five (25) feet.
5. The minimum rear yard depth shall be twenty-five (25) feet.
6. Wherever a nursing home property abuts a residential use or land zoned for residential purposes, the side and rear setback shall be increased from twenty-five (25) feet to fifty (50) feet.
7. The height of any building shall be limited to the height permitted in the respective districts.
8. Off-street parking spaces shall be provided in accordance with the off-street parking requirements of this ordinance. In the event that public or private off-street parking facilities are available within one thousand (1,000) feet walking distance from the closest property line of the nursing home site, a ten (10) percent reduction of the total parking space requirements shall be permitted. Visual screening, in accordance with the screening regulations of this ordinance, shall be provided for any parking or loading facilities which are located within fifteen (15) feet of adjacent property lines of abutting residential or institutional uses.
9. Off-street loading areas shall be provided in the amount of one (1) space for a facility up to forty thousand (40,000) square feet gross floor area. Facilities over forty thousand (40,000) square feet gross floor area shall provide one space of each additional twenty thousand (20,000) square feet gross floor area, or fraction thereof. No portion of the off-street parking area shall be considered as providing off-street loading space.
10. Outdoor activity areas shall be provided in the amount of area and type of use that will provide adequate facilities for patient use, and shall not be less in amount than twenty (20) percent of the total site area, exclusive of any portion of the building. No portion of the off-street parking and loading areas or front setback area shall qualify as part of this developed recreational area.

B. Suburban Nursing Homes, identified by lack of availability of public transportation, convenience shopping, recreational and cultural facilities, as well as being removed from hospital and medical offices. The availability of a fire station within a reasonable distance is required. Those locations primarily residential in character, indicated as "Suburban" on said map, dated June 15, 1967, entitled "Nursing Home Districts", and having low density uses, shall be considered as suburban sites.

1. The minimum site area for a facility having fifty (50) beds or less shall be five (5) acres. For each successive fifty (50) beds or fraction thereof, the minimum acreage requirement shall be increased by one (1) acre.

2. The minimum lot width shall conform to the requirements of the district where such use is located.
 3. The minimum front yard setback shall be seventy-five (75) feet. The area between the front property line and the building setback line shall be landscaped. Off-street parking and loading shall be prohibited in this area.
 4. The minimum side yard width shall be fifty (50) feet.
 5. The minimum rear yard depth shall be fifty (50) feet.
 6. Wherever a nursing home property abuts a residential use or land zoned for residential purposes, side and rear setbacks shall be increased from fifty (50) feet to seventy-five (75) feet.
 7. The height of any building shall be limited to the height permitted in the respective districts.
 8. Off-street parking spaces shall be provided in accordance with off-street parking requirements of this ordinance. Visual screening shall be provided for any parking or loading facilities which are located within fifteen (15) feet of adjacent property line of abutting residential or institutional use, in accordance with the screening regulations of this ordinance.
 9. Off-street loading shall be provided in the amount of one space for a facility up to forty thousand (40,000) square feet gross floor area. Facilities over forty thousand (40,000) square feet gross floor area shall provide one space for each additional twenty thousand (20,000) square feet gross floor area, or fraction thereof. No portion of the off-street parking area shall be considered as providing off-street loading areas.
 10. Outdoor activity area shall be provided in the amount of area and type of use that will provide adequate facilities for patient use, and shall not be less in amount than twenty (20) percent of the total site area, exclusive of any portion of the building. No portion of the off-street parking and loading areas or front setback area shall qualify as part of this developed recreational area.
- C. Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.
- D. Proximity to sources of loud, continuous, or impact noises shall not be permitted. In general, the facility shall be remote from railroads, airports or similar noise sources. The outdoor noise level at nursing home sites shall not exceed fifty (50) decibels.

SECTION 7.823 PARKING AREAS IN RESIDENCE DISTRICTS, REQUIREMENTS

A. Purpose

It is the purpose of this section to enable the operator of a permitted land use in a non-residential district to establish or extend a required off-street parking area into an adjacent Residence District when the off-street parking requirements, as set forth in this ordinance, cannot be met

within the non-residential district. The intent of the following requirements is to safeguard the enjoyment of property adjacent to such parking areas.

B. Requirements

1. Such parking area shall be considered to satisfy, in whole or in part, the parking requirements for the business, industrial or institutional use to which it would be necessary only when such requirements cannot be met in the district in which the use is permitted.
2. Any such parking area shall abut for a distance of not less than fifty (50) feet upon the lot to which said parking area would be necessary.
3. Ingress or egress to and from such parking area shall be only through the lot in the non-residential district.
4. Where outdoor lighting is provided for operation after normal daylight hours, such lights shall be extinguished not later than 11:00 p.m.
5. Outdoor lighting shall be so shielded as to cast no light upon adjacent residential property or public way.
6. Parking facilities which are located within thirty (30) feet of any property line of abutting residential or institutional use shall be screened along such property line, in accordance with the screening regulations of this ordinance.
7. Any such parking area shall comply with the design standards and all other applicable requirements of off-street parking regulations of this ordinance.

SECTION 7.824 PUBLIC OR QUASI-PUBLIC UTILITIES, REQUIREMENTS:

A. Requirements

1. The minimum lot area and lot width shall be such as to conform with the minimum dimensional requirements for the respective districts.
2. The minimum front yard depth shall be twenty (20) feet greater than the minimum front yard required in the respective districts.
3. The minimum side yard width shall be twenty-five (25) feet.
4. The minimum rear yard depth shall be twenty-five (25) feet.
5. The proposed facility shall be screened from public view, insofar as possible, in accordance with the screening regulations of this ordinance. Such screen shall be located no closer to the street line than the front yard setback of the district in which the facility is located, and it shall be located on the boundary lines of the site when, in the judgment of the Board of Appeals, the site is too large to be screened in its entirety.
6. In order that the dangers of an attractive nuisance be reduced, an eight (8) foot high fence may be required around the structure. Such fence may provide for an access gate which shall be locked at all times when not in use.
7. No business office, nor any storage of equipment, garage, or maintenance building or yard shall be permitted for any such use located in a Residence District.

B. Conditions and Restrictions

The Community Development Board may recommend, and the Board of Appeals may impose, such additional conditions and safeguards as are needed in its judgment to minimize adverse effects on the character of the surrounding areas, including, but not limited to, requirements for sound-proofing, for surface of access roads and driveways, and for shielding of floodlights or other artificial illuminations. **[Amended 6-28-2022 by Ord. No. 1250]**

C. Exemptions

All electrical lines and pipelines used in the transportation, transmission or distribution of the use permitted herein, are exempt from the foregoing provisions.

SECTION 7.825 QUARRIES, GRAVEL PITS OR OTHER EXTRACTIVE INDUSTRIES, REQUIREMENTS:

A. Purpose

It is the intent of the following requirements to provide for the public safety; to reduce noise, air or water pollution, erosion, vibration and landslides; to protect adjacent residential properties

from any adverse effects which may be caused by this use; to provide for the restoration of the land for its reuse at the termination of the extra-active activity.

B. Requirements:

1. Performance Standards

Quarries or other extractive industries shall operate in such a manner as to conform to the performance standards as set forth in this ordinance.

2. Minimum Area and Frontage

Any tract of land to be granted a special use permit under this section shall have a minimum area of ten (10) acres and a minimum street frontage of two hundred fifty (250) feet.

3. Relation to Property Lines.

No excavation, processing, weighing, loading or other operations, structures of facilities shall be closer than one hundred (100) feet to any property line and no closer than two hundred (200) feet from an adjoining property residentially zoned or occupied. These setback areas shall not be used for any use in conjunction with the operation except access road, permitted signs and stockpiling of topsoil for restoration purposes.

4. Water Courses

No extractive industry shall impede the flow of any watercourse.

5. Conditions and Restrictions

The Board of Appeals may impose conditions and restrictions with regard to length of time the permit will remain in force; the hours of the day during which activities related to the removal of earth materials may be conducted; the method of excavating earth materials; the routes of transporting excavated earth materials from the premises; the control of underground and surface drainage; the disposal of rocks, trees, stumps, and other debris; the provision for landscaping, screening, fencing or other barriers against nuisances and hazards to the public safety and welfare; and in order to protect the area from becoming an eyesore.

C. General Standards for Granting of Special Use Permit

The following standards shall be applied by the Board of Appeals when reviewing applications for special use permits under this section.

1. The intended use must be carried on in such a manner as not to substantially injure appropriate use of adjoining property or adversely affect the existing development or character of the neighborhood.
2. The intended use shall not be located in or adjacent to developed residential area or areas subject to future intensive residential development in accordance with the City's "Land Use Plan".

3. No egress or ingress with reference to such property shall be from or to a residential street.
4. During any period that an extractive operation is temporarily discontinued, the site, along with all structures, machinery and fencing, shall be properly maintained in a safe and orderly manner.
5. Except where redevelopment for another permitted use is in progress on the site of a discontinued extractive industry, the following steps toward restoration of the site shall be performed within one year;
 - a. All buildings and equipment not in conformity with the provisions of this ordinance shall be removed.
 - b. All waste piles, overburden and other materials shall be graded so that the material assumes its natural angle of repose. These materials shall be planted with vegetation so as to prevent erosion.
 - c. Any quarry walls shall be cleared of loose materials.
 - d. Any excavation shall be so graded as to provide for natural drainage. If the collection of water in an excavation is unavoidable, the area shall be fenced against nuisances or hazards to the public health, safety and welfare.

D. Performance Bond

Special use permits under this section shall not be issued until after the applicant shall have filed in the Office of the City Clerk, a bond with surety satisfactory to the Board of Appeals and approved as to form by the City Solicitor. Such bond shall be in the amount sufficient in the opinion of the Board of Appeals to secure performance of the restoration of the ground surface of the land for its ultimate reuse, in conformity with the specific requirements and standards set forth herein, upon termination of the permit or of the operations, whichever event may occur first. The applicant shall file with the performance bond, an agreement signed by himself and the landowner, if a different person, granting the City of Pittsfield the right of access to perform all necessary rehabilitation of bonded property in the event of forfeiture of the performance bond. The granting of any permit under these provisions shall be contingent upon this agreement being duly recorded in the Office of the Registrar of Deeds, Berkshire Middle District.

1. When and if the portions of the bonded property are completely rehabilitated, in accordance with the restoration plan for the entire operation at the location including removal of any structures, facilities and buildings used for operations under the permit, the penal sum of any such bond may be reduced by the Board of Appeals and the obligations of the parties thereto released in whole or in part.

E. Discontinued Operations

If on-site extractive processing or removal operations are suspended for any reason for a period to twelve (12) successive months, then, prior to resumption of such use, a new special use permit shall be required.

F. Permit Renewal Procedure

If all operations undertaken pursuant to any permit issued hereunder have been conducted in full compliance with the terms of such permit and all provisions of this ordinance, the time limit of such permit may be extended by the Board of Appeals for successive further periods, each for a period of no greater than that for which the permit was originally issued. At least fourteen (14) days before it takes any such renewal action, the Board of Appeals shall give the same notice as in the original application. In determining whether renewal is appropriate in any given case, the Board of Appeals, in addition to the matter of compliance with the permit and other provisions of this ordinance, shall also consider any changes in the surrounding area which render further operations incompatible with development of the area. All ordinances and regulations in effect at the time a renewal is granted will apply to the permit in the same manner as when a new permit is issued by the Board of Appeals.

G. Inspection Enforcement

The operator of any extractive industry shall file with the Building Inspector, in addition to any exhibits required elsewhere in this ordinance, evidence of ownership or control of property and plans for rehabilitation of the site which may be amended in compliance with requirements of this section. Violation of the requirements herein, shall make the operator liable to the penalties set forth in this ordinance in "Article 23-12".

H. Nuisances

It is the specific intent of this ordinance that it shall not have the effect of barring or otherwise impeding the bringing of legal and equitable actions by private persons seeking redress against nuisances or other damages committed by the owner or operator of any extractive industry herein regulated, nor shall it prevent the bringing of such actions by any governmental body or agency.

SECTION 7.826 SHOOTING RANGES, REQUIREMENTS:

A. Skeet or Trap-Shooting Ranges

1. The range shall be located on a site of not less than fifteen (15) acres.
2. The ranges shall be so designed and constructed that the distance to any adjacent property measured from the firing point or points in the direction of fire shall be not less than three hundred (300) yards.

B. Rifle or Pistol Ranges

1. The range shall be located on a site of not less than twenty (20) acres.
2. The range shall have a backstop along the entire length of the target line meeting the following specification: For ranges up to three hundred (300) yards in length, an earth embankment not less than twenty-five (25) feet in height and not less than ten (10) feet in thickness at the top. Such earth embankment shall be well-sodded to retain a slope of thirty-five (35) degrees from the perpendicular, or, if sodding is impractical, the slope may be terraced with timber or log retaining walls. Such embankment shall be topped

with an earth-filled, double fence barricade not less than fifteen (15) feet in height and not less than three (3) feet in thickness at the top. For ranges greater than three hundred (300) yards in length, ten (10) feet in overall height shall be added to the backstop for each additional one hundred (100) yards for fraction thereof in additional ranges. In no case shall the earth embankment be less than ten (10) feet in thickness at its top. The required backstop may be either a natural terrain feature or a man-made earth embankment. In the case of a natural terrain feature, a topographic map at a scale of not less than one inch to two hundred feet (1" = 200') and two foot contour interval showing the terrain feature shall be submitted with the request for a special permit.

C. Fire Point

No firing point shall be located within two hundred (200) yards of any property line.

D. Permitted Hours of Use

The use of firearms shall be permitted from 8:00 a.m. until 9:30 p.m. Monday through Saturdays and from 12:00 Noon until 9:30 p.m. on Sundays.

E. Conditions and Restrictions

1. The Board of Appeals may impose conditions and restrictions with regard to length of time the permit will remain in force, the manner and hours of operation of the range and the provision of screening, fencing or other barriers against nuisances and hazards to the public safety and welfare.
2. All relevant provisions of state law and "City Code" shall apply also to any shooting range.

**SECTION 7.827 STADIUMS, ARENAS, RACE TRACKS, OR COLISEUMS
REQUIREMENTS**

A. Requirements

1. The proposed development shall be so located with relation to major thoroughfares and uses outside the development as not to create traffic congestion, and as not to adversely affect such uses adjacent to such thoroughfares.
2. The proposed use shall not draw vehicular traffic to and through local streets in nearby residential areas.
3. Such use shall not be located within two hundred (200) feet of a Residence District or adjacent to land in residential or institutional use.
4. No building or structure shall be located at a distance of less than one hundred (100) feet from any lot line.
5. The area between the front property line building setback line shall be suitably landscaped, and no automobile parking space shall be located within such setback area.

6. Vehicular ingress and egress for such use shall be provided separately and shall be located not less than one hundred (100) feet apart.
7. Adequate reservoir space at the vehicular entrances and sufficient vehicular entrances and exists shall be provided to prevent traffic congestion.
8. Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.

SECTION 7.828 TELEPHONE EXCHANGES OR SIMILAR BUILDINGS OR STRUCTURES, REQUIREMENTS:

A. Requirements

1. Telephone exchanges or similar types of buildings or structures shall comply with all regulations for lot size, width, front yard setback side yard, rear yard, lot coverage, and height of buildings or structures of the district in which such use is located. The design of building or structures, landscaping, screening or fencing of the site shall be compatible with the development existing in the district in which such use is proposed, or, in an undeveloped area, which may be compatible with such use as in the judgment of the Board of Appeals may reasonably be expected to be developed in the future, in accordance with the City's "Land Use Plan".
2. No business office, nor any storage, garage or maintenance building or yard shall be permitted for any use under this section in any Residence District.
3. The Community Development Board may recommend and the Board of Appeals may impose such additional conditions and safeguards as in its judgment are necessary for the protection of the neighboring uses. **[Amended 6-28-2022 by Ord. No. 1250]**

SECTION 7.829 VETERINARY HOSPITALS OR KENNELS, REQUIREMENTS:

A. Area

Veterinary hospitals or kennels shall have a minimum lot area of not less than one (1) acre.

B. Setbacks

Buildings, structures or runs used in connection with such purposes shall not be within ninety (90) feet of any street or property line.

C. Lighting

Outdoor lighting shall be so shielded as to cast no light upon adjacent property or public ways.

D. Screening

Any such use located in a Residence District or adjacent to a residential or institutional use shall be screened along with side or rear property line, in accordance with the screening regulations of this ordinance.

SECTION 7.830 WRECKING, SALVAGE OR SCRAP METAL YARDS, REQUIREMENTS:

A. Requirements:

The applicant shall provide such maps, plans, drawings or reports to indicate that:

1. Such use shall operate in such a manner as to conform to the performance standards set forth in this ordinance;
2. Such use shall not be located within two hundred (200) feet of a Residence District or a site used for residential or institutional purposes;
3. No wrecking, processing, loading or other operations, structures or facilities shall be closer than one hundred (100) feet to any property line. these setback areas shall not be used for any use in conjunction with the operation except access roads and permitted signs.

B. Conditions and Restrictions

The Board of Appeals may impose conditions and restrictions with regard to length of time the permit will remain in force, the routes of transporting materials to and from the premises, and the provision of landscaping, screening, fencing or other barriers against nuisances and hazards to the public safety and welfare.

SECTION 7.831 (Reserved)

SECTION 7.832 AUTOBODY OR PAINT SHOPS IN A B-G DISTRICT, REQUIREMENTS:

An Autobody or Paint Shop shall:

- A. Require a special permit from the City Council under the provisions of Chapter 40A of the General Laws, as amended.
- B. Comply with all provisions of the City Code pertaining to the establishment and maintenance of such use.
- C. Conform with the performance standards as set forth in this ordinance.
- D. Comply with the following minimum requirements:
 1. No driveway for ingress or egress shall be wider than twenty-five (25) feet at the street line of the property.

2. The outdoor storage of motor vehicles (on a fee basis, or waiting for damage estimates or repairs, or for space parts), or storage of any other materials shall be contained in an area suitably protected and screened.
 3. Where such use is adjacent to a residence district or a site in a residential usage, the ingress and egress shall be located not less than ten (10) feet from the adjacent property line. This buffer strip shall be suitably defined and landscaped.
 4. Parking space shall be so designed to prevent vehicles from encroaching on public right-of-ways (sidewalks in particular) or any adjacent property.
 5. Lighting shall be so shielded to cast no direct light upon adjacent property or public ways.
- E. Submit with the application an impact statement which details the probable effect of the proposed use upon the surrounding area. On the basis of the impact statement, the Community Development Board may impose additional requirements before the plan is approved. **[Amended 6-28-2022 by Ord. No. 1250]**

SECTION 7.833 SHOPPING CENTERS, PLAZAS, MALLS, REQUIREMENTS:
(All zoning districts except B-D)

A. Purpose

It is the purpose of these requirements to provide regulations and conditions for the planning and design of shopping centers, plazas and malls in order to:

1. Ensure harmony with the purpose of the Ordinance (Article 23-1)
2. Control the impacts of major commercial developments on the area surrounding the site and the City as a whole.
3. Encourage the design of shopping facilities to be compatible with the special conditions of the site and the character of the area.
4. Maintain and enhance the environmental quality of the City.
5. Make the most economical use of energy, resources, municipal services, streets, and utilities.

B. Definition

A complex of one or more buildings devoted principally to retail or service uses, which building/buildings have an aggregate gross floor area of at least 100,000 square feet and which building/buildings is located on a common site (one or more lots) consisting of at least five (5) acres which is integrated in terms of utilities or services or in respect to the conduct or retail or service uses on the site.

C. Requirements

1. Any proposed Shopping Center, Plaza or Mall as defined, shall require a special permit from the City Council under the provisions of Section 9 of Chapter 40A of the General Laws, as amended, and shall be subject to the following special requirements which are in addition to other applicable provisions and requirements of this ordinance.
 - a. This provision shall also apply to expansions in either gross floor area or site area of existing retail service facilities, which expansion would result in the creation of a shopping center, plaza or mall as defined above.
 - b. This provision shall not, however, be deemed to prohibit expansion of either gross floor area or site area not greater than then (10) percent over the respective areas existing as of the date of adoption of this ordinance.
2. Site Requirements
 - a. Stores, public spaces, parking, loading areas and other facilities shall be located on the site and designed to provide a safe, convenient, and attractive environment which is compatible with the surrounding areas and to ensure harmony with the purpose of this ordinance and any other applicable Federal, State or Local land use regulations or plans.
 - b. A circulation system shall be designed for automobiles, public transportation vehicles, pedestrians, wheelchairs, emergency service, and delivery vehicles so that circulation routes are clearly defined and provisions for safety are made, especially at points where circulation routines intersect.
 - c. The site shall be so designed to accommodate storm drainage and snow removal.
 - d. The proposed complex shall be so located with relation to major thoroughfares and uses in the surrounding areas as not to cause undue adverse effects on other uses in the surrounding areas and as not to create undue traffic hazards or congestion.
3. Impact Statement

The application for such shopping center, plaza or mall use must be accompanied by an impact statement prepared by a qualified engineer, planner, architect, landscape architect, or land surveyor, or a combination thereof, as appropriate, which details the probable effect of the proposed development both during construction and after completion.

The impact statement shall include documentation to support conclusions and must address the following areas;

- a. An analysis of resulting demands on public and quasi-public utilities and services and on future demands for them, including, but not limited to; sewer, water, and drainage systems, police, fire, and public works.
- b. An analysis of changes in traffic volumes and patterns and the effect of these changes on nearby uses and areas.

- c. A report on the anticipated effects on demolition or alternations of existing structures.
 - d. A report of the anticipated effects of architectural, site planning and other design features on public safety in both normal and emergency situations.
 - e. An engineering report detailing the effect, if any, on nearby natural resources, environments, such as rivers, streams, lakes, ponds, ground water supplies, flood plains and wetlands, including erosion and siltation during the construction and thereafter. Proposed controls to minimize adverse impacts should be included in this report.
- 4. Action by the City Council:

In reviewing an application under this section, the City Council shall consider:

 - a. Compliance with the Pittsfield Zoning Ordinance and any other applicable Federal, State or local land use regulations.
 - b. Compatibility with the City Master Plan, community resource plans, and any other applicable Federal, State, or local land use regulations.
 - c. The required information submitted under Section 7.3.
 - d. The impact statement furnished under this Section.
 - e. The reports of the Public Works Department, Building Inspector, Health Department, Water Department and the Conservation Commission analyzing the development plans and the impact statements.
 - f. Overall design of the development and the location, spacing, bulk and height of the proposed buildings and structures, and their effect on adjacent uses and the surrounding areas.
 - g. Vehicular and pedestrian traffic within the site and in the surrounding areas.
 - h. Architectural and open space design features enhancing the comforts, convenience, and amenities for shoppers, employees, and others using the facility; enhancing the general appearance of the development; or contributing to public health, safety or welfare.
 - i. Character, size, mix, and compatibility of the proposed uses and their effect on the existing uses and environment in this area.

SECTION 7.834 RESIDENTIAL CLUSTER DEVELOPMENT

A. Purpose

To provide greater flexibility and economy in single family residential development; subdivision of land; and in siting of residential structures; to encourage a creative and efficient use of land; to

conserve natural features and scenic qualities, to facilitate adequate and economic provisions for construction and municipal servicing of streets and utilities.

B. Definition

Residential Cluster Development is a single-family residential development in which buildings and accessory uses are clustered together into one or more groups separated from adjacent property and other groups within the development by intervening open land.

C. Requirements

Any proposed residential cluster development shall require a special permit from the Community Development Board and shall be subject to the following special requirements which are in addition to, or in modification of, other applicable provisions and requirements of this ordinance. The Cluster Plan shall show the area to be designated as open space and shall delineate the location of the dwellings and any accessory buildings on each lot. Any cluster development requiring a new street shall also be subject to the subdivision regulations of the City of Pittsfield. **[Amended 6-28-2022 by Ord. No. 1250]**

1. Density Requirements

The number of units in a residential cluster development shall be no greater than the total parcel area divided by the minimum lot area required for the zoning district within which it is located.

2. Minimum Cluster Development Area.

The area of the tract for a residential cluster development shall be not less than one (1) acre.

3. Dimensional Requirements

Minimum dwelling lot area - with water and sewer - 6,000 square feet;

Minimum dwelling lot area - with City water only - 10,000 square feet;

Minimum dwelling lot area - without City water and sewer -20,000 square feet;

Minimum dwelling lot width - forty feet (40');

Minimum frontage - thirty feet (30') on a public way;

Minimum yard requirements:

Front yard - 15 feet

Side yard - NR

Rear yard - 20 feet.

The Community Development Board may impose additional dimensional requirements if, in its judgment, they are needed to protect the interest of the residents. **[Amended 6-28-2022 by Ord. No. 1250]**

4. Open Space Buffer Requirements:

Along the border of the cluster development and between clusters within the development, there shall be intervening open space buffers of no less than ten (10) feet in width.

The Community Development Board may impose greater buffer requirements if, in their judgment, these will be needed to protect the interests of the cluster residents or abutting property owners. These open space buffers shall be designated on the plan as one or more of the three forms of open space provided for in 5b of this ordinance. **[Amended 6-28-2022 by Ord. No. 1250]**

5. Required Open Land

- a. The areas of the open land must at least equal the sum of the area by which the lots are reduced below the minimum lot area required for conventional development of the tract in single family housing.
- b. Open land for passive or active recreation must be of usable size and shape, be continuous wherever possible, and easily accessible to all of the lots which it is intended to serve, and so designated on the site plan.
- c. The open land, and such other facilities as may be held in common ownership, shall be conveyed to one of the following as determined by the Community Development Board, subject to the following guidelines: **[Amended 6-28-2022 by Ord. No. 1250]**
 1. City Open Space - to be conveyed to the City of Pittsfield and accepted by it for park or open space use.
 2. Conservation Space - to be conveyed to the City of Pittsfield acting through the Conservation Commission or a non-profit organization with the principal purpose being that of the conservation of open space with a trust clause insuring that it be maintained as open space.
 3. Common Land - to be conveyed to a corporation or trust comprising a home association whose membership includes the owners of all lots or units contained in the tract. The developer shall include in the deed to owners of lots beneficial rights in said open land and shall grant a conservation restriction to the City of Pittsfield over such land, pursuant to M.G.L. Chapter 184, S. 31-33, to insure that such land be kept in an open or natural state and not be built upon for residential use or developed for accessory uses. This restriction shall be enforceable by the City acting through its Conservation Commission in any proceedings authorized by Section 33 of Chapter 184 M.G.L. In addition, the developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such times as the home association is capable of assuming said responsibility. In order to ensure that the association will properly maintain the land deeded to it under this section, the developer shall cause to be recorded at the

Berkshire Middle Registry of Deeds a Declaration of Covenants and Restrictions which shall at a minimum ,provide for the following:

- a. Mandatory membership in an established home association, as a requirement of ownership of any lot in the tract.
- b. Provisions for maintenance assessments of all lots in order to ensure that the open land is maintained in a condition suitable for the uses approved by the home association. Failure to pay such assessments shall create a lien on the property assessed, enforceable by either the home association or the owner of any lot.
- c. Provisions which so far as possible under the existing law, will ensure that the restriction placed on the use of open land will not terminate by operation of law.

D. Approvals and Procedure

1. Any application for a special permit under this section must meet all procedural requirements governing SP uses as set forth in the Zoning Ordinance.
2. Where subdivision approval will be required for the residential cluster development, such developments shall meet the requirements of the Subdivision Rules and Regulations of the City of Pittsfield. The applicant may submit a preliminary subdivision plan at the same time of application for the special permit.
3. Granting of this special permit does not indicate in any way compliance with the Wetlands Protection Act, Chapter 131, Section 40 (General Laws) or other applicable laws or regulations.
4. Any residential cluster development not serviced by city sewer or city water and sewer, will require that the submitted plan bear the approval of the Health Department under Title 5 of the State Environmental Code for disposal of sanitary sewerage.

SECTION 7.835 STORAGE WAREHOUSES AND YARDS (ORD #438-1983)

Any of the above:

- A. Require a special permit from the Pittsfield Community Development Board under the provisions of Chapter 40A as amended. **[Amended 6-28-2022 by Ord. No. 1250]**
- B. Conform with the performance standards as set forth in Section 4.315.
- C. Comply with the following minimum requirements:
 1. No driveway for ingress and/or egress shall be wider than twenty-five (25) feet at the street line of the property.

2. Where such use is adjacent to a residence district or a site in residential use, the ingress and/or egress shall be located not less than ten feet (10) from the adjacent property line. This buffer strip shall be suitably defined and landscaped.
3. Outdoor storage of equipment, vehicles, or materials shall be contained in an area suitably protected and screened.
4. Lighting shall be so shielded as to cast no direct light upon adjacent property or public way.

SECTION 7.836 AUTO CAR WASH REQUIREMENTS: (ORD #534-1986)

Any proposed Auto Car Wash shall:

- A. Require a special permit from the City Council under the provisions of Chapter 40A of the General Laws and amended.
- B. Comply with the following minimum requirements:
 1. No driveway for ingress and egress shall be wider than twenty-five (25) feet at the property line and shall be curbed.
 2. Where such use is located at the intersection of two streets, the location of any driveway shall be no closer than thirty (30) feet from the point of intersection of the property line in each direction.
 3. Where such use is adjacent to a Residence District or abuts a site in a residential or institutional use, the ingress or egress for such use shall be located not less than forty (40) feet from such adjacent property line.
 4. Lighting shall be so shielded as to cast no light upon adjacent property or public ways.
 5. Car wash shall provide off-street waiting space within the site at the vehicular entrance, for five times the number of vehicles which can be serviced simultaneously.

SECTION 7.837 OFFICE USE, GENERAL BUSINESS OR PROFESSIONAL USE IN AN IG AND IL DISTRICT (ORD #656-1990) (ORD# 721-1992)

- A. Require a special permit from the Pittsfield Community Development Board under the provisions of Chapter 40A, MGL, as amended. **[Amended 6-28-2022 by Ord. No. 1250]**
- B. Comply with the following minimum requirements:
 1. The proposed use may be located within the same structure as other allowed uses.
 2. The proposed use shall be in harmony with other uses on the site and in harmony with abutting uses.

3. All loading docks and areas, if any, must meet the requirements set forth in this Ordinance.
4. Off street parking shall be provided either in an amount equal to the total required for such use as set forth in Article 23-10 or as specified in a special permit granted under this article.
5. Applicant shall demonstrate that driveway design and internal circulation patterns are adequate for the proposed use and said design shall be such so as not to create traffic congestion in relation to the abutting street.

SECTION 7.838 GOVERNMENTAL ARCHIVES IN AN R43, R20, R12, RG DISTRICT, REQUIREMENTS (ORD#712-1992)

A. Comply with the following minimum requirements:

1. The minimum size of the lot for such uses shall be ten (10) acres.
2. No building or structure, except permitted signs, required utility structures, or gate houses, shall be located less than 100 feet of any street or property line.
3. A landscaping plan shall be submitted for the site. Prior to the issuance of the certificate of occupancy a performance guarantee shall be placed on file with the Community Development Board. The performance guarantee may be used by the City to replace or maintain the required landscaping as approved on said plan and shall remain in effect for a period of 5 years. The City Solicitor shall approve said document as to form and legality. **[Amended 6-28-2022 by Ord. No. 1250]**
4. No parking or loading area will be permitted in the front, rear or side yard setbacks as set forth in the Schedule of Intensity Regulations Section 4.203, for the zone in which the structure is located.
5. Only visitor parking may be located between the front of the building and the street line. It may not extend into the required front yard for the zone in which the property is located.
6. Ventilation, air condition, heating and any type of similar equipment capable of continuous or extended running periods, shall be muffled in a manner to be compatible with the background noise level at the property line during the quietest time during a 24 hour period.
7. Outdoor lighting shall be so shielded as to cast no direct light upon adjacent property or public way.

B. The applicant will supply data on hours of operation and projected traffic. Upon review of the data, the Special Permit Granting Authority may impose additional conditions and safeguards as in its judgment are necessary for the protection of the neighborhood uses.

SECTION 7.839 - EATING ESTABLISHMENTS, DRIVE-IN, DRIVE-UP OR DRIVE-THROUGH, REQUIREMENTS: (ORD 768-1994)

A. Purpose

The purpose of this section is to minimize the traffic impacts of the design of the such facilities upon the surrounding area and streets; to promote compatibility of the design of such facilities with the special conditions of the site and/or the character of the area; to maintain and enhance the environmental quality of the City by landscaping of the site and parking areas, and to insure harmony with the purpose of the Zoning Ordinance.

B. Definition

A Drive-In, Drive-Up or Drive-Through Eating Establishment is any such use which provides service directly to customers in an automotive or other vehicle from any window, counter, or other appurtenance from the principal or an accessory building.

C. Special Permit Granting Authority

For the purpose of this section, the Special Permit Granting Authority is designated to be the Pittsfield City Council. The special permit granting authority may require additional conditions as part of the grant of a special permit. The Pittsfield City Council may require this permit to be renewed after one year. **[Amended 9-20-2001 by Ord. No. 892]**

D. Requirements

1. The design and layout for waiting spaces shall provide for the movement of traffic about the site and shall not cause any obstruction of the required parking area, entrances, or exists.
2. The minimum number of waiting spaces for each service area shall be six. This number includes the space at the immediate service area. The "immediate service area" shall be defined as the area where the order is placed or where initial contact is first made. A waiting space shall be nine feet in width and twenty feet in length. **[Amended 9-20-2001 by Ord. No. 892]**
3. Canopies must be setback a minimum of ten (10) feet from all street right-of-way lines, twenty (20) feet from all properties residentially zoned and in a residential use, and ten (10) feet from all other property lines.
4. Landscaping must be provided to minimize the visual impacts of the drive-in, drive-up or drive-through areas, including entrances, exits and waiting areas, and to enhance the streetscape and structure.
- 5(a).The applicant shall furnish a traffic study/report detailing the impacts of traffic on the adjoining street, and the volume of traffic generated by the facility. The report will contain information on the mitigation of the impacts on the adjoining streets and intersections in the area.
- (b) This report will be reviewed by the City Engineer who will submit his comments and recommendations to the Special Permit Granting Authority.

6. The site shall be designed to contain areas that will accommodate snow storage in a manner so as not to decrease the required off-street parking or impact on the waiting space areas.

E. Exemptions:

1. The establishment of this use in a shopping center or any other complex which is also a principal permitted use in Section 4.202 and which requires the granting of a special permit exempts this use from the need for a special permit under this section.
2. The establishment of this use in any shopping center or any other complex under 100,000 sq. ft. which does not require a special permit shall require only a site plan review by the Community Development Board under this section. Pursuant to this exemption, a traffic study/report will not be required unless the Board deems such study necessary.

F. Prohibition of traffic overflow onto public ways: **[Added 3-8-2005 by Ord. No. 954]**

1. At any time upon receipt of notice from the Chief of Police stating that the stacking lanes from the drive-up window(s) are so congested that motor vehicles are consistently overflowing onto the public way and that such condition creates the potential for traffic and safety hazards, the City Council may order the Owner of a business with a Special Permit to operate as a drive-in, drive-up or drive-through eating establishment (the "Owner"), at his/her sole expense, to hire, employ, or otherwise arrange for an off-duty police officer or traffic control personnel, to manage and control the flow of traffic or take whatever action the City Council deems necessary to prevent any overflow from the stacking lanes located at the Owner's establishment onto the public way (the "Traffic Control Order").
2. The requirements of the Traffic Control Order as issued by the City Council may also include the following:
 - (a) A statement specifying which days of the week and what times of each day the Owner is required to comply with the provisions of Chapter 23, Article 23-7, Section 7.839F(1) as herein amended.
3. Before the City Council can issue a Traffic Control Order, the City Council must first provide the Owner with a hearing on the matter of whether such Traffic Control Order should be issued. The City Council must provide the Owner with written notice of such hearing at least 14 days prior to such hearing. The written notice must specify the date, time, and place of such hearing.
4. If, after the completion of such hearing, the City Council deems that a Traffic Control Order should issue, the City Council shall send a copy of such order to the Owner.
5. In the event that the Owner fails to comply with the Traffic Control Order within 30 days of its issuance, then the City Council may take action to enforce the provisions of Traffic Control Order, including but not limited to, suspension or revocation of the Special Permit issued in accordance with this Section 7.839, and order the drive-up window to be closed until such time as the Owner complies with the Traffic Control Order.

6. The Owner may, at any time prior to the expiration of the thirty-day period referred to in paragraph 5 above, petition the City Council to modify or amend the Traffic Control Order. Such petitions may include a request to either terminate the Traffic Control Order, amend the time periods for which traffic control is required, or temporarily suspend the Traffic Control Order pending a determination by the Traffic Commission that the need for a Traffic Control Order no longer exists.
7. Before the City Council can suspend or revoke any Special Permit granted under this Section 7.839 for failure to comply with a Traffic Control Order, the City Council must first provide the Owner with a hearing on the matter of whether such Special Permit should be suspended or revoked. The City Council must provide the Owner with written notice of such hearing at least 14 days prior to such hearing. The written notice must specify the date, time, and place of such hearing.
8. If, after the completion of such hearing, the City Council deems that the Owner's Special Permit as granted under this Section 7.839 should be suspended or revoked, the City Council shall send a copy of such decision to the Owner ordering the drive-up window to be closed until such time as the Owner complies with the Traffic Control Order.

SECTION 7.840 - RETAIL SALES AND SERVICES, DRIVE-IN, DRIVE-UP OR DRIVE-THROUGH, REQUIREMENTS: (ORD 768-1994)

A. Purpose

The purpose of this section is to minimize the traffic impacts of the design of the such facilities upon the surrounding area and streets; to promote compatibility of the design of such facilities with the special conditions of the site and/or the character of the area; to maintain and enhance the environmental quality of the City by landscaping of the site and parking areas, and to insure harmony with the purpose of the Zoning Ordinance.

B. Definition

A Drive-In, Drive-Up or Drive-Through Retail Sales and Service establishment is any such use which provides service directly to customers in an automotive or other vehicle from any window, counter, or other appurtenance from the principal or an accessory building.

C. Special Permit Granting Authority

For the purpose of this section, the Special Permit Granting Authority is designated to be the Pittsfield City Council. The special permit granting authority may require additional conditions as part of the grant of a special permit. The Pittsfield City Council may require this permit to be renewed after one year. **[Amended 9-20-2001 by Ord. No. 892]**

D. Requirements

1. The design and layout for waiting spaces shall provide for the movement of traffic about the site and shall not cause any obstruction of the required parking area, entrances, or exists.

2. The minimum number of waiting spaces for each service area shall be six. This number includes the space at the immediate service area. The "immediate service area" shall be defined as the area where the order is placed or where initial contact is first made. A waiting space shall be nine feet in width and twenty feet in length. **[Amended 9-20-2001 by Ord. No. 892]**
3. Any canopies or similar structures must be setback a minimum of ten (10) feet from all street right-of-way lines, twenty (20) feet from all properties residentially zoned and in a residential use, and ten (10) feet from all other property lines.
4. Landscaping must be provided to minimize the visual impacts of the drive-in, drive-up or drive-through areas, including entrances, exits and waiting areas, and to enhance the streetscape and structure.
- 5 (a) The applicant shall furnish a traffic study/report detailing the impacts of traffic on the adjoining street, and the volume of traffic generated by the facility. The report will contain information on the mitigation of the impacts on the adjoining streets and intersections in the area.
- (b) This report will be reviewed by the City Engineer who will submit his comments and recommendations to the Special Permit Granting Authority.
6. The site shall be designed to contain areas that will accommodate snow storage in a manner so as not to decrease the required off-street parking or impact on the waiting space areas.

E. Exemptions:

1. The establishment of this use in a shopping center or any other complex which is also a principal permitted use in Section 4.202 and which requires the granting of a special permit exempts this use from the need for a special permit under this section.
2. The establishment of this use in any shopping center or any other complex under 100,000 sq. ft. which does not require a special permit shall require only a site plan review by the Community Development Board under this section. Pursuant to this exemption, a traffic study/report will not be required unless the Board deems such study necessary.

F. Prohibition of traffic overflow onto public ways: **[Added 3-8-2005 by Ord. No. 954]**

1. At any time upon receipt of notice from the Chief of Police stating that the stacking lanes from the drive-up window(s) are so congested that motor vehicles are consistently overflowing onto the public way and that such condition creates the potential for traffic and safety hazards, the City Council may order the Owner of a business with a Special Permit to operate as a drive-in, drive-up or drive-through an establishment permitted under this Section 7.840 (the "Owner"), at his/her sole expense, to hire, employ, or otherwise arrange for an off-duty police officer or traffic control personnel, to manage and control the flow of traffic or take whatever action the City Council deems necessary to prevent any overflow from the stacking lanes located at the Owner's establishment onto the public way (the "Traffic Control Order").

2. The requirements of the Traffic Control Order as issued by the City Council may also include the following:
 - (a) A statement specifying which days of the week and what times of each day the Owner is required to comply with the provisions of Chapter 23, Article 23-7, Section 7.840F(1) as herein amended.
3. Before the City Council can issue a Traffic Control Order, the City Council must first provide the Owner with a hearing on the matter of whether such Traffic Control Order should be issued. The City Council must provide the Owner with written notice of such hearing at least 14 days prior to such hearing. The written notice must specify the date, time, and place of such hearing.
4. If, after the completion of such hearing, the City Council deems that a Traffic Control Order should issue, the City Council shall send a copy of such order to the Owner.
5. In the event that the Owner fails to comply with the Traffic Control Order within 30 days of its issuance, then the City Council may take action to enforce the provisions of Traffic Control Order, including but not limited to, suspension or revocation of the Special Permit issued in accordance with this Section 7.840, and order the drive-up window to be closed until such time as the Owner complies with the Traffic Control Order.
6. The Owner may, at any time prior to the expiration of the thirty-day period referred to in paragraph 5 above, petition the City Council to modify or amend the Traffic Control Order. Such petitions may include a request to either terminate the Traffic Control Order, amend the time periods for which traffic control is required, or temporarily suspend the Traffic Control Order pending a determination by the Traffic Commission that the need for a Traffic Control Order no longer exists.
7. Before the City Council can suspend or revoke any Special Permit granted under this Section 7.840 for failure to comply with a Traffic Control Order, the City Council must first provide the Owner with a hearing on the matter of whether such Special Permit should be suspended or revoked. The City Council must provide the Owner with written notice of such hearing at least 14 days prior to such hearing. The written notice must specify the date, time, and place of such hearing.
8. If, after the completion of such hearing, the City Council deems that the Owner's Special Permit as granted under this Section 7.840 should be suspended or revoked, the City Council shall send a copy of such decision to the Owner ordering the drive-up window to be closed until such time as the Owner complies with the Traffic Control Order.

SECTION 7.841 - OFFICES, GENERAL BUSINESS, PROFESSIONAL, BANKING, REAL ESTATE OR INSURANCE DRIVE-IN, DRIVE-UP OR DRIVE-THROUGH, REQUIREMENTS: (ORD 768-1994)

A. Purpose

The purpose of this section is to minimize the traffic impacts of the design of the such facilities upon the surrounding area and streets; to promote compatibility of the design of such facilities with the special conditions of the site and/or the character of the area; to maintain and enhance

the environmental quality of the City by landscaping of the site and parking areas, and to insure harmony with the purpose of the Zoning Ordinance.

B. Definition

A Drive-In, Drive-Up or Drive-Through Office establishment is any such use which provides service directly to customers in an automotive or other vehicle from any window, counter, or other appurtenance from the principal or an accessory building.

C. Special Permit Granting Authority

For the purpose of this section, the Special Permit Granting Authority is designated to be the Pittsfield City Council. The special permit granting authority may require additional conditions as part of the grant of a special permit. The Pittsfield City Council may require this permit to be renewed after one year. **[Amended 9-20-2001 by Ord. No. 892]**

D. Requirements

1. The design and layout for waiting spaces shall provide for the movement of traffic about the site and shall not cause any obstruction of the required parking area, entrances, or exists.
2. The minimum number of waiting spaces for each service area shall be six. This number includes the space at the immediate service area. The "immediate service area" shall be defined as the area where the order is placed or where initial contact is first made. A waiting space shall be nine feet in width and twenty feet in length. **[Amended 9-20-2001 by Ord. No. 892]**
3. Any canopies or similar structures must be setback a minimum of ten (10) feet from all street right-of-way lines, twenty (20) feet from all properties residentially zoned and in a residential use, and ten (10) feet from all other property lines.
4. Landscaping must be provided to minimize the visual impacts of the drive-in, drive-up or drive-through areas, including entrances, exits and waiting areas, and to enhance the streetscape and structure.
- 5 (a) The applicant shall furnish a traffic study/report detailing the impacts of traffic on the adjoining street, and the volume of traffic generated by the facility. The report will contain information on the mitigation of the impacts on the adjoining streets and intersections in the area.
 - (b) This report will be reviewed by the City Engineer who will submit his comments and recommendations to the Special Permit Granting Authority.
6. The site shall be designed to contain areas that will accommodate snow storage in a manner so as not to decrease the required off-street parking or impact on the waiting space areas.

E. Exemptions:

1. The establishment of this use in a shopping center or any other complex which is also a principal permitted use in Section 4.202 and which requires the granting of a special permit exempts this use from the need for a special permit under this section.
2. The establishment of this use in any shopping center or any other complex under 100,000 sq. ft. which does not require a special permit shall require only a site plan review by the Community Development Board under this section. Pursuant to this exemption, a traffic study/report will not be required unless the Board deems such study necessary.

F. Prohibition of traffic overflow onto public ways: **[Added 3-8-2005 by Ord. No. 954]**

1. At any time upon receipt of notice from the Chief of Police stating that the stacking lanes from the drive-up window(s) are so congested that motor vehicles are consistently overflowing onto the public way and that such condition creates the potential for traffic and safety hazards, the City Council may order the Owner of a business with a Special Permit to operate as a drive-in, drive-up or drive-through an establishment permitted under this Section 7.841 (the "Owner"), at his/her sole expense, to hire, employ, or otherwise arrange for an off-duty police officer or traffic control personnel, to manage and control the flow of traffic or take whatever action the City Council deems necessary to prevent any overflow from the stacking lanes located at the Owner's establishment onto the public way (the "Traffic Control Order").
2. The requirements of the Traffic Control Order as issued by the City Council may also include the following:
 - (a) A statement specifying which days of the week and what times of each day the Owner is required to comply with the provisions of Chapter 23, Article 23-7, Section 7.841F(1) as herein amended.
3. Before the City Council can issue a Traffic Control Order, the City Council must first provide the Owner with a hearing on the matter of whether such Traffic Control Order should be issued. The City Council must provide the Owner with written notice of such hearing at least 14 days prior to such hearing. The written notice must specify the date, time, and place of such hearing.
4. If, after the completion of such hearing, the City Council deems that a Traffic Control Order should issue, the City Council shall send a copy of such order to the Owner.
5. In the event that the Owner fails to comply with the Traffic Control Order within 30 days of its issuance, then the City Council may take action to enforce the provisions of Traffic Control Order, including but not limited to, suspension or revocation of the Special Permit issued in accordance with this Section 7.841, and order the drive-up window to be closed until such time as the Owner complies with the Traffic Control Order.
6. The Owner may, at any time prior to the expiration of the thirty-day period referred to in paragraph 5 above, petition the City Council to modify or amend the Traffic Control Order. Such petitions may include a request to either terminate the Traffic Control Order, amend the time periods for which traffic control is required, or temporarily suspend the Traffic Control Order pending a determination by the Traffic Commission that the need for a Traffic Control Order no longer exists.

7. Before the City Council can suspend or revoke any Special Permit granted under this Section 7.841 for failure to comply with a Traffic Control Order, the City Council must first provide the Owner with a hearing on the matter of whether such Special Permit should be suspended or revoked. The City Council must provide the Owner with written notice of such hearing at least 14 days prior to such hearing. The written notice must specify the date, time, and place of such hearing.
8. If, after the completion of such hearing, the City Council deems that the Owner's Special Permit as granted under this Section 7.841 should be suspended or revoked, the City Council shall send a copy of such decision to the Owner ordering the drive-up window to be closed until such time as the Owner complies with the Traffic Control Order.

SECTION 7.842 ASSISTED LIVING RESIDENCE, REQUIREMENTS: (ORD #791-1995)

A. Purpose

The purpose of this section is to promote the availability of Assisted Living Residences in the City of Pittsfield; to provide services for elderly or elderly disabled persons; to encourage residential settings that promote the dignity, individuality, privacy and decision-making of such persons. For the purpose of this section an Assisted Living Residence is a building or buildings that provides living assistance in a residential setting for people 55 years of age or older. This assistance would include meals, professional services such as dressing or bathing assistance, and other social services. These facilities may have central dining facilities, lounges, meeting rooms, laundry rooms, green houses, exercise rooms and recreational areas, libraries, offices, medical facilities for diagnosis and out-patient services for residents only and such other common areas or facilities or accessory uses for the residents as may be desirable.

B. Special Permit Granting Authority:

The Special Permit Granting Authority for this section is designated to be the Pittsfield Community Development Board.

C. Requirements:

1. The minimum size of the lot for such uses in Residential Districts shall be two (2) acres with the exception of the RM zone which shall be 6000 sq. ft.
2. Each dwelling unit shall require 3500 sq. ft. of lot area with the exception of the RM zone which shall require 750 sq. ft. of lot area.
3. Assisted Living Residences not in an RM district shall comply with the following additional dimensional requirements: minimum front yard 50 feet, side yard 50 feet and rear yard 25 feet. Yard area shall be suitably landscaped. Minimum lot width and frontage shall conform to the requirements of the district where such use is located.
4. Assisted Living Residences in an RM district shall comply with minimum front, side and rear yard requirements, minimum lot width and frontage requirements as set forth in the Zoning Ordinance, provided, however, that if the building is over two stories in height, the minimum setback from side lot lines shall be increased by ten (10) feet for every story over two, and from the rear lot line by five (5) feet for every story over two.

5. The maximum height of an Assisted Living Residence shall be four (4) stories or fifty (50) feet.
6. Assisted Living Residences shall be served by municipal sewer and water.
7. Assisted Living Residences may have as accessory uses within the residential building such commercial sales and services enterprises as may be desirable for the convenience of the residents including, without limitation, barbers/hairdressers, retail sales, restaurants, snack bars, gift shops, laundry services, banking and financial services, businesses and professional offices (the "Accessory Uses") subject to the following conditions:
 - a. Accessory Uses shall be primarily for the use and convenience of the residents and staff of an Assisted Living Residence;
 - b. Accessory Uses shall not exceed ten (10%) percent of the total floor area of the residence;
 - c. No Accessory Use, other than a restaurant, may occupy more than 1,000 square feet of floor area;
 - d. Capacity of a restaurant shall not exceed sixty (60) seats; and
 - e. Accessory Uses shall be wholly within a residential structure and shall have no exterior advertising display.
8. An Assisted Living Residence in a BG or BD zone are exempt from the following requirements of this section: C1, C2, C3, C4, C5.
9. An Assisted Living Residence in a BG or BD zone may exist in combination with other permitted uses.

D. Approvals and Conditions:

1. The Special Permit Granting Authority may impose additional conditions if in its judgment such conditions are needed to increase the compatibility of the project with its surroundings or to better provide for the residents.
2. None of the provisions of this section shall apply to Assisted Living Residences existing on the date of adoption of this section.

SECTION 7.843 - RETAIL SALES OF PROPANE AND LIQUEFIED PETROLEUM GAS FROM A BULK STORAGE IN WHICH THE VOLUME DOES NOT EXCEED 1000 GALLONS (3,786 LITERS) AND 150 POUNDS PER SQUARE INCH PRESSURE, REQUIREMENTS: (ORDINANCE #863 – 1999)

A. Special Permit Granting Authority

The Special Permit Granting Authority for this section is the Community Development Board.

B. Requirements

1. The facility shall be located on the site in a manner to provide for emergency access from all sides or in any other manner approved by the Fire Department.
2. The facility shall be protected by security fencing.
3. Bollards, guardrails, or other similar devices shall be provided as protection of the facility from vehicular damage.
4. The site shall be landscaped with shrubs and /or other plantings.

C. Approvals and Conditions

The Special Permit Granting Authority may impose additional conditions if in its judgment such conditions are needed to increase the compatibility of the use with its surroundings.

SECTION 7.844 - TOURIST HOMES; BED-AND-BREAKFAST HOMES. [Added 5-27-2003 by Ord. No. 913]

A. Purpose.

The purpose of this section is to allow the establishment of transient guest facilities in a residential setting.

B. Special Permit Granting Authority.

For purposes of this section, the Special Permit Granting Authority is designated to be the Pittsfield Community Development Board.

C. Requirements.

1. The bed-and-breakfast tourist home is limited to eight guest rooms. This does not include living quarters for the owner.
2. The bed-and-breakfast tourist home must be owner occupied.
3. No guest rooms are permitted in a basement or cellar.
4. Food service is permitted only for the enjoyment of registered guests, as permitted by the Health Department.
5. All rooms must be in the principal structure.
6. Parking areas are to be so designed to provide buffering between said use and adjacent residential areas.
7. No outdoor pools, tennis courts or other similar recreational activities are permitted.

8. Any exterior lighting shall be designed not to shine on abutting properties. Provisions should be made to reduce the intensity of any lighting after midnight.
9. Changes, alterations or additions to the exterior of the structure may only occur as part of this special permit or as a modification of this special permit.

SECTION 7.846 - WASTE TRANSFER STATION. [Added 3-23-2004 by Ord. No. 925]

A. Purpose.

The purpose of this section is to allow the establishment of waste transfer stations in IG, IL and LDI Zones.

B. Special Permit Granting Authority.

For purposes of this section, the Special Permit Granting Authority is designated to be the Pittsfield Zoning Board of Appeals.

C. Requirements.

1. The storage of any materials in the open is prohibited. This does not apply to vehicles or equipment used in the operation.
2. Location.
 - (a) The principal building for said use shall be located 200 feet or more from a residentially zoned district.
 - (b) If the Special Permit Granting Authority determines that it is not feasible for said use to be conducted within the proposed parcel of land in compliance with Subsection C(2)(a), then the principal building must be separated by at least 200 feet from any residential building in a residentially zoned area and be buffered by a deed restriction that prevents residential construction on undeveloped residentially zoned land within the two-hundred-foot limit.
 - (c) If the Special Permit Granting Authority determines that compliance with neither Subsection C(2)(a) nor (b) is feasible, the Special Permit Granting Authority shall impose the maximum feasible setback for said use within the proposed parcel of land.
3. The site shall be landscaped. The Special Permit Granting Authority if deemed necessary may require screening.
4. All driveways, parking areas and other areas of vehicular activity shall be hard surfaced with an all-weather material such as concrete or bituminous concrete.
5. The applicant would be subject to the requirements of Section 4.315, Performance Standards.

- D. Approvals and conditions. The Special Permit Granting Authority may impose additional conditions if in its judgment such conditions are needed to insure compatibility with the surrounding area.

SECTION 7.847 - ADULT ENTERTAINMENT ESTABLISHMENTS. [Added 10-26-2004 by Ord. No. 936]

A. Purpose:

The purpose of this section is to allow Adult Entertainment Establishments in an IL zone. It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that Adult Entertainment Establishments are distinguishable from other business uses and that the location of adult entertainment uses degrades the quality of life in the areas of a community where they are located. Studies have shown secondary impacts such as increased levels of crime, decreased tax base, and blight resulting from the clustering and concentration of adult entertainment uses. Late night noise and traffic also increase due to the late hours of operation of many of these establishments and the Massachusetts Home Rule Amendment with the purpose and intent of regulating and limiting the location of Adult Entertainment Establishments (as defined herein) so as to prevent the secondary effects associated with these establishments, and to protect the health, safety, and welfare of the present and future inhabitants of the City of Pittsfield. This Ordinance is enacted pursuant to Massachusetts General Law Chapter 40A, Section 9A. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the intent or effect of this Ordinance to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor restrict nor deny rights that distributors or exhibitors of such matter or materials may have to sell, distribute, or exhibit such matter or materials. Nor is it the intent or effect of this Ordinance to legalize the distribution of obscene matter or materials.

B. Special Permit Uses

The following uses, known as Adult Entertainment Establishments, shall require a Special Permit:

- (1) Adult Book Store
- (2) Adult Video Store
- (3) Adult Paraphernalia Store
- (4) Adult Motion Picture Theater
- (5) Adult Live Entertainment Establishment

C. Special Permit Granting Authority:

For the purpose of this section, the Special Permit Granting Authority is designated to be the Zoning Board of Appeals.

D. Requirements:

Special Permit applications for approval under this ordinance shall contain the following additional information:

1. Name and address of the legal owners of the Establishment and the property, as well as the manager of the proposed Establishment.
2. The total number of employees and/or independent contractors.
3. Proposed security precautions.
4. The external and internal physical layout of the premises.
5. Full description of the intended nature of the business
6. A sworn statement must be provided stating that neither the applicant, nor the manager, in the Adult use business has been convicted of violating the provisions of M.G.L. c.119, S. 63 or M.G.L. c. 272, S. 2, 3, 4, 4A, 6, 7, 8, 12, 13, 28 and M.G.L c. 265 S. 13B, 13F, 13H, 22, 22A, 23, 24, and 24B, including but not limited to crimes of indecency, assault and battery, crimes against women and/or children, crimes of sexual exploitation, and felony possession of narcotics.

E. SPECIAL PERMIT STANDARDS FOR ADULT ENTERTAINMENT.

No Special Permit may be granted by the Zoning Board of Appeals for an Adult Entertainment Establishment unless the following conditions are satisfied:

- (1) Location Conditions: No Adult Entertainment Establishment may be located outside of an Adult Entertainment Zone, as listed in the Section 7.847 and Chapter 23, Article 23-4, Section 4.202, Table of Principle Permitted Uses, and less than 400 feet from a residential zoning district, school, library, church or other religious use, home and/or center-based child care facility as defined by G.L. c. 28A, section 9, park, playground, recreational areas, any youth facility, any establishment licensed under the provisions of Massachusetts General Law Chapter 138, Section 12, or another Adult Entertainment Establishment. The 400 feet shall be measured from all property lines of the proposed use. **[Amended 11-9-2005 by Ord. No. 969]**
- (2) Separation of Uses. No more than one adult use, as defined in Section I, shall be allowed to operate within the same building, structure or portion thereof.
- (3) Building Design:
 - (a) The building shall be so modified or designed so that all doors, windows and other openings shall be located, covered and/or screened in such a manner as to prevent a view into the interior from the outside.
 - (b) Sound produced by music, loudspeaker or patrons shall not be discernable by the public beyond the walls of the premises.
 - (c) All entrances shall be clearly marked with a notice prohibiting minors from entering the premises.
 - (d) If the adult oriented business allows for the showing of films and videos within the premises, the booths in which the films or videos are viewed shall not

be closed off by curtains, doors, or screens. All booths must be able to be clearly seen from the center of the establishment.

(4) Display Conditions:

(a) No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise or other implements, items or advertising, depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31 shall be displayed in the windows of, or on the building of, any Adult Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such establishments.

(b) Sign content shall identify the name of the establishment only and shall contain no advertisement in addition to the identification of the use. Only one identification sign to be mounted on the building wall face shall be allowed for an adult use. All other signs whether on the exterior of the building or visible from the exterior of the building are prohibited.

(c) No adult entertainment establishment may have any flashing lights visible from outside the establishment. Furthermore, no sign shall rotate, or contain reflective or fluorescent elements.

(5) Screening: All building openings, entries, and windows shall be screened in such a manner as to prevent visual access of the public to the interior of the Adult Entertainment Establishment. A five (5) foot high solid fence or a landscaped buffer of evergreen trees or shrubs five (5) foot high at the time of planting shall be provided and maintained along the side and rear property lines. The special permit granting authority if deemed necessary may require additional screening.

(6) Minors. No Adult Entertainment Establishment shall be allowed to disseminate adult matter to minors, cause Adult Entertainment Establishment displays to be viewed by minors, or allow minors to linger on the premises.

(7) Applicant Conditions: No adult use special permit shall be issued to any person, corporation, officer, director, general partner convicted of violating the provisions of M.G.L. c.119, S. 63 or M.G.L. c. 272, S. 2, 3, 4, 4A, 6, 7, 8, 12, 13, 28 and M.G.L c. 265 S. 13B, 13F, 13H, 22, 22A, 23, 24, and 24B including but not limited to crimes of indecency, assault and battery, crimes against women and/or children, crimes of sexual exploitation, and felony possession of narcotics. If any person so identified is found to be convicted of violating any statutes, such special permit shall immediately null and void.

(8) Parking: Parking for Adult Entertainment Establishments shall be provided only in front and side yard areas. All parking areas shall be illuminated and such lighting shall be contained within the subject property lines.

(9) Approvals and Conditions: The special permit granting authority may impose additional conditions if in its judgment such conditions are needed to insure compatibility with the surrounding area.

- (10) Expiration of Permit. Any adult use special permit granted shall expire after a period of 2 calendar years from its date of issuance and shall be automatically renewable for successive 2 year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to the expiration of the then-existing two year period, subject to the request being noticed as specified in MGL Chapter 40A, Section 9. Said notice shall state that the renewal request will be granted unless, prior to the expiration of the then existing permit, a written objection from any individual or entity which raise valid and substantiated secondary effect concerns considered by the Pittsfield City Council in drafting this ordinance and/or violations of this ordinance is received by the Zoning Board of Appeals. In the event of such an objection, a public hearing on the renewal shall be held in accordance with MGL Chapter 40A, Section 9. The existing Special Permit shall remain in effect until the conclusion of the public hearing and decision of the Zoning Board of Appeals either granting or denying the Special Permit renewal, in accordance with the provisions of Section 30.2.11.8. In granting any such renewal, the Zoning Board of Appeals may impose additional conditions, including, without limiting the foregoing, time limits to correct violations, hours of operations and additional screening, upon which a specified lapse of time without correction or compliance shall result in a revocation of the Special Permit.

F. CONDITIONS OF APPROVAL.

A Special Permit issued under this ordinance shall lapse upon any one of the following occurrences:

- (1) There is a change in the location of the adult use;
- (2) There is a sale, transfer or assignment of the business or the license;
- (3) There is any change in ownership or management of the applicant; or
- (4) Failure to begin a permitted Adult Entertainment Establishment within two years of the granting of such permit, except for "good cause", including the time necessary to await a court appeal to establish an Adult Entertainment Establishment.

G. NON-CONFORMING PRE-EXISTING USES.

Any adult entertainment establishment shall be allowed to continue to operate in its present location unless there is a change in type and intensity of use.

SECTION 7.848 — FLEXIBLE DEVELOPMENT. [Added 2-13-2007 by Ord. No. 988]

A. Purpose.

1. To encourage the preservation of open land for its scenic beauty, and to enhance agricultural, open space, forestry, and recreational use;
2. To preserve historical and archeological resources, and protect the natural environment, including the City's varied landscapes and water resources;

3. To promote more sensitive siting of buildings, and better overall site planning that relates harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings;
4. To perpetuate the appearance of the City's traditional New England landscape;
5. To facilitate the construction, maintenance and provision of housing, streets, utilities, and public services in a more economical, efficient and environmentally sound manner;
6. To offer an alternative to standard subdivision development that will allow for greater flexibility and creativity of design, while encouraging a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;
7. To promote the development of housing affordable to persons at or below the moderate income as defined by the U.S. Department of Housing and Urban Development; and
8. To promote the development of accessible or adaptable housing that is compliant with the requirements of the Massachusetts Architectural Access Board (MABB).

B. Definitions. The following terms shall have the following definitions for the purposes of this section:

1. "Affordable" shall mean the following:

Regarding homeownership:

a. "Affordable to persons or families qualifying as at or below low income" shall mean affordable to persons in the area earning no more than fifty percent (50%) of the median income, with adjustments for smaller or larger families as determined by the United States Department of Housing and Urban Development. Affordable shall also mean having a purchase price that is supportable at this income level under then prevailing underwriting guidelines, given not more than a five percent (5%) down payment.

b. "Affordable to persons or families qualifying as moderate income" shall mean affordable to persons in the area earning between fifty percent (50%) and eighty percent (80%) of the median income, with adjustments for smaller or larger families as determined by the United States Department of Housing and Urban Development. Affordable shall also mean having a purchase price that is supportable at this income level under then prevailing underwriting guidelines, given not more than a five percent (5%) down payment.

Regarding rental housing:

a. "Affordable to persons or families qualifying as at or below moderate income" (according to the above definitions for homeownership) shall mean that the household is paying no more than thirty percent (30%) of its monthly adjusted gross income for rent and utilities.

2. "Applicant" shall be defined as a person, corporation, partnership or other legal entity having a legal or equitable interest in the property.

3. "Board" shall be defined as the Community Development Board, also known as the Special Permit Granting Authority.

4. “Contiguous open space” shall be defined as being connected and suitable, left primarily in its natural state for wildlife habitat, conservation, and, or historic preservation, and may also be used for passive recreation (including hunting, fishing, and hiking), outdoor education, park purposes, agriculture, horticulture or any combination of these uses. Additional uses may be permitted upon approval of the Community Development Board, provided that such uses are in harmony with the promotion and retention of open space. Such open space may be separated by the street(s) constructed within the Flexible Development. Contiguous open space shall not include required yards.

5. “Disturbed Areas” shall be defined as any land not left in its natural vegetated state. Not more than fifty percent (50%) of the total tract shall be disturbed area.

6. “Soft Stormwater Management Techniques” shall be defined as non-structural stormwater management techniques that use passive surface pre-treatment of stormwater in conjunction with decentralized recharge to achieve a low-impact design that attempts to mimic pre-development hydrologic conditions.

7. “Wetland” shall be limited to the definition of fresh water wetland as specified under MGL c. 131, Section 40, the Wetlands Protection Act.

C. Applicability. In accordance with the following provisions, a Flexible Development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership and located entirely within the City, where residential uses are permitted.

D. Procedures. Flexible Development may be authorized upon the issuance of a special permit by the Community Development Board. All submitted plans must contain boundaries, the development name and the name of any proposed street(s), a magnetic north point, date, legend, title and scale. Applicants are encouraged to submit ten (10) copies of a preliminary concept plan of the entire tract for review by the Community Development Board prior to formal application, showing sufficient data about the proposal to form a clear basis for discussion of the project and for preparation of the definitive land development plan. Prior to the submittal of the concept plan, applicants are strongly encouraged to conduct a neighborhood meeting of the proposed development for residents in the vicinity and the appropriate Ward Councilor. It shall be the responsibility of an applicant to demonstrate to the Board that this form of land development will be as, or more, appropriate than conventional patterns of residential subdivision development for the particular site being considered. The plan shall have been prepared by a Massachusetts state registered landscape architect, architect, civil engineer, and, or land surveyor and drawn to a scale adequate to represent all features of the property. Any waiver requests should be proposed at this time.

Within five (5) days of receipt of the concept plan, the Board shall transmit copies of it to other City departments and to the appropriate Ward Councilor for comments as it deems appropriate. The review session for the concept plan shall be held not later than thirty-five (35) days after receipt of the concept plan by the Board unless such time period is extended by written agreement of the parties. The Board, during its review of the concept plan, shall solicit public comment on the plan. During the meeting, the Board and City departments may suggest revisions and additions to be incorporated by the applicant in the definitive land development plan.

The concept plan shall indicate:

- (a) A locus and the location and boundaries of the site;

- (b) Proposed land and building uses;
- (c) Existing topography and proposed grading, each shown at intervals of no more than two (2) feet;
- (d) Location of streets, ways and parking;
- (e) Areas of proposed and retained vegetation;
- (f) Distinctions between upland and wetland;
- (g) Water, drainage and sewerage systems; and
- (h) Location of any proposed structures.

Any intended future phases of the development must be designated on the concept plan. Those portions of the plan may initially omit item (e) through (g) of the contents above. However, prior to any construction of each additional phase, all concept plan contents listed above (a through h), must be shown on a plan approved as an amendment to the special permit.

Applicants for the special permit shall file with the Community Development Board ten (10) copies of the special permit application and a definitive land development plan. In order to determine compliance with the requirements or intent of this ordinance, the Board may require engineering or environmental analyses to be prepared at the expense of the applicant if necessary, under M.G.L., Ch. 44, Sec. 53G. All streets, parking areas, drainage areas, utilities, grading and similar site improvements shall be constructed in accordance with the City Department of Public Works Standards and Subdivision Regulations. Any proposed street(s) shall be designed according to the standards in the Pittsfield Subdivision Rules and Regulations and filed as a preliminary plan. The hearings may be held simultaneously. The Board's endorsement of such subdivision plan shall be in accordance with all provisions of its Subdivision Regulations.

The definitive land development plan shall contain the following:

1. A Site Context & Existing Conditions Plan which shall illustrate the parcel in connection to its surrounding neighborhood. This plan enables the Community Development Board to understand the site in relation to what is occurring on adjacent properties. Based upon existing data sources and field inspections, it shall show the location of major site features such as: all existing structures on the property including driveways, walkways, parking areas, fences, wells and septic systems; all bordering streets, including their names and widths; contours of elevation, existing drainage patterns and other physical and topographical features of the property, as well as major natural resource areas and features that are on the site, including those located on adjoining lands.

Resources shown shall include, but are not limited to, any wetlands, streams and ponds; riverfront areas, floodplains, steep slopes, large trees, woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations (such as rock outcroppings); and scenic views into and out from the property. Where appropriate, photographs of these resources should accompany the map. Proposals for all site features to be preserved, demolished, or moved shall be clearly delineated on the plan;

2. A Lot Layout and Dimensions Plan which shall illustrate all proposed structures, driveways, walkways, parking areas, wells and septic systems; an outline of the area of each

building lot or unit placement, taking into account setbacks and buffers as specified; access street locations and widths. Existing and proposed topography shall be shown at two-foot intervals, except that the Board may authorize greater intervals in such areas as steep slope or where physical change is not proposed. Elevations shall refer to mean sea level (N.G.V.D). Any grade changes shall be in keeping with the general appearance of the neighboring developed areas, and the nature of the soils and subsoils shall be suited for the intended purposes;

3. A Conceptual Landscaping Plan which shall include the delineation of all proposed open spaces and their accessibility, surface storm water management facilities, landscaped, screened and buffer areas, showing that the Flexible Development meets the buffer and open space requirements detailed in this Ordinance. The landscape design must incorporate the natural features of the site, including use of native plants and preservation of wetlands and sensitive habitat of plants or animals. Any proposed plant species shall be listed and be appropriate to proposed use, siting, soils, and other environmental conditions. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas;

4. Data and plans showing proposed sewer or water facilities, wastewater disposal and stormwater management, which shall include a narrative of any likely impacts onsite and to any abutting parcels or groundwater. Calculations with plan and profile drawings including all necessary details shall be done by a state registered professional engineer and shall fully comply with all applicable federal, state and local laws, regulations, ordinances, standards and policy.

Developments not serviced by City sewer or City water will require that the submitted plan demonstrate that the necessary capacities are available on site. Approval of the Pittsfield Health Department, Department of Public Works and all applicable state agencies must be obtained by the applicant;

5. Application for a development that is proposing one or more new street(s) shall be accompanied by a plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Community Development Board, and shall include details for any phased development for any project requiring a new street;

6. A Traffic Impact Statement showing sight line distances and data regarding expected traffic flow from the development and its effects on the surrounding neighborhood and adjacent public ways;

7. A Management Plan for the intended maintenance and overall management of the site, which shall include but not be limited to the following: association organizational structure and maintenance of common facilities and stormwater structures. Methods to minimize the use of pesticides or other harmful chemicals that may negatively affect surrounding land uses, waterways and residents shall also be demonstrated; and

8. The Community Development Board may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein.

Prior to the issuance of the first occupancy permit or first sale of a lot within a Flexible Development, all proposed covenants, agreements and other restrictions shall be reviewed and approved by City legal counsel in final legal form and thereafter recorded in the Berkshire Middle Registry of Deeds. All lots to be so developed shall be shown on a plan recorded in the Berkshire Middle Registry of

Deeds or registered with the Land Court, except that lots need not be shown for areas designated for development in a later phase.

E. Design Process. Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Community Development Board that this design process was considered in determining the layout of proposed streets, house lots, and contiguous open space.

1. *Understanding the Site.* The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other;

2. *Evaluating Site Context.* The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., street and bicycle networks), cultural (e.g., recreational opportunities) and visual (e.g.; as currently viewed from public ways) connections to surrounding land uses and water resources;

3. *Designating the Contiguous Open Space.* The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and where appropriate, areas that serve to extend neighborhood open space networks;

4. *Location of Development Areas.* The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets, other areas and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the existing development patterns of the immediate neighborhood. Proposed buildings shall be related to their surroundings and all entrances and exits to the development shall be screened with vegetation so as to provide a visual buffer from the public way. Applicants are encouraged to use design features that are in keeping with the character and scale of the natural and architectural elements in the neighborhood and use traditional New England architectural elements in the design. It is not intended that buildings be totally uniform in appearance or that designers and developers be restricted in their creativity. Rather, cohesion and identity can be demonstrated in similar building scale or mass, consistent use of facade materials, similar ground level detail, color, signage, landscaping, the framing of outdoor open space and linkages, and consistency in functional systems such as surfaces of streets or pedestrian ways for a clear indication of the importance of various buildings and features on the site. Storage of waste and waste facilities shall be screened from view from public ways and neighboring properties in accordance with Section 4.309 of the City Zoning Ordinance and shall follow City and State Board of Health regulations.

The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, surface water, and natural drainage ways shall be treated as fixed determinants of street and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme. Every effort shall be made to minimize the amount of disturbed areas on the tract. A disturbed area is any land not left in its natural vegetated state. Not more than fifty percent (50%) of the total tract shall be disturbed area. The visual integrity of scenic vistas, hilltops and ridge lines shall be maintained by siting development so that building silhouettes will preserve quality views and be below the ridge line or hilltop; the building silhouette will be at least sixty (60) feet lower than the average canopy height of trees on the ridge or hilltop. Building design and architecture shall focus on making structures blend into the viewscape rather than stand out from it. Developments on lakefront or pond property must similarly blend into the viewscape and maintain the visual scenic integrity of the waterfront by being setback enough so as to preserve the natural view of the

shoreline from the water, with retention of the majority of the existing native vegetation. Vista Pruning is allowed by selectively thinning tree branches or understory shrubs to establish a specific “window” to improve visibility of the lake or pond for the development. Vista Pruning does not include the cutting of trees and shall not alter more than fifty percent (50%) of the existing tree canopy.

Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities (including parkland and open space) and adjacent land uses where appropriate; and

5. *Lot Lines.* The final step is to draw in the lot lines (if applicable) or unit placements, showing approximate areas and dimensions. Any affordable housing units shall be designated as such on the plan.

F. Modification of Dimensional Requirements. The Community Development Board encourages applicants to modify lot size, shape, and other dimensional requirements for lots within a Flexible Development, subject to the following limitations:

1. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the Flexible Development; provided, however, that the Community Development Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood and will further the purpose of this ordinance;

2. At least fifty percent (50%) of the required side and rear yards in the district shall be retained. In the absence of a minimum yard requirement in the underlying district, those for the R-M zoning district shall apply. Side yard requirements may be waived for certain building styles such as duplexes or townhouses. To protect abutting properties from undue impact from the clustering of dwelling units, the Board may require greater building setbacks and the maintenance and/or planting of increased buffers of natural vegetation on the perimeters of the developments;

3. The maximum lot coverage of buildings, structures, internal streets, driveways and parking areas, shall not exceed twenty-five percent (25%) of the total lot area.

4. Building height shall be regulated by the Schedule of Intensity Regulations. However, building height may be increased by one (1) additional story upon request for a waiver and determination by the Board that such increase will further the purpose of this ordinance, not create undesirable conditions caused by overshadowing, loss of privacy, microclimate disturbance or visual intrusion, and that utility and protective services will be adequate. No such building shall be nearer the development boundary than twice the building height; and

5. No further increase in the number of lots shall be allowed through subsequent land division.

G. Basic Maximum Number of Dwelling Units. The Basic Maximum Number of dwelling units allowed in a Flexible Development shall not exceed the number of lots which could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision, health and wetlands regulations, and other applicable requirements, including consideration of how much of the land is actually buildable. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

H. Density Bonus. The Community Development Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the Flexible Development shall not, in the aggregate, exceed fifty percent (50%) of the Basic Maximum

Number and the amount of each bonus granted shall be at the discretion of the Board. Computations shall be rounded to the lowest number. Density bonuses may be awarded for Flexible Development meeting the criteria set forth in items 1 through 4 below. A double density bonus may be received for units that meet both the affordable and Massachusetts Architectural Access Board accessible or adaptable housing criteria that is set forth in items 2 and 3 below:

1. For each additional ten percent (10%) of the site set aside as contiguous open space that is over and above the required twenty five percent (25%), a bonus of five percent (5%) of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed twenty five percent (25%) of the Basic Maximum Number;

2. For every two (2) dwelling units restricted to occupancy by persons at or below the moderate income level, one (1) market rate dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed fifteen percent (15%) of the Basic Maximum Number. The Affordable Dwelling Units shall be evenly distributed throughout the development and be consistent with the design standards of this ordinance. The Affordable Dwelling Units shall be deed restricted as such for thirty (30) years, the form of which shall be approved as to form by legal counsel to the Community Development Board and written into the deeds of each separate property. A right of first refusal upon the transfer of such restricted units shall be granted to the regional Housing Authority, or other agreement acceptable to the Community Development Board, for a period not less than one hundred twenty (120) days after notice thereof;

3. For every two (2) Massachusetts Architectural Access Board certified accessible or adaptable dwelling units included in the development, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed ten percent (10%) of the Basic Maximum Number; plus

4. For the inclusion of two (2) LEED certified dwelling units under the United States Green Building Council's LEED (Leadership in Energy and Environmental Design) program, one (1) additional dwelling unit may be added as a density bonus; provided however, that this density bonus shall not exceed ten percent (10%) of the Basic Maximum Number.

I. Types of Buildings. The Flexible Development may consist of any combination of single-family, two-family, multi-family, garden apartments, or townhouses. The architecture of all multi-family or apartment buildings shall be residential in character.

J. Streets. The principal street(s) serving the site shall be designed to conform to the Subdivision standards of the City. All dead end streets and cul de sacs shall provide an adequate turn around area, snow storage space and all curve radii shall be a minimum of forty (40) feet to accommodate emergency vehicles. Private ways shall be maintained by an association of unit owners or by the applicant. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to preserve and enhance views and vistas on or off the subject parcel, to minimize cut and fill; to minimize street construction by utilizing common driveways wherever feasible; and to protect major street appearance and capacity by avoiding development close to or egressing directly onto such major streets. A Flexible Development having more than forty (40) dwelling units shall have a minimum of two (2) access streets, to be separated by at least one hundred (100) feet.

K. Common Driveways. Common driveways shall not provide access to more than four (4) lots or buildings and shall not be considered public ways or provide lot frontage. Common driveways shall not be less than sixteen (16) feet in width and shall have adequate turn around area, curve radii that

will accommodate emergency vehicles and snow storage space. The maximum length shall be four hundred (400) feet, and the maximum grade shall be ten percent (10%). Short sections may exceed ten percent (10%) with the approval of the Board, but in no event shall any section exceed fifteen percent (15%). The intersection angle between a common driveway centerline and the street centerline shall not be less than sixty (60) degrees.

The length of an individual driveway originating at a common driveway plus the length of the common driveway shall not exceed six hundred (600) feet. Measurement of the individual driveway shall be along its centerline from its point of intersection with the center line of the common driveway to its termination at the building it serves, or to the portion of the vehicle storage area closest to said building.

An agreement providing access over the common driveway to all lots and making all lots served by the common driveway jointly responsible for its maintenance and repair, including snowplowing, shall be approved as to form by City legal counsel and recorded at the Berkshire Middle Registry of Deeds. Evidence of the recording shall be submitted to the Building Inspector prior to the issuance of a building permit for any lot served by the common driveway.

L. Contiguous Open Space. A minimum of twenty five percent (25%) of the parcel shown on the development plan shall be contiguous open space, the majority of which shall be left in its natural state rather than significantly altered, to be kept properly maintained with the intent of sustaining its value to native wildlife. Where possible and appropriate, proposed open space shall be linked to existing open spaces to form green corridors and link recreational uses. Such open space must be surveyed with the angles marked permanently. It shall be accessible to all of the lots or units which it is intended to serve. If public or abutter access is to be allowed, it shall be stated on the plans, and as a condition of the special permit. Signs memorializing such access capabilities shall be permanently posted on the property.

In cases where the open space has been environmentally damaged prior to the completion of the development as a result of soil removal, harvesting of trees or other natural features, refuse disposal or similar activity, the Board may require the developer to restore or improve the condition and appearance of the common open space, and may require the posting of a bond or other appropriate form of performance guaranty to ensure such restoration or improvement.

1. No more than fifty percent (50%) of the dedicated open space shall constitute wetlands and lands subject to seasonal flooding. Wetland determination is the responsibility of the developer and shall be established by a wetlands specialist, done in accordance with the Massachusetts Department of Environmental Protection Wetlands Program, to be made part of the site plan. The applicant may include a greater percentage of wetlands in such open space upon demonstration that such inclusion promotes the purposes set forth in Section 7.848, A, above;

2. The contiguous open space shall be served by appropriate access for the intended purposes and be maintained and improved in accordance with good conservation practices in a manner which will ensure its suitability for such purposes. Such land shall be perpetually kept in an open state;

3. The contiguous open space shall remain un-built upon, provided that the Community Development Board may permit up to ten percent (10%) to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bike paths;

4. Underground utilities to serve the Flexible Development site may be located within the contiguous open space; and

5. The Community Development Board may waive the requirement for contiguous open space where it is determined that allowing noncontiguous open space will promote the purpose of this ordinance and/or protect identified primary and secondary conservation areas. The Board may permit wastewater and storm water management systems serving the Flexible Development to be located within the open space. Surface systems, such as retention and detention ponds, may at the Board's discretion, qualify towards the minimum open space required when determined to be part of Low Impact Development techniques.

M. Ownership of the Contiguous Open Space. The contiguous open space shall be conveyed to either of the following, to be approved by the Board, prior to the start of any land clearing or construction for the development; the principal purpose being the conservation of open space with a trust clause insuring that it be maintained as such. Any proposed contiguous open space, unless conveyed to the City, shall be subject to a recorded permanent Conservation or Agricultural Preservation Restriction in accordance with M.G.L. c. 184 § 31, approved as to form by the Community Development Board and City legal counsel; enforceable by the City and conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, or Department of Agricultural Resources. Any proposed open space that does not qualify for inclusion in a Conservation Restriction or Agricultural Preservation Restriction, or that is rejected from inclusion in these programs by the Commonwealth of Massachusetts shall be subject to a Restrictive Covenant, which shall be approved as to form by the Community Development Board and City legal counsel; enforceable by the City. All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances to:

1. The City or its Conservation Commission;
2. A non-profit organization, the principal purpose of which is the conservation of open space, and any of the purposes for such open space set forth above; and/or
3. A corporation or trust owned jointly or in common, by the owners of lots or units within the Flexible Development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of each of the lots or units, in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust, which shall provide for mandatory assessments for maintenance expenses to each lot or unit. Failure to pay such assessments shall create a lien on the property assessed, enforceable by either the home association or the owner of any lot or unit. Each such trust or corporation shall be deemed to have assented to allow the City to perform maintenance of such open space and facilities if the trust or corporation fails to provide adequate maintenance, and shall grant the City an easement for this purpose. The cost of such maintenance by the City shall be assessed against the properties within the development and/or to the owner of the open space. The City may file a lien against the lot(s) or unit(s) to ensure payment of such maintenance. In such event, the City shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the City may perform it. Each individual deed, and the deed, trust, or articles of incorporation, shall include provisions designed to effect these requirements. Documents creating such trust or corporation shall be approved as to form by legal counsel for the Community Development Board and thereafter recorded in the Berkshire Middle Registry of Deeds. The developer shall be responsible for the maintenance of the common land and any other facilities to be held in common until such time as the home association is capable of assuming said responsibility.

N. Buffer Areas. Buffers shall provide visual separation from nearby premises outside the boundaries of the development and shall not include any required minimum yards as set forth in the Schedule of Intensity Regulations. A vegetative buffer area of no less than ten (10) feet in width shall be

provided at the perimeter of the property, except for site entrances and exits which shall have a vegetative screening sufficient to act as a visual buffer of the development from existing City streets. Flexible Developments located on greater than twenty (20) acres or having more than forty (40) units shall have buffers of fifty (50) feet from abutting property lines in order to prevent visual intrusion of the development upon existing abutting residents. The Board may require greater buffers of natural vegetation on the perimeters of the developments in order to protect abutting properties from negative impact(s) from the Flexible Development such as a loss of privacy, or visual intrusion and preserve the characteristics of the existing neighborhood. Native vegetation is preferred buffer material and should not be removed or altered in favor of non-native vegetation. The buffer areas should be kept in a natural state and be properly maintained. Screening of any on-site parking area for six (6) or more vehicles and all structural surface facilities such as heating and cooling units, shall be provided in accordance with Section 4.309 of the Zoning Ordinance.

O. Stormwater Management. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Community Development Board. The use of soft stormwater management techniques (non-structural, such as swales) and other Low Impact Development methods that reduce impervious surface and enable infiltration where appropriate, are encouraged.

P. Phased Development. Prior to the issuance of a building permit for the first building in each phase of a phased project, the applicant shall be required to submit a site plan and the Board shall conduct a site plan review. The site plan review shall ensure consistency with the specific conditions of the approved special permit. The Board shall render its site plan approval with any conditions within thirty five (35) days of the submittal of the application for the building permit, unless such time period is extended by written agreement of the parties. The approved plans and special permit shall govern the build out of each phase of the development. Such site plan review shall be limited to the following features of the building: architectural elements, landscaping, parking lot access and layout, signs and lighting.

Q. Decision. The Community Development Board may approve, approve with conditions, or deny an application for a Flexible Development after determining that the proposed development ensures compliance with the purposes of this ordinance and is as, or more appropriate than conventional patterns of residential subdivision development for the particular site being considered. The approval shall include consideration of each of the following:

1. Compatibility with neighborhood character, surrounding uses and social structures;
2. Mix and scale of uses proposed, including the number of units per building and the percentage of development coverage;
3. The impact on local traffic flow and safety, including parking and loading;
4. Noise;
5. Lighting;
6. Adequacy of utilities and other public services;
7. Impacts on the natural environment and historic assets;

8. Potential fiscal impact, including impact on municipal services, tax base, and employment;

9. Whether the Flexible Development project complies with the use regulations, dimensional requirements, and performance standards set forth herein; and

10. Whether the Flexible Development is substantially in conformance with the Master Plan approved by the Community Development Board.

Any of the following shall be considered a major amendment and shall be acted upon only under the procedure applicable to the initial approval for a Flexible Development:

(a) Reduction in the amount of land preserved for recreation, open space use, conservation, or public use or any change in the general location of such land as provided in the permit;

(b) Any change in the general layout of the ways as provided in the permit;

(c) Any increase in the number of dwelling units as provided in the permit;

(d) Altering the location of any building or structure by more than ten (10) feet or distance as otherwise specified by the permit granting authority at the time of the special permit approval; or

(e) Approval of detailed provisions for portions of a concept plan designated for development at a later phase.

R. Bond Requirement. Unless the installation of public services and construction of common facilities such as internal streets, walkways, parking and play areas, drainage, landscaping and screening has been completed, no certificate of occupancy shall be issued by the Building Inspector for any part of the development until the applicant shall have filed in the Office of the City Clerk a bond with surety satisfactory to the Building Inspector and approved as to form and legality by City legal counsel. Such bond shall be in the amount sufficient in the judgment of the Department of Public Works to secure the completion of such work in compliance with all applicable statutes, ordinances, and regulations and in accordance with the special permit approved by the Community Development Board.

S. Relation to Other Requirements. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law, or any other provisions of this Zoning Ordinance. Where this Section specifies some standard, or makes some other requirement contrary to a requirement set forth elsewhere in this Zoning Ordinance, the provisions of this Section, as may be amended from time to time, shall prevail.

SECTION 7.849 — HOSPICE HOUSE REQUIREMENTS. [Added 8-14-2007 by Ord. No. 1000]

A. Purpose:

The purpose of this section is to promote the availability of Hospice or Hospice programs and Hospice care or services in the City of Pittsfield. Such programs, care and services shall include, but not be limited to, physician's services, nursing care provided by or under the supervision of a registered

nurse, social services, volunteer services and counseling services provided by professional or volunteer staff under professional supervision.

B. Special Permit Granting Authority:

For purposes of this section, the Special Permit Granting Authority is designated to be the Pittsfield Community Development Board.

C. Performance Standards:

In order to apply for a special permit, the Hospice House shall meet the following requirements, which shall supersede all others in this Ordinance. Otherwise, the requirements of the R-43 District shall apply.

1. The minimum lot size for any such use shall be five (5) acres;
2. The minimum front yard shall be fifty (50) feet, side yards twenty-five feet (25) and rear yard fifty (50) feet;
3. The maximum lot coverage by all buildings shall be twenty (20) percent;
4. The maximum height of buildings shall be the height limit established for the underlying zone district in which the facility is located;
5. The lighting shall be shielded and downward directed so as to assure no direct light source shall be visible from adjacent property or a public way;
6. Off-street parking and loading shall comply with the design standards and all applicable provisions of Article 23-10 of this ordinance. However, the applicant is encouraged to provide non-traditional construction of parking spaces by use of materials such as porous pavement or grass or gravel.
7. Use of kitchen and dining facilities shall be restricted to patients, families and visitors of patients, and Hospice staff;
8. The Hospice House shall be served by municipal water and sewer;
9. Where the lot on which the Hospice House is proposed is split by a district boundary, the Special Permit Granting Authority may provide for access through such adjacent district(s) to the lot.

D. Approvals and Conditions:

The Special Permit Granting Authority may impose additional conditions, if in its judgment such conditions are required to insure compatibility with the surrounding area.

SECTION 7.850 — RECREATIONAL MARIJUANA RETAIL AND/OR MEDICAL MARIJUANA RETAIL REQUIREMENTS. [Added 6-27-2013 by Ord. No. 1070; amended 4-10-2018 by Ord. No. 1202]

A. Purpose. The intent of this section is to address local siting and land use concerns in relation to the legalization of medical and recreational marijuana in the commonwealth following ballot initiatives in 2012 and 2016. The granting of a special permit by the City of Pittsfield does not supersede state or federal laws or preempt an applicant from complying with all relevant state and federal laws. This section replaces in its entirety the prior section, 7.850 Medical Marijuana Dispensary Requirements.

B. Applicability. A special permit under this section shall be required for any principal or accessory use, or combination of uses, which also involves a medical and/or a recreational marijuana retail use.

C. Special permit granting authority. For the purposes of this section, the special permit granting authority is designated to be the Zoning Board of Appeals.

D. Performance standards. **[Amended 6-25-2024 by Ord. No. 1280]**

(1) No medical and/or recreational marijuana retail use shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades one through 12, any public playground, or licensed day care.

(2) In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:

(a) Character of the neighborhood to include visual compatibility with surrounding uses.

(b) Proximity to other licensed marijuana uses to prevent clustering.

(c) Relationship to surrounding uses to avoid unnecessary exposure to minors.

(d) The provision of adequate lighting to promote security for customers and the public.

(e) Hours of operation.

(f) Site design and other development-related site impacts.

SECTION 7.851 — SELF STORAGE MINI-WAREHOUSES. [Added 1-14-2014 by Ord. No. 1076]

A. Purpose. The purpose of this section is to provide a use category and performance standards to allow for the operation of fully enclosed self storage uses in the City of Pittsfield.

B. Special Permit Granting Authority. The Community Development Board shall be the Special Permit Granting Authority for this use category.

C. Performance Standards.

(1) No unit within a Self Storage Mini-Warehouse shall be utilized as a place of business.

(2) No separate, dedicated utility connections, namely, electricity, water, telephone, cable TV, or gas, will be provided to the individual units.

(3) No outside storage of commercial vehicles, heavy equipment, recreational vehicles or recreational equipment shall be permitted.

(4) An office for the rental of the storage spaces may be included, provided it does not exceed 400 square feet per 25,000 square feet of warehouse space, excluding any bathroom facilities.

(5) Signage shall be placed on each building in which the Self Storage Mini-Warehouse is located indicating that no Flammable or Explosive Materials use or storage is permitted and that units cannot be occupied for business or industrial use.

SECTION 7.852 — BILLBOARDS, REQUIREMENTS. [Added 6-14-2014 by Ord. No. 1083]

A. Purpose. The purpose of this section is to minimize the impacts of the design of billboards and other off-premises signs within view of a public way, public park or conservation lands.

B. Special Permit Granting Authority. The City Council shall be the Special Permit Granting Authority for this use category.

C. Performance Standards. All billboards and off-premises signs shall be subject to the following standards:

(1) No billboard or off-premises sign shall exceed twenty-five (25) by twelve (12) feet in size.

(2) No billboard or off-premises sign shall be located within any required yard or setback area prescribed by the Zoning Ordinance.

(3) No billboard or off-premises sign is recommended to be located within 500 feet of an intersection or crosswalk.

SECTION 7.853. MARIJUANA CULTIVATION, MANUFACTURING, PROCESSING; MARIJUANA TESTING AND RESEARCH IN B-G, B-D, OR B-C ZONING DISTRICTS. [Added 4-10-2018 by Ord. No. 1202]

A. Purpose. The intent of this section is to address local siting and land use concerns in relation to the legalization of medical and recreational marijuana in the commonwealth following ballot initiatives in 2012 and 2016. The granting of a special permit by the City of Pittsfield does not supersede state or federal laws or preempt an applicant from complying with all relevant state and federal laws.

B. Applicability. A special permit under this section shall be required for any principal or accessory use or combination of uses which also involves the cultivation, manufacturing and processing and/or laboratory testing and research of marijuana and marijuana-derived products in a B-G, B-D, or B-C Zoning District. Commercial scale (non-personal) outdoor marijuana cultivation is prohibited throughout the City. [Amended 2-23-2021 by Ord. No. 1233]

C. Special permit granting authority. For the purposes of this section, the special permit granting authority is designated to be the Zoning Board of Appeals.

D. Performance standards.

(1) No marijuana cultivation, manufacturing, processing use or laboratory testing and research use shall be located within 500 feet (measured from edge of building or occupied space to edge of building or occupied space) of any public or private school providing education in kindergarten or any of grades one through 12, any public playground, or licensed day care.

(2) In reviewing a special permit under this section the Board shall consider the impact of the proposal on the following:

(a) Character of the neighborhood to include visual compatibility with surrounding uses.

(b) Proximity to other licensed marijuana uses to prevent clustering.

(c) Relationship to surrounding uses to avoid unnecessary exposure to minors.

(d) The provision of adequate lighting to promote security for customers and the public.

(e) Hours of operation.

(f) Site design and other development-related site impacts.

SECTION 7.854. (RESERVED)³

SECTION 7.855. — MEDIUM- AND LARGE-SCALE GROUND-MOUNTED SOLAR ENERGY SYSTEMS; MEDIUM-SCALE GROUND-MOUNTED SOLAR ENERGY ACCESSORY USES. [Added 3-12-2019 by Ord. No. 1214]

A. Intent and Purpose. The purpose of this section is to provide for the construction and operation of solar energy systems and to establish standards for the placement, design, construction, monitoring, modification and removal of solar energy systems that address public safety, minimize impacts on scenic, natural and historic resources of the City, and provide adequate financial assurance for decommissioning. The provisions set forth in this section shall take precedence over all other sections of the Pittsfield Zoning Ordinance when considering applications related to the construction, operation and/or repair of solar energy systems.

B. Establishment. This ordinance is adopted pursuant to MGL c. 40A. This section applies to the installation, siting and approval of solar energy systems within the various zoning districts of the City. The Community Development Board shall act as the administering authority for any site plan review procedure associated with this ordinance according to Section 7.3 and Section 7.803 of the

³ Editor's Note: Former Section 7.854, Outdoor marijuana cultivation requirements, added 4-10-2018 by Ord. No. 1202, was repealed 2-23-2021 by Ord. No. 1233.

Pittsfield Zoning Ordinance. The Zoning Board of Appeals shall serve as the Special Permit Granting Authority for any use that requires a Special Permit under the terms of this section.

C. Applicability.

1. Requirements under Section 7.855D shall apply to all solar energy systems. Applicants for medium- and large-scale ground-mounted solar energy systems and medium-scale ground-mounted solar energy accessory uses in the B-G, B-D, B-C, C-W-S, I-L, I-G, and L-D-I Zoning Districts shall require a special permit pursuant to Section 4.202 of this chapter, and shall adhere to the criteria and procedures found in Section 7.8 and Section 13.204 of the Pittsfield Zoning Ordinance and the requirements for site plan applications in Section 7.3.

2. Expiration. A special permit issued pursuant to this ordinance shall expire if: i) the solar energy system is not installed and functioning within 24 months from the date the permit is issued; or ii) the solar energy system is abandoned. The Pittsfield Zoning Board of Appeals may extend the special permit if it deems there are unique circumstances that justify a delay in the installation and/or functioning of the solar energy system.

D. Requirements.

1. General requirements for all solar energy systems.

a) Compliance with laws: The construction and operation of all proposed solar energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

b) Construction deadlines. If the solar energy system is not installed and functioning within 24 months from the date the building permit is issued, the solar energy system is considered abandoned unless an extension of the special permit has been approved.

c) System conditions: Owners of solar energy systems shall be responsible for maintaining them in good condition. Maintenance shall include, but not be limited to, structural repairs and integrity of security measures. Site access shall be maintained to a level acceptable to the Pittsfield Fire Chief. The project owner shall be responsible for the cost of maintaining the solar energy system and any access road(s), and the cost of repairing any damage occurring as a result of operation and construction.

d) Modifications: All material modifications, including but not limited to alterations to the type, size, location or configuration of a solar energy system, made after issuance of any approval issued pursuant to this ordinance shall require approval by the Zoning Board of Appeals as provided in this ordinance.

2. Roof-mounted and accessory small scale solar energy systems.

a) Roof-mounted and accessory solar energy systems shall be permitted in accordance with Section 9.207 of the Zoning Ordinance.

3. Medium- and large-scale ground mounted systems.

a) Medium- and large-scale ground-mounted solar energy systems shall not be erected, constructed, installed or modified as provided in this section without first obtaining a building permit.

b) Medium- and large-scale scale ground-mounted solar energy systems shall be sited in accordance with the table of permitted uses under Section 4.202.

c) Medium- and large-scale ground-mounted solar energy systems shall be located at least 50 feet from all property lines or outside of the required setbacks for a primary structure in the zoning district the property is located, whichever is greater.

d) Medium and large-scale ground mounted solar energy systems shall be located at least 200 feet from any abutting residential zoning district or residential use.

e) Whenever possible, utility lines for medium and large-scale ground-mounted systems shall be located underground unless the presence of ledge and/or wetlands or other obstacles prevents such location.

f) All medium- and large-scale ground mounted solar energy systems shall not increase stormwater runoff or increase the impervious area of a lot as compared to predevelopment levels.

g) In addition to preserving as much existing vegetation as possible, screening shall be provided to shield the system from public view, as determined by the Zoning Board of Appeals.

h) Medium and large-scale ground-mounted solar energy systems shall be located so as to minimize the potential impacts on the following:

(i) Visual/aesthetic: Medium- and large-scale solar energy systems shall, when possible, be sited off ridgelines to locations where their visual impact is least detrimental to valuable historic and scenic areas, and established residential areas;

(ii) General health, safety, and welfare of residents;

(iii) Natural habitats, forests and wetlands;

(iv) Lands with prime agricultural soils;

(v) Glare from the solar panels onto any abutting or nearby properties;

(vi) Potential vehicular traffic conflicts.

E. Operation, monitoring and maintenance.

1. Facility conditions. The medium-scale or large-scale ground-mounted solar energy system's owner or operator shall maintain the facility in good condition. Maintenance shall address all elements of the project, including but not limited to, structural repairs, landscaping and screening, fencing and other security measures, stormwater management, and access. The project owner

shall be responsible for the cost of maintaining the solar energy system and any access road(s), and the cost of repairing any damage occurring as a result of operation and construction.

2. Operation and maintenance plan. The project applicant shall submit a plan for the operation and maintenance of the large-scale solar energy system as part of the special permit application. This plan shall include measures for maintaining safe access to the installation, stormwater management control, and general procedures for operational maintenance of the facility.

3. Modifications. All material modifications to a solar energy facility made after issuance of the permit shall require approval by the special permit granting authority as provided in this ordinance.

F. Abandonment and decommissioning.

1. Removal requirements. Any medium-scale or large-scale ground mounted solar energy system which has reached the end of its useful life or has been abandoned shall be removed. When the solar energy system is scheduled to be decommissioned, the owner or operator shall notify the City by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the solar system installation no more than 150 days after the date of discontinued operations. At the time of removal, the solar system site shall be restored in accordance with the decommissioning requirements specified below.

More specifically, decommissioning shall consist of the following:

- a) Physical removal of all solar photovoltaic installations, including structures, equipment, security barriers, and transmission lines from the site;
- b) Any utility connections shall be disconnected to the satisfaction of the Pittsfield Fire Department and the City's Wiring Inspector;
- c) Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations and standards; and
- d) Stabilization or revegetation of the site with native species as necessary to minimize erosion.

2. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a medium or large-scale ground mounted solar energy system shall be considered abandoned when it ceases to operate for more than 12 months, without written consent of the Zoning Board of Appeals. "Cease to operate" is defined as not performing the normal functions associated with the medium or large-scale solar energy system and its equipment on a continuous and ongoing basis. The Building Commissioner shall provide written notification of abandonment to the owner/operator.

a) If the owner/operator fails to remove the solar energy system in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the City shall have the authority to enter the property, to the extent it is duly authorized by law, and physically remove the solar energy system.

3. Financial surety. Applicants for principal-use medium-scale and large-scale groundmounted solar energy system projects shall provide a form of surety to cover the cost of removal

in the event the City must remove the installation and remediate the landscape, in an amount determined to be reasonable by the Pittsfield Zoning Board of Appeals and the applicant.

a) The applicant may choose to provide the surety in the form of a bond or escrow account. In no event shall the amount exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant and the Pittsfield Zoning Board of Appeals. Such surety will not be required for municipally- or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The estimated cost of removal shall include a mechanism for calculating increased removal costs due to inflation.

G. Municipal solar energy systems. Solar energy systems, whether ground mounted or roof mounted, of any scale, may be installed as of right on municipally-owned or leased property in all zoning districts.

SECTION 7.856 SHORT-TERM RENTALS [Added 9-9-2025 by Ord. No. 1325]

A. Requirements:

1. A Short-Term Rental shall be defined as a rental property offering a consecutive stay of no more than 30 days, with the exception of bed-and-breakfast homes, hotels, motels or lodging houses and timeshares.
2. No Short-Term Rental shall be rented for stays accumulating more than 150 total days per calendar year.
3. All Short-Term Rental Operators shall register each Short-Term Rental Unit with the City Clerk's Office and with the Massachusetts Department of Revenue's (DOR) Short-Term Rental Properties list.
4. No Short-Term Rental shall be permitted in a dwelling unit that is designated as an affordable housing unit or is otherwise subject to an income or affordability restriction under any local, state, or federal program.
5. Limitation on Number of Short-Term Rental Units and Special Permit Process for Additional Units:
 - (a) General limit. A Short-Term Rental Owner shall own or have an interest in and register a maximum of one Short Term Rental unit, unless granted a Special Permit as provided in Subsection A5b) below.
 - (b) Additional unit special permit. A Short-Term Rental Owner who operates a primary, owner-occupied Short-Term Rental unit, approved through the Administrative Site Plan Review procedure, may apply for a Special Permit from the Community Development Board to operate one additional Short-Term Rental unit.
 - i) Maximum units. Each Short-Term Rental Owner may own or have an interest in a maximum of two Short Term Rental units in total within the City of Pittsfield: one approved via the Administrative Site Plan Review procedure, and one additional

unit approved via this Special Permit procedure.

- ii) Criteria for special permit review. The Community Development Board shall consider the following criteria when evaluating an application for a Special Permit for an additional Short-Term Rental unit:

(1) Units on the same parcel. For an additional Short-Term Rental unit proposed on the same parcel as the initially approved owner-occupied Short-Term Rental unit, the application shall be subject to Site Plan Review by the Community Development Board. The Board shall evaluate the proposed unit's impact on neighborhood character, parking adequacy, and potential adverse effects on adjacent properties.

(2) For an additional Short-Term Rental Unit proposed on a parcel separate from the initially approved owner-occupied Short-Term Rental Unit, the proposed unit must be located outside of a radius of no less than 0.5 miles from the initial owner occupied Short-Term Rental Unit.

(3) The concentration of existing Short-Term Rental Units within the immediate vicinity of the proposed additional unit.

(4) The potential impacts on neighborhood character, parking availability, and residential quality of life.

(5) The applicant's demonstrated history of compliance with all Short-Term Rental regulations for their owner-occupied unit.

6. Maximum Occupancy: The maximum occupancy for any Short-Term Rental unit shall be limited to one Short-Term Renter per 250 square feet of gross floor area of the rented dwelling unit or to 12 Short-Term Renters, whichever number is less.
7. Minimum Parking Requirements: Each Short-Term Rental unit shall provide one on-site parking space for every 800 square feet of gross-floor area of the rented dwelling unit. All required parking spaces must be located on the same parcel as the Short-Term Rental Unit. All required parking spaces must be located on the same parcel as the Short-Term Rental unit.
8. The Short-Term Operator shall designate a local contact person who resides in either the City of Pittsfield, or within Berkshire County. This designated contact person shall be available 24 hours a day, seven days a week, during all periods of Short-Term Rental occupancy, and shall be authorized to respond to and resolve any issues or emergencies related to the Short-Term Rental property on behalf of

the Owner or Operator. The name and contact information of this local contact shall be provided to the City Clerk's Office as part of the annual registration and shall be prominently posted within the Short-Term Rental unit.

9. All Short-Term Rental properties may be subject to periodic inspections per the current state building and health code.
10. All Short-Term Rental properties must meet all requirements of the current Fire Department Safety Standards, Health Department Standards and the State Building Code.
11. All Short-Term Rental properties shall be subject to an Administrative Site Plan Review conducted by the Director of the Department of Community Development or their designee prior to the issuance of any initial Short-Term Rental registration. If the Director determines that the proposed Short-Term Rental raises significant issues concerning neighborhood impact, traffic, parking, or other matters of public interest, or if the application involves an additional unit, the application shall be referred to the Community Development Board for full Site Plan Review and approval.