



**CITY OF PITTSFIELD**  
**REGULAR MEETING**  
**PITTSFIELD CITY COUNCIL via Zoom**  
**June 22, 2021, at 6:00 p.m.**

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2021 JUN 17 AM 11:42

## **AGENDA**

Pursuant to Governor Baker's June 16, 2021 Extension of Certain Pandemic-Inspired Provisions of the Open Meeting Law, G.L. c. 30A, §18, and state and federal orders and guidance imposing strict limits on the number of people that may gather in one place, this meeting of the City Council will be conducted exclusively via remote participation. For this meeting, members of the public who wish to watch the meeting may do so on PCTV. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the City's website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

**NOTE:** If you are required to participate in a particular item, you may do so by calling (312) 626-6799, Enter the Meeting ID, 947 7915 7651 on your phone's keypad and press #. Press # again.

1. Open microphone
2. COVID update

## **APPOINTMENTS**

3. A communication from Mayor Tyer reappointing Michele Matthews to the Parks Commission
4. A communication from Mayor Tyer appointing Keya Robertson to the Police Advisory and Review Board

## **COMMUNICATIONS FROM HER HONOR THE MAYOR**

5. A communication from Mayor Tyer appointing Joshua Berthiaume as Permanent Firefighters with the Pittsfield Fire Department
6. A communication from Mayor Tyer submitting an Order to accept an additional grant of funds in the amount of \$3,400.00 from the Commonwealth of Massachusetts Executive Office of Health and Human Services
7. A communication from Mayor Tyer submitting an Order to grant a conveyance of an easement to AM Management, LLC for the property City of Pittsfield Parking Lot #2, located on East Street and Willis Street

8. A communication from Mayor Tyer submitting an Order to enter into agreement with Community Eco Pittsfield, LLC
9. A communication from Mayor Tyer submitting a "mock" petition and presentation from Payton Ramella, a student at Taconic High School about the legislative process

### **COMMUNICATIONS AND REPORTS FROM CITY OFFICERS AND BOARDS**

10. A response from the Park and Open Space Program Manager on a petition from Councilor Maffuccio requesting the Community Preservation Act funds be used to develop a complete evaluation of Pontoosuc Lake and to bring it back to what is used to be
11. A petition from the Community Development Board to amend the City Code, Chapter 23, Zoning, Article 23-13, Administrative Procedures, Section 13.202 Required Hearing and Notice

### **REPORTS OF COMMITTEES**

#### **Report from the Ordinances and Rules Committee**

12. A report from the Ordinances and Rules Committee on a petition from Councilor Morandi requesting to review the keeping of chickens at 16 Kensington Avenue, recommending to file 4/0

#### **Report from the Public Health and Safety Committee**

13. A report from the Public Health and Safety Committee on a petition from Councilors Maffuccio, Kavey and Connell asking to review the City's relationship with ServiceNet, recommending to file 3/1
14. A report from the Public Health and Safety Committee on a petition from Councilor Moon requesting MDPH provide an updated cancer evaluation in relation to GE site B71/H78 , recommending to approve the presentation unanimously
15. A report from the Public Health and Safety Committee on a petition from Councilor Morandi requesting to review the keeping of chickens at 16 Kensington Avenue, recommending to file unanimously
16. A report from the Public Health and Safety Committee on a petition from Councilor Maffuccio requesting the Police Chief to give a status update on crime rate, recommending to accept the report unanimously
17. A report from the Public Health and Safety Committee on a petition from Councilor Moon, Kelan O'Brien, Meagan Bossong and Dennis Powell requesting an update on the \$85,000 appropriation from the Patrol Officer line, recommending to accept the report unanimously
18. A report from the Public Health and Safety Committee on a petition from Councilor Maffuccio requesting to explore the cost and benefits of having ambulance service with the Fire Department, recommending to approve unanimously

### **UNFINISHED BUSINESS**

19. A petition from Councilors Maffuccio and Morandi asking to appoint a City Youth Advisor (*Tabled March 10, 2020*)
20. A report from the Ordinance and Rules Committee on a petition from Councilor Morandi requesting City Code, Chapter 8, Solid Waste and Disposal, be fully reviewed and revised where needed, referred to the Resource Recovery Committee (*Tabled February 23, 2021*)

## **MATTERS TENTATIVELY REFERRED BY THE PRESIDENT UNDER RULE 27**

### **Referred to the Mayor**

21. A petition from Councilor Connell requesting an update on the recent gun violence in the city over the past few weeks

### **Referred to the City Planner and the Director of Community Development**

22. A petition from Councilor Maffuccio requesting the City Planner and Director of Community Development to come up with a Master Plan to redevelop and revitalize Pontoosuc Lake

### **Referred to the Traffic Commission**

23. A petition from Councilor Maffuccio requesting the Commissioner to install a loading zone on Lenox Ave for the Wahconah Street Green House for deliveries.

### **Referred to Director Armstrong and the Board of Health**

24. A petition from Councilor Maffuccio requesting to opt out of the Berkshire County Mosquito Control Project Program

### **Referred to the Commissioner of Public Works**

25. A petition from Councilor Maffuccio requesting the Commissioner place Francis Avenue Extension and Ridge Avenue on the repaving construction list

### **Referred to the Ordinances and Rules Committee**

26. A petition from Councilor Morandi requesting the Ordinance and Rules Committee fully review and amend the ordinance for the keeping of chickens guidelines



# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201  
(413) 499-9321 • ltyer@cityofpittsfield.org

**Linda M. Tyer**  
**Mayor**

June 16, 2021

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors,

It is my sincere privilege to submit herewith for your consideration the reappointment of Michele Matthews, of 6 Filomena Drive, Pittsfield, MA to Parks Commission for a term expiring June 22, 2026.

Respectfully submitted,

*Linda M. Tyer*  
Linda M. Tyer  
Mayor





# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

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(413) 499-9321 • ltyer@cityofpittsfield.org

**Linda M. Tyer**  
**Mayor**

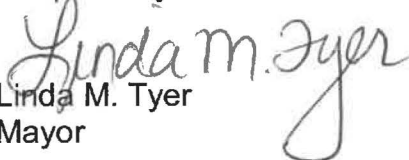
June 16, 2021

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors,

It is my sincere privilege to submit herewith for your consideration the appointment of Keya Robertson, of 252 Lenox Avenue, Pittsfield, MA to Police Advisory and Review Board for a term expiring February 26, 2022.

Respectfully submitted,

  
Linda M. Tyer  
Mayor

Hi my name is Keya Robertson I am a junior at Bart Charter. I am 16 years old and I am very interested in this board because I want to be a judge when I am older because the justice system is all messed up. I want to be the change of tomorrow and want to help and change the justice system. Thank you for giving me this opportunity to be on the board.



# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201  
(413) 499-9321 • [ltyer@cityofpittsfield.org](mailto:ltyer@cityofpittsfield.org)

**Linda M. Tyer**  
**Mayor**

June 16, 2021

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors:

I am submitting this communication to notify you that I am appointing Joshua Berthiaume as Permanent Firefighters with the Pittsfield Fire Department in accordance with Civil Service regulations.

Respectfully submitted,

*Linda M. Tyer*  
Linda M. Tyer  
Mayor

LMT/CVB



**City of Pittsfield Fire Department**

74 COLUMBUS AVENUE, PITTSFIELD, MA 01201 (413) 448-9764 FAX (413) 448-9766

June 14, 2021

Mayor Linda Tyer  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Mayor Tyer,

I am writing to you to seek permission to have the following appointments made at the next city council meeting.

Joshua Berthiaume appointed to the position of Permanent Fire Fighter

Thank you for your attention and consideration in this matter.

Respectfully,

Thomas Sammons  
Fire Chief



# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201  
(413) 499-9321 • [ltyer@cityofpittsfield.org](mailto:ltyer@cityofpittsfield.org)

**Linda M. Tyer**  
Mayor

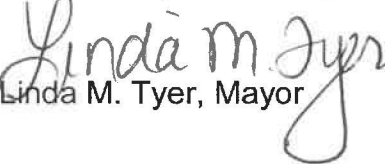
June 16, 2021

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration is an Order to accept an additional grant of funds in the amount of \$3,400.00 from the Commonwealth of Massachusetts Executive Office of Health and Human Services, Department of Public Health.

Respectfully submitted,

  
Linda M. Tyer, Mayor

LMT/CVB  
Enclosure



**City of Pittsfield Fire Department**

74 COLUMBUS AVENUE, PITTSFIELD, MA 01201 (413) 448-9764 FAX (413) 448-9766

June 4, 2021

Honorable- Linda Tyer  
Mayor-City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Mayor Tyer,

Submitted for your consideration is an authorization requesting the City of Pittsfield to accept an additional appropriation of funds from the Commonwealth of Massachusetts Department of Health and Human Services.

Sincerely,

Thomas Sammons  
Fire Chief

Cc: Matthew Kerwood, City Treasurer  
Allison Crespo, City Accountant  
Nicole Gai, Assistant Treasurer

# City of Pittsfield

M A S S A C H U S E T T S

No. \_\_\_\_\_

IN CITY COUNCIL

AN ORDER

**AUTHORIZING THE CITY OF PITTSFIELD TO ACCEPT AN ADDITIONAL  
APPROPRIATION OF FUNDS FROM THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES, DEPARTMENT OF PUBLIC  
HEALTH**

**Ordered:**

**That the City of Pittsfield, by and through its Mayor and City Council, is hereby  
authorized to accept an additional appropriation of funds in the amount of Three  
Thousand Four Hundred Dollars (\$3,400.00) from the Commonwealth of  
Massachusetts Executive Office of Public Safety and Security.**

**Said funds may be expended pursuant to Massachusetts General Laws, Chapter 44,  
Section 53A, and in accordance with the provisions of the grant, a copy of which is  
attached to this order.**

## CITY OF PITTSFIELD

### Payment History

**Date Range Searched:** From 04/27/2021 To 04/27/2021

**Department(s) Searched:** ALL

**Number of Payment Lines Found:** 1

Understanding Payments History

*Peoples*

[Return Payments History Search](#)

**Address ID: AD001--70 ALLEN ST PITTSFIELD, MA**

**Payment Number:** 114A1031403

**Payment Date:** 4/27/2021

| Department   | Payment Ref. #           | Contract Number      | Line Amount       | Check Amount      |
|--|--------------------------|----------------------|-------------------|-------------------|
| DPH - DEPARTMENT OF PUBLIC HEALTH  | FRSTRESPONDNARCAN00008-9 | INTF2359P01190927034 | \$3,400.00        | \$3,400.00        |
| Check Description: FRSTRESPONDNARCAN00008-9 CITY OF PITTSFIELD DATES: 07/1/20-06/30/21 |                          |                      |                   |                   |
| Penalty Interest Amount:   |                          |                      |                   |                   |
| Total Amount   |                          |                      | \$3,400.00        | \$3,400.00        |
| <b>Address ID: AD001--70 ALLEN ST Total:</b>   |                          |                      | <b>\$3,400.00</b> | <b>\$3,400.00</b> |

26103-46050





# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201  
(413) 499-9321 • ltyer@cityofpittsfield.org

**Linda M. Tyer**  
Mayor

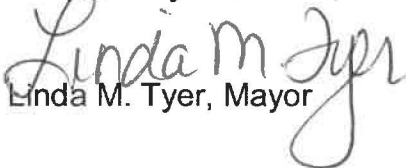
June 16, 2021

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration is an Order to grant a conveyance of an easement to AM Management, LLC for property known as the City of Pittsfield Parking Lot #2, located at East Street and Willis Street, for the purposes of installing a 6" water line through the parking lot to connect to an existing 8" water line on Willis Street in accordance with the terms set forth in the attached Easement Deed.

Respectfully submitted,

  
Linda M. Tyer, Mayor

LMT/CVB  
Enclosure



**CITY OF PITTSFIELD**

DEPARTMENT OF PUBLIC SERVICES & UTILITIES, 100 NORTH ST, PITTSFIELD, MA 01201 413-499-9330

June 15, 2021

TO THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:

Submitted herewith for your approval is a permanent easement granted by the City of Pittsfield to AM MANAGEMENT, LLC to permit AM MANAGEMENT, LLC to install a 6-inch water line through the City owned parking lot on the corner of East Street and Willis Street. This will be running from Eastview Apartments to the 8-inch water main on Wills Street.

This easement is necessary to complete the construction work and is required to be secured prior to beginning work on the project.

Sincerely,

A handwritten signature in black ink, appearing to read "Ricardo Morales", written over a horizontal line.

Ricardo Morales  
Commissioner, Public Services and Utilities

No. \_\_\_\_\_

**City of Pittsfield**  
M A S S A C H U S E T T S  
IN CITY COUNCIL

**AN ORDER**

**AUTHORIZING THE CITY OF PITTSFIELD TO GRANT A CONVEYANCE  
OF AN EASEMENT TO AM MANAGEMENT, LLC**

**Ordered:**

That the City of Pittsfield by and through its Mayor and City Council is hereby authorized to grant an easement on property known as City of Pittsfield Parking Lot # 2 located at East Street and Willis Street (Assessors Map & Lot # H09-0014-01, Berkshire Middle District Registry of Deeds Book 564, Page 69) to AM MANAGEMENT, LLC for the purposes of the installation of 6" water line through the parking lot to connect to an existing 8" water line on Willis Street waterline in accordance with the terms set forth in the attached Easement Deed.

That the City of Pittsfield by its Mayor and City Council is further authorized to execute any and all documents necessary to implement this order.

## EASEMENT

For valuable consideration of One (\$1.00) Dollar , receipt and sufficiency of which is hereby acknowledged, the **CITY OF PITTSFIELD**, a municipal corporation having a usual place of business at 70 Allen Street, Pittsfield, Berkshire County, Commonwealth of Massachusetts, (hereinafter referred to as the "Grantor"), hereby grants unto **AM MANAGEMENT, LLC**, a Massachusetts Limited Liability Company with a principal place of business located at 4 Eastbrook Lane, Pittsfield, Massachusetts, 01201 its successors and assigns (hereinafter referred to as the "Grantee"), the perpetual right to lay, construct, reconstruct, maintain, operate, replace and rebuild on, across, an underground six (6") inch water line on a strip of land six (6') feet wide running from Grantee's premises located at 235 East Street, Pittsfield, Massachusetts, described in deed from the Reigning Love Christian Center, Inc. to AM Management, LLC dated February 10, 2020 and recorded with Berkshire Middle District Registry of Deeds in Book 6581, Page 262, through land of the Grantor located at East Street, Pittsfield, Massachusetts, described in an deed from Harry P. Shedd and Myra G. Shedd to the City of Pittsfield dated August 7, 1950, and recorded with said Registry of Deeds in Book 564, Page 69, as shown on a map entitled "Eastview Apartments, Prepared for AM MANAGEMENT, LLC" attached hereto and made a part hereof.

The Grantee, by the acceptance of this easement, agrees that upon request of the Grantor and upon execution and delivery to the Grantee of rights and easements acceptable to the Grantee, it will relocate at the expense of the Grantee any part of waterline which the Grantor may reasonably request to be relocated, provided that such relocation is practicable.

The Grantee further agrees, by the acceptance of this easement, that the Grantee will repair, replace and maintain the water line at its own expense and in connection with any repair, replacement or maintenance of said system the Grantee shall promptly restore the premises to substantially the same condition as existed prior to such repair, replacement or maintenance.

The words "Grantor" and "Grantee" shall include lessees, heirs, executors, administrators, successors and assigns where the context so requires or permits.

TO HAVE AND TO HOLD the premises unto it, the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the Grantor has hereunto caused this instrument to be signed, sealed, acknowledged, and delivered in its name and behalf by LINDA M. TYER, its Mayor, and PETER MARCHETTI, its City Council President, this \_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF PITTSFIELD

\_\_\_\_\_  
Witness

By \_\_\_\_\_  
Linda M. Tyer, Its Mayor

\_\_\_\_\_  
Witness

By \_\_\_\_\_  
Peter Marchetti, Its City Council President

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss.

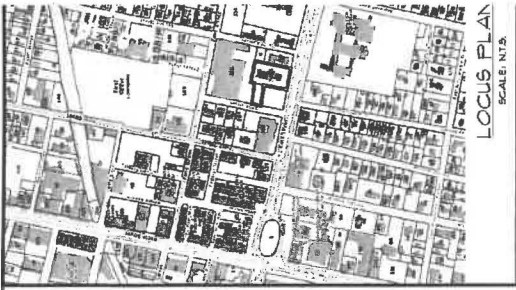
On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned notary public, personally appeared Linda M. Tyer, Mayor, and Peter Marchetti, City Council President, personally known to me to be the persons whose names are signed on the attached document and acknowledged to me that they signed it voluntarily as aforesaid for its stated purpose.

\_\_\_\_\_, Notary Public  
My Commission Expires:

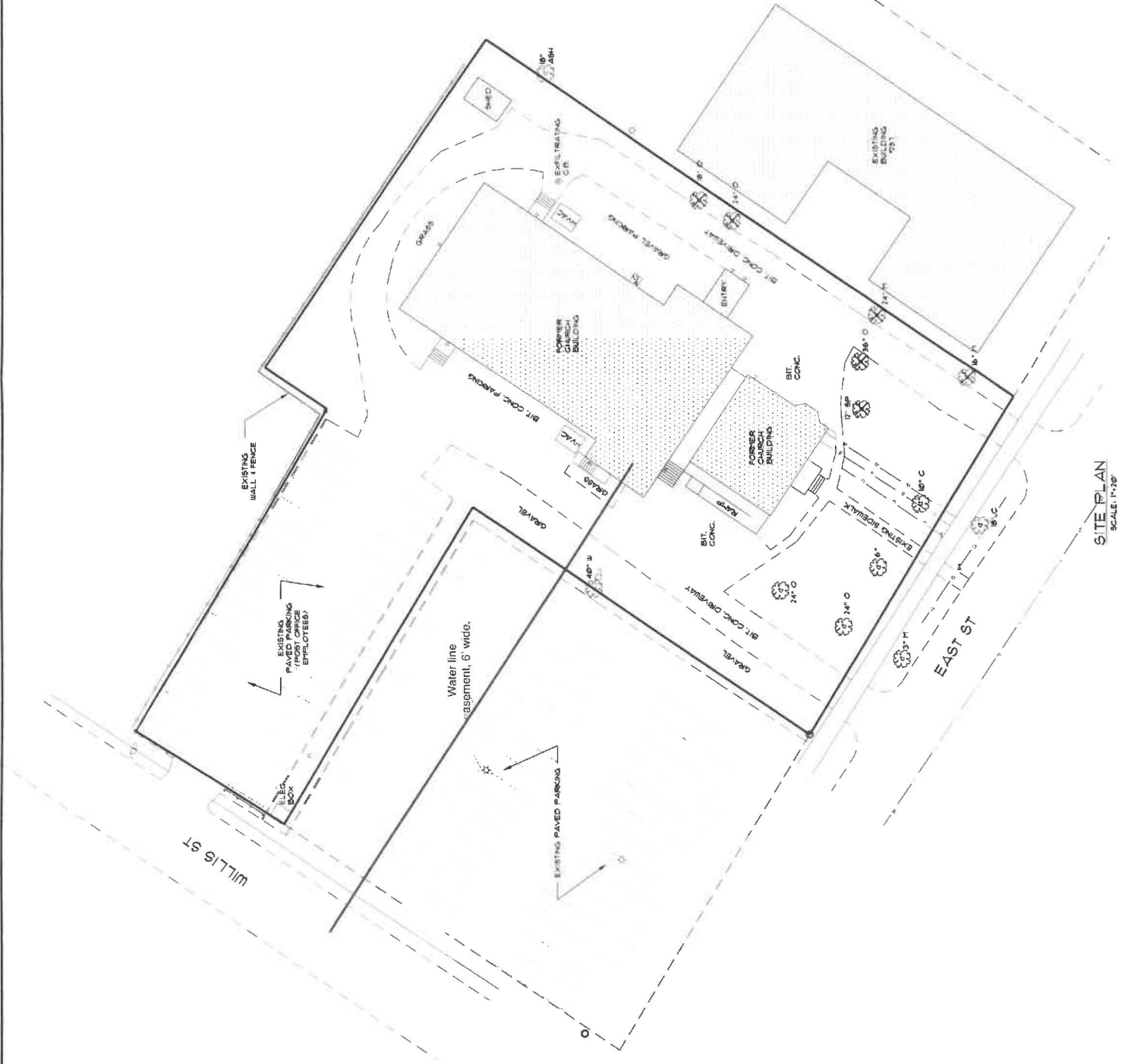
Approved as to form and legality:

By \_\_\_\_\_  
Stephen N. Pagnotta  
City Attorney

#1087650; #6B810144



- LEGEND**
- APPROXIMATE
  - EXISTING CONT.
  - EXISTING UTILIT.
  - EXISTING TREE
  - EXISTING SIGN
  - EXISTING FENCE
  - EXISTING FLOOR



**SITE PLAN**  
SCALE: 1/4"=20'



# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

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(413) 499-9321 • ltyer@cityofpittsfield.org

**Linda M. Tyer**  
**Mayor**

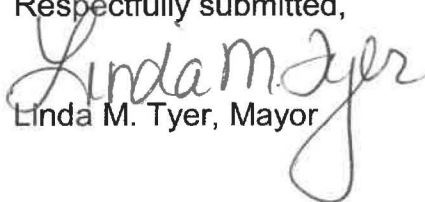
June 16, 2021

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors,

Submitted herewith for your consideration is an Order to enter into an agreement with Community Eco Pittsfield, LLC.

Respectfully submitted,

  
Linda M. Tyer, Mayor

LMT/CVB  
Enclosure





**CITY OF PITTSFIELD**

DEPARTMENT OF PUBLIC SERVICES & UTILITIES, 100 NORTH ST, PITTSFIELD, MA 01201 413-499-9330

June 15, 2021

**TO THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:**

Submitted for your consideration, is an order authorizing The City of Pittsfield to enter into an agreement with Community Eco Pittsfield, LLC (CEP). For a period of three years with two 24 month extensions. This agreement has been drafted to incorporate new features to relevant to the level of service between The City and CEP. Within this draft agreement the parties sought to consolidate the previous agreement from March 1, 2004 with extensions and amendments agreed upon prior to CEP assuming ownership of the facility at 500 Hubbard Ave.

This draft agreement includes the same trash acceptance fee as modified with the consumer price index as well as the recycling acceptance and transportation fees. In addition, the draft agreement includes a specific schedule of operations for the residential drop off service the city provides under section 3.B. An entirely new section has been added to allow the Town of Dalton to deliver recycling to the facility under section 16.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'Ricardo Morales', is written over a light blue horizontal line.

Ricardo Morales  
Commissioner  
Department of Public Services & Utilities

# City of Pittsfield

No. \_\_\_\_\_

M A S S A C H U S E T T S

IN CITY COUNCIL

## AN ORDER

### AUTHORIZING THE CITY OF PITTSFIELD TO ENTER INTO AN AGREEMENT WITH COMMUNITY ECO PITTSFIELD, LLC

#### Ordered:

That the City of Pittsfield, by and through its Mayor and City Council, is hereby authorized to enter into an agreement with Community Eco Pittsfield starting July 1, 2021. This agreement shall be for three years and include options to extend for two additional 24-month terms.

That the City of Pittsfield, by and through its Mayor and City Council, is furthered authorized to execute any and all documents necessary to implement this order.

AMENDED AND RESTATED WASTE SERVICES  
AGREEMENT

between

CITY OF PITTSFIELD

and

COMMUNITY ECO PITTSFIELD, LLC

Dated as of July 1, 2021

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6. Payments for Recycled Materials
7. Termination Rights – Recycled Materials
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13. Termination
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16. Dalton

SCHEDULE A – Definitions and Interpretations

SCHEDULE B – Description of Waste Controlled by the City

SCHEDULE C – Collateral Assignment Provisions

SCHEDULE D – Fees

## **AMENDED AND RESTATED WASTE SERVICES AGREEMENT**

THIS AGREEMENT is made as of July 1, 2021, by and between **Community Eco Pittsfield, LLC**, a Delaware limited liability company (the "Company"), having an address at 500 Hubbard Avenue, Pittsfield, Massachusetts 01201 and the **City of Pittsfield**, a body politic of The Commonwealth of Massachusetts (the "City"), having an address at City Hall, 70 Allen Street, Pittsfield, Massachusetts 01201.

### **RECITALS:**

**WHEREAS**, the Company owns and operates a resource recovery facility located at 500 Hubbard Avenue in Pittsfield, Massachusetts (the "Facility"); and

**WHEREAS**, on August 6, 1979, the City, Vicon Recovery Associates and Vicon Construction, Co., Inc. entered into an Amendment and Restatement of Solid Waste Disposal and Resource Recovery Agreement, as amended from time to time, for the delivery of solid waste collected in the City to the Facility (the "First Agreement"); and

**WHEREAS**, the First Agreement was superseded by the terms of the Waste Services Agreement dated as of March 1, 2004, by and among the City and eco/Pittsfield, LLC (the "ECO WSA");

**WHEREAS**, the ECO WSA was amended by an Amendment to Waste Services Agreement dated as of June 1, 2005, by and among the City and eco/Pittsfield, LLC (the "First Amendment");

**WHEREAS**, the ECO WSA was further amended by a Second Amendment to Waste Services Agreement dated as of July 1, 2015, by and among the City and eco/Pittsfield, LLC (the "Second Amendment") (the ECO WSA, First Amendment and Second Amendment shall collectively be referred to as the "WSA");

**WHEREAS**, the Company is the successor to eco/Pittsfield, LLC by virtue of the Interest Purchase Agreement by and between Community Eco Power LLC and Covanta Projects, LLC dated March 20, 2019;

**WHEREAS**, the WSA was to terminate on June 30, 2020;

**WHEREAS**, the Company and the City executed a Third Amendment to Waste Service Agreement dated as of July 1, 2020, which extends the WSA one year, through June 30, 2021;

**WHEREAS**, the City desires to continue to deliver its solid waste to the Facility for a period of at least three years beyond the current term of the WSA and include options to extend for two additional 24 month terms;

**WHEREAS**, the Parties have renegotiated certain of the terms, conditions, pricing, rights and obligations of the Parties in connection with the WSA, and wish to amend and restate the WSA in its entirety in order to amend, supplement and consolidate in this Agreement all of the agreed terms, conditions, rights and obligations of the Parties.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and conditions contained in this Agreement and for other good and valuable consideration, the Parties hereby agree as follows:

**1. Defined Terms.**

All capitalized *terms* used in this Agreement shall have the meaning given to those terms in Schedule A attached to this Agreement.

**2. Delivery Obligations – CONTROLLED WASTE.**

(A) From and after the Commencement Date and until this Agreement is terminated or expires, the City shall deliver or cause to be delivered to the Company at the Facility all Controlled Waste, as described in Section 2(B) below.

(B) For purposes of this Agreement, "Controlled Waste" shall mean all Acceptable Waste that is collected by or on behalf of the City in the manner, from the locations, and to the extent set forth on Schedule B attached to this Agreement, and any additional Acceptable Waste that the City may arrange for the collection of in the future either with its own trucks and personnel or through franchise, permit or other contractual agreements with private waste haulers; excluding, however, all Recyclable Materials that are separately collected pursuant to a recycling program established by the City. The City agrees that it will continue to collect Acceptable Waste throughout the Term in the same manner, from the same locations, and to the same extent as it currently collects Acceptable Waste. In the event the City desires to change the methods that it currently utilizes to collect Acceptable Waste, as described on Schedule B, the methods proposed by the City must be approved by the Company, such approval not to be unreasonably withheld provided that the Company is satisfied that the volume of Acceptable Waste delivered to the Facility by the City will not, to the greatest extent reasonably practical, decrease as a result of such methods. Notwithstanding the foregoing, it is understood and agreed that the Company's approval will not be required for any changes by the City relating to (i) the manner in which the City bills waste generators for collection and disposal of Acceptable Waste including a change to a "pay-as-you-throw" method of billing, (ii) which private waste hauler is utilized by the City to collect Acceptable Waste, or (iii) any programs for the separation of Recyclable Materials from the municipal waste stream for purposes of reuse or recycling.

(C) In order to reduce the amount of Recyclable Materials found in the municipal solid waste stream, the City shall use good faith efforts to maintain and enhance recycling programs during the Term for all materials determined by the City or the MADEP to be household recyclables for which economically viable markets exist or which are required to be separated from the waste stream by any Waste Ban Policy. The goal of the recycling program shall be to separate household recyclables, to the extent reasonably practical from the waste that is delivered to the Company.

(D) The City shall use its best efforts to ensure that all solid waste that it delivers or causes to be delivered to the Facility shall constitute Acceptable Waste. The City and the Company agree to cooperate to arrange the City's delivery schedule to accommodate the Company's needs for even deliveries of waste each business day while also achieving

maximum economies for the City. Upon reasonable request by the City, the Company will allow a representative from the City to inspect the waste delivered by the City's vehicles to ensure that the waste being delivered on behalf of the City is only Acceptable Waste. Any such City representative shall be required to comply with all health and safety rules of the Company while at the Facility and shall conduct such inspections in a manner that, to the extent reasonably practical, will not interfere with the operation of the Facility.

**3. Acceptance Obligation; Payment of Host Fees.**

(A) From and after the Commencement Date and until this Agreement is terminated or expires, the Company shall accept all Controlled Waste delivered to the Facility by or on behalf of the City during the Facility's delivery hours (subject to the rejection rights described in Section 10). Until further notice, the delivery hours for the Facility will be 7:00 a.m. to 5:00 p.m. on Mondays through Fridays and 7:00 a.m. to Noon on Saturdays. The Company represents that the Facility is permitted to accept and transfer waste during shut-downs of the waste combustion units at the Facility, and the Company agrees that it will continue to accept Controlled Waste regardless of whether waste combustion units at the Facility are operating.

(B) In addition to accepting all Controlled Waste delivered by or on behalf of the City, the Company agrees to maintain an area at the Facility where residents of the City may deliver Acceptable Waste, and Recyclable Materials, generated by said residents (such Acceptable Waste and Recyclable Materials are hereinafter referred to as "Resident-Delivered Materials"). The City and the Company will mutually agree, from time to time, upon (i) the fees City residents will be charged by the Company for Resident-Delivered Materials, and (ii) with respect to the Recyclable Materials delivered by said residents, whether there will be any changes to each party's responsibilities for providing the containers into which said Recyclable Materials shall be placed and for removing said containers from the Facility when they are full, which responsibilities are described on Schedule B hereto. Unless the operational needs demand otherwise, the delivery hours at the Facility where residents of the City may deliver Resident-Delivered Materials will be Tuesdays, Thursdays and Saturdays 7:00 a.m. to 4:00 p.m. All Resident-Delivered Materials will be deemed to be Controlled Waste delivered by the City for purposes of this Agreement, and the Company will charge the City for said materials in accordance with Section 11 below. In the event that the Company desires to change delivery hours due to its operational needs, the Company shall consult with the City and provide the City with a minimum of two (2) weeks' notice. Upon such notice and consultation, the Company may change delivery hours with the City's consent, which consent may not be unreasonably withheld. However, the Company will keep separate records of the number of tons of Resident-Delivered Materials delivered to the Facility and the fees collected by the Company for said materials. Within 30 days after the end of each calendar quarter, the Company will provide the City with a reconciliation of the tons of Resident-Delivered Materials delivered during the previous quarter and the fees collected by the Company from residents for said materials. If the aggregate fees collected by the Company for the Resident-Delivered Materials are less than the Acceptance Fees (plus any applicable assessment for Change in Law Costs) due for the Resident-Delivered Materials, the shortfall will be added to the next monthly statement sent to the City pursuant to Section 6 (A) and will be paid by the City at the time the amount set forth in said statement is due. If the aggregate fees collected by the Company are greater than the Acceptance Fees (plus any applicable assessment for Change in law Costs) due for the Resident-Delivered Materials, the excess will be credited to the City in the next monthly statement sent to the City pursuant to Section 6 (A).

(C) Pursuant to G.L. c. 16, §24A, the Company agrees to pay to the City the fee described in said §24A (the "Host Fee") for each ton of waste processed and combusted at the Facility, except that no Host Fee shall be paid with respect to waste delivered by or on behalf of the City (it being agreed by the parties that the Acceptance Fee already incorporates a credit to the City for the Host Fee applicable thereto). The Company shall pay the Host Fees due with respect to the waste combusted at the Facility during each month by giving the City a credit for the amount of said Host Fees in the monthly statement for said month, as described in Section 11 (A). Upon reasonable advance notice to the Company, the City will be entitled to review the Company's books and records during normal business hours in order to verify the accuracy of the Host Fee payments.

#### **4. Delivery of Recyclable Materials.**

From and after the Recyclables Commencement Date and until the Waste Services Agreement is terminated or expires, the City will deliver or cause to be delivered to the Company at the Facility all Residential Recyclable Materials. The City currently collects only one type of Residential Recyclable Materials each week, alternating between paper one week and mixed containers the next. In the event the City desires to change the methods that it currently utilizes to collect Residential Recyclable Materials, the methods proposed by the City must be approved in writing by the Company, which approval shall not be unreasonably withheld.

#### **5. Acceptance and Transportation of Recyclable Materials.**

(A) From and after the Commencement Date and until the Waste Services Agreement is terminated or expires, the Company will accept all Residential Recyclable Materials delivered to the Facility by or on behalf of the City during the Facility's delivery hours (subject to the rejection rights described in Section 10 of this Agreement with respect to Unacceptable Materials).

(B) The Company agrees that it will transport all Residential Recyclable Materials accepted at the Facility to the MRF for the City's account (meaning the City will retain all amounts paid by the MRF, and will pay any amounts charged by the MRF, for the Residential Recyclable Materials). In the event the MRF rejects any of the Residential Recyclable Materials delivered by the Company, the Company will transport the rejected materials back to the Facility for disposal, the City will pay the Company a surcharge equal to 50% of the Transportation Fee for transporting such materials back to the Facility, and such materials will be deemed to be Controlled Waste delivered by the City. The Company agrees that the Resident-Delivered Materials that consist of the types of paper and mixed containers accepted at the MRF will be included with the Residential Recyclable Materials to be delivered to the MRF.

(C) The City acknowledges that the Company intends to accept Residential Recyclable Materials at the Facility by having said materials transferred from the City's delivery vehicles into 100-yard transfer trailers in an unenclosed (except by netting) transfer area. In the event that due to a Change in Law the Company is required to change said method of accepting Residential Recyclable Materials, said Change in Law will be deemed to be an Event of Force Majeure and the City will be assessed all Change in Law Costs associated therewith, which assessment will be calculated consistent with the provisions of Section 12 of this Agreement.



## **6. Payments for Recycled Materials.**

(A) On the first day of each month thereafter during the Term, the City will pay to the Company the Recyclables Acceptance Fee (other than any increase in said fee determined pursuant to Section 6(C) of this Agreement). The parties acknowledge that the monthly payment of the Recyclables Acceptance Fee is based upon the Company making 212 trips to the MRF to deliver Residential Recyclable Materials for the City's account. Within 30 days after the end of each Fiscal Year, the Company will provide the City with a report that details the number of trips made by the Company to the MRF during the prior Fiscal Year, and the City will pay (or be credited) the Transportation Fee applicable to such Fiscal Year for each such trip in excess of (or below) 212 during said Fiscal Year. Any such payment due or credit will be included in the next invoice issued by the Company pursuant to Section 11 of this Agreement.

(B) Commencing July 1, 2021, and on each July 1 thereafter, the Recyclables Acceptance Fee and the Transportation Fee (other than any portion of the Transportation Fee attributable to an increase made pursuant to Section 6 (C) below) shall be adjusted by multiplication by the Inflation Factor, but in no event will the Recyclables Acceptance Fee or the Transportation Fee be reduced below the prior year's Recyclables Acceptance Fee or Transportation Fee. Once the Recyclables Acceptance Fee and the Transportation Fee have been so adjusted, the adjusted fee shall remain in effect until the next annual adjustment is made. The Company shall provide a written notice to the City, on or before each June 1, describing the adjustment of the Recyclables Acceptance Fee and the Transportation Fee for the next succeeding Fiscal Year to reflect application of the Inflation Factor.

(C) In the event at any time during the Term the Diesel Fuel Index is five cents or more higher than the Base Diesel Fuel Price, the Transportation Fee shall be increased by an amount equal to 0.75% of the Transportation Fee (determined without any prior adjustments pursuant to this Section 6 (C)) for each five cent increment by which the Diesel Fuel Index exceeds the Base Diesel Fuel Price. If the Transportation Fee has been so increased and the Diesel Fuel Index decreases below a five-cent increment above the Base Diesel Fuel Price, the Transportation Fee shall be reduced by the amount of the increase in such charge that was attributable to such five cent increment. The Company shall provide a written notice to the City describing each adjustment of the Transportation Fee made pursuant to this Section 6 (C), which adjustments shall be made on a weekly basis. At any time, the Diesel Fuel Index is five cents or more higher than the Base Diesel Fuel Price, the Recyclables Acceptance Fee due for each month during said period of time shall be increased by an amount equal to (i) the cumulative net increase in the Transportation Fee determined pursuant to this Section 6(C), multiplied by (ii) the number of trips made by the Company to the MRF during such month (which increase shall be determined on a weekly basis during said month).

(D) The Company shall include in the invoices issued pursuant to Section 11 of this Agreement the amounts payable by the City under Sections 5 (B), 5 (C) and 6 (C) of this Agreement.

## **7. Termination Rights – Recycled Materials**

The City shall have the right to terminate its recycled materials program by giving a written notice of termination to the Company at least 60 days prior to the termination date

designated by the City in said notice. On said termination date, the City shall pay the Termination Charge to the Company and all rights and obligations of the parties under this Amendment shall be of no further force or effect, except that no such termination shall serve to relieve the parties of their obligations pursuant to Section 6 ~~above~~ in connection with services rendered by the Company under this Agreement prior to such termination.

**8. Term; WSA.**

(A) The Term of this Agreement, which amends and replaces the WSA, is hereby extended three years, through June 30, 2024. Thereafter, this Agreement may be extended for up to two additional terms of 24 months each upon the written mutual agreement of the parties.

**9. Delivery Procedures.**

The delivery of solid waste to the Facility shall be in compliance with the delivery procedures for the Facility, which shall include a system for the identification of delivery vehicles and persons authorized to deliver the City's solid waste. The Company shall provide the City with written notice of any changes to such delivery procedures at least 15 days prior to the effective date of the change. The Company shall be entitled to place unqualified reliance on representations made by a driver of a delivery vehicle with proper identification that the solid waste being delivered by such vehicle is to be charged to the account of the City. The Company shall be under no obligation to accept solid waste from persons or vehicles not complying with the identification system or with the Facility's delivery procedures. All delivery vehicles shall be enclosed and self-unloading.

**10. Rejection of Solid Waste.**

(A) The Company shall have the right to reject any portion of the solid waste delivered by the City that the Company determines in its reasonable judgment does not constitute Acceptable Waste. The Company shall also have the right to reject the entire contents of a delivery vehicle if it determines that some of the waste in the vehicle is Unacceptable Waste, except that the Company shall not reject the entire delivery if the Unacceptable Waste in the vehicle is not hazardous materials, only constitutes a small portion of the entire load and can be readily segregated from the remaining Acceptable Waste. If the rejected waste is removed from the Facility by the delivery vehicle, the Company will provide the driver of the delivery vehicle with a written statement setting forth the date and a brief statement of the reason for the rejection. If the rejected waste is discovered after the departure of the delivery vehicle (or if the driver of the delivery vehicle refuses to remove the rejected waste), the Company shall promptly notify the City and the private waste hauler of such rejection by telephone (which verbal notice shall be confirmed in writing by the Company). Ownership of solid waste delivered to the Facility shall not pass to the Company unless and until such waste is accepted by the Company. All solid waste delivered by the City and not rejected by the Company within 3 days of delivery shall be deemed to be accepted by the Company, and the Company shall be solely responsible for the proper disposal thereof.

(B) The Company may remove or cause to be removed from the Facility and dispose of in whatever manner is appropriate given the nature of the waste (i) any Unacceptable Waste rejected by the Company and not removed from the Facility by the delivery vehicle and

(ii) any Unacceptable Waste discovered by the Company after the departure of the delivery vehicle which the Company can establish was delivered by or on behalf of the City. The costs of transporting and disposing of any such Unacceptable Waste, plus an amount equal to 50% of such costs to compensate the Company for administrative and handling costs, will be payable by the City. In the event the Company is entitled to charge the City pursuant this Section 10 (B) twice within the same calendar year, the minimum charge to the City under the preceding sentence for the second and each subsequent charge during said calendar year shall be \$250.

#### **11. Invoicing; Payments.**

(A) The Company will deliver to the City, promptly after the 15<sup>th</sup> and the final day of each month, an invoice describing on a per day and per vehicle basis the quantity of solid waste charged against the account of the City during such week. Each invoice shall indicate the amount payable by the Qty in connection with the disposal of solid waste delivered by the City during such period, which shall consist of the Acceptance Fee multiplied by the number of tons of solid waste delivered to the Facility by the City and accepted by the Company during each period, plus any amounts due (i) under Section 10 in connection with the disposal of Unacceptable Waste, and (ii) under Section 12 in connection with any assessments for Change in Law Costs. Promptly after the end of each month, the Company will deliver to the City a statement of the invoices for such month, which monthly statement shall include a credit for the Host Fees due to the City for such month as described in Section 3 (C). Upon reasonable advance notice to the Company, the City will be entitled to review the Company's books and records during normal business hours in order to verify the accuracy of any invoice.

(B) The total invoiced amount set forth in each monthly statement shall be paid by the City within 30 days of the delivery of the monthly statement. Notwithstanding the foregoing, in the event the City in good faith disputes any portion of the invoiced amount, the undisputed portion of the invoiced amount, plus one-half of the disputed portion thereof, shall be paid by the City within said period notwithstanding such dispute. The parties agree to use good faith efforts to resolve any such dispute prior to the payment date for the invoice in question, and further agree that upon such resolution of such dispute the prevailing party shall be entitled to interest at the rate of 1.5% per month or the highest rate that may then be lawfully charged, whichever is less, on the amount that is owed (or the amount overpaid by the City) from the date the original invoiced amount was due.

(C) Commencing July 1, 2022, and on each July 1 thereafter the Acceptance Fee shall be adjusted by multiplication by the Inflation Factor, but in no event will the Acceptance Fee be reduced below the prior year's Acceptance Fee. Once the Acceptance Fee has been so adjusted, the adjusted fee shall remain in effect until the next annual adjustment is made. The Company shall include with the monthly statement for each such July a written notice describing the adjustment of the Acceptance Fee to reflect application of the Inflation Factor.

#### **12. Change in Law Assessments.**

(A) For each Change in Law that causes the Company to sustain Change in Law Costs, the City shall be assessed a portion of the Change in Law Costs associated therewith as hereinafter described. The City shall be informed of each such assessment in a notice accompanying the first monthly statement after such assessment has been determined by the Company. As a part of any such notice the Company shall include a report setting forth

the assumptions, data, formulas, and calculations used in making the assessment and shall describe the applicable Change in Law and the date thereof. If within 90 days of the giving of such notice the City requests the Company to do so, the Company shall retain an Independent Consulting Engineer mutually agreed to by the Company and the City to prepare a report opining as to the reasonableness of the assessment determined by the Company, and the costs of said report shall be paid 50% by the Company and 50% by the City. The Company shall deliver a copy of any such report to the City. If requested by the Company, the City will cooperate in good faith with the Company to oppose or contest any Change in Law that the Company estimates will result in a material assessment pursuant to this Section 12.

(B) Within 3 months after the date upon which a Change in Law first causes the Company to sustain Change in Law Costs, the Company shall calculate the assessment per ton of solid waste accepted by estimating the total Change in Law Costs that the Company has sustained and will sustain as a result of such Change in Law during the remainder of the calendar year and dividing the estimate by the Facility Capacity. In the event that payment of any such assessment would cause financial hardship to the City because of the lack of budgeted funds for such payment during the then current Fiscal Year (including the lack of any contingency funds), the Company shall negotiate in good faith with the City to defer payment of such assessments to the beginning of the next Fiscal Year. At least 30 days prior to the beginning of each fiscal year after the first such assessment, the Company shall calculate the assessment per ton of solid waste accepted by estimating the total Change in Law Costs that the Company will sustain during such fiscal year as a result of all Changes in Law and dividing the estimate by the Facility Capacity, and the Company shall notify the City in writing of such assessment. In any week in which there are assessments due in connection with Change in Law Costs, the weekly invoice shall include an amount equal to the sum of all such per ton assessments multiplied by the number of tons of solid waste delivered to the Facility by the City and accepted by the Company during such week. Within 120 days after the end of each fiscal year in which the Company made such an assessment for Change in Law Costs, the Company shall deliver to the City a written statement reconciling the actual Change in Law Costs incurred by the Company during such with the estimate of said costs that was the basis for the assessment charged by the Company. The Company shall then recalculate such assessment, if necessary, based upon the actual Change in Law Costs incurred, and any difference in such assessment as a result thereof shall be paid by the City (or credited to the City's account) within 30 days after the City's receipt of such reconciliation.

### **13. Termination.**

If at any time during the Term of this Agreement, the Company elects in its sole discretion to shut down or cease operations of the Facility for any reason, the Company shall provide the City with 150 days' written notice and the parties shall negotiate in good faith during this 150 day period to amend the Agreement to include a new Company-affiliated disposal facility, disposal price and residential drop off location; if the parties cannot reach agreement on a new disposal facility, disposal price and residential drop-off location, then this Agreement shall terminate on the 150<sup>th</sup> day following the date the Company provided such notice to the City.

### **14. Events of Default; Remedies.**

(A) Except as set forth in (D) below, the following shall constitute an event of default under this Agreement:

(i) **Default.** The City fails at any time to deliver or cause to be delivered to the Facility all Controlled Waste in accordance with Sections 2 (B).

**Remedy.** Recognizing the difficulty of precisely ascertaining the amount of damages that will be sustained by the Company and payable by the City in the event of such a default, and desiring to obviate any question or dispute concerning the amount of said damages the parties agree that the amount of such damages shall be determined in the following manner: the number of tons of Controlled Waste not delivered to the Facility shall be multiplied by the Shortfall Assessment, and such amount shall be paid by the City to the Company. The term "Shortfall Assessment" means a charge per ton equal to the sum of (1) the Acceptance Fee, plus (2) any per ton assessment made in connection with Change in Law Costs pursuant to Section 12, plus (3) an amount equal to 35% of the Acceptance Fee (to compensate the Company for lost energy and recovered material sales).

(ii) **Default.** The Company fails at any time to perform the obligation to accept Controlled Waste imposed on it by Section 3.

**Remedy.** In the event of such a default, the City shall be entitled to recover monthly damages equal to the amount by which the actual costs of transportation and disposal in a reasonable manner of any rejected Controlled Waste exceeds the transportation and disposal costs that would have resulted to the City had such Controlled Waste been accepted by the Company. The City shall notify the Company of the manner by which the City disposes, or intends to dispose, of such waste, and such manner shall be deemed reasonable unless the Company notifies the City within 30 days after receipt of the City's notice of an alternate, lower-cost manner that the City can immediately utilize. Within 45 days after the end of each month, the City shall submit to the Company documentation of the amount of such excess costs incurred by the City, and the Company shall pay such amount to the City within 30 days of receipt of the monthly statement. Upon request, the City will furnish the Company with documentation of the amount of such excess costs. Any amount demanded in such monthly statement remaining unpaid shall bear interest at the Prime Rate (as published from time to time by The Wall Street Journal) plus 4% or the highest rate that may then be lawfully charged, whichever is less, from the time such payment is due.

(iii) **Default.** The City fails to pay the full amount set forth in any monthly statement issued pursuant to Section 6 and Section 11 within 30 days of the City's receipt of such statement (except as otherwise provided in Section 11 (B) with respect to disputed amounts).

**Remedy.** In the event of such a default, the Company may, on 30 days' written notice delivered to the City (unless such amounts are paid prior to the expiration of such notice period), (1) stop accepting Acceptable Waste delivered by the City without affecting the other obligations hereunder until such amounts are paid, and/or (2) exercise any other remedy now or hereafter existing at law or in equity, by statute or otherwise. Any amount demanded in a monthly statement remaining unpaid shall bear interest at the Prime Rate (as published from time to time by The Wall Street Journal) plus 4% or the highest rate that may then be lawfully charge whichever is less, from the time such



payment is due.

**(iv) Default.** Either party fails to perform any other obligation imposed on it by this Agreement and such default is not corrected within 30 days following delivery of written notice to such party specifying the nature of the failure and requesting that it be remedied, provided that if such default cannot reasonably be cured within said 30 day period and the defaulting party shall have commenced to cure such default within said 30 day period and thereafter diligently and expeditiously proceeds to cure the same, said 30 day period shall be extended for so long as shall be required for the defaulting party to cure such default in the exercise of due diligence (but in no event shall any such extended period exceed 90 days from the delivery of the initial notice of default).

**Remedy.** In the event of such a default, the non-defaulting party may exercise any remedy now or hereafter existing at law or in equity, by statute or otherwise.

(B) Notwithstanding the remedies described in Section 14 (A) the parties agree that in the event of a default by either party under this Agreement, the right to recover monetary damages or to be reimbursed shall generally constitute an adequate remedy and neither party shall have the right to terminate this Agreement as a result of a default by the other party unless such default constitutes a material breach of the other party's obligations under this Agreement and such default has not been corrected within (i) 60 days following delivery of the initial written notice to such party specifying the nature of the default and requesting that it be remedied (as said 60 day period may be extended as described in Section 14 (A)), plus (ii) 30 days following the delivery of a second notice to the defaulting party indicating that the non-defaulting party intends to terminate this Agreement in the event such default is not corrected within said 30 day period.

(C) Except as otherwise specifically set forth in this Agreement, in no event shall the Company or the City be liable to the other for any consequential, special, indirect or incidental loss or damages by reason of any default hereunder or otherwise in connection with this Agreement.

(D) Except with respect to the performance of any obligations to make payments, a delay or failure of performance hereunder by either party shall not constitute an event of default under this Agreement if such delay or failure of performance is caused by an Event of Force Majeure; provided, however, that if any such delay or failure of performance continues for more than 180 days either party may, notwithstanding any other provisions of this Agreement, terminate this Agreement upon 30 days prior written notice to the other party (and any Lender) unless such delay or failure of performance is recommenced within said 30 day period. Furthermore, in no event shall either party be liable to the other for monetary or any other damages on account of a delay or failure of performance hereunder caused by an Event of Force Majeure. The Company and the City acknowledge and agree that economic hardships, including, for example, changes in solid waste market conditions which result in market disposal fees being higher or lower than the Acceptance Fee (plus any Change in Law Cost assessments) hereunder, shall not constitute an Event of Force Majeure.

(D) No failure or delay on the part of a party to exercise any right or remedy under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise by a party of any right or remedy preclude any other or future exercise thereof or the

exercise of any other right.

(E) Whenever an event of default has occurred, the defaulting party agrees to pay all out-of-pocket expenses of the non-defaulting party (including the reasonable fees and expenses of its counsel) in connection with the enforcement of this Agreement, including the collection of amounts due hereunder.

## **15. Miscellaneous.**

(A) The Company and the City acknowledge that the collection, transportation, and disposal of solid waste is subject to the jurisdiction of various governmental agencies. The Company and the City agree to use their best efforts in good faith to comply with all applicable statutes, rules, and regulations applicable to them in connection with this Agreement and the transactions contemplated hereby.

(B) This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts. The sole and exclusive forum for the determination of any question of law or fact to be determined in any judicial proceeding relating to this Agreement shall be the Berkshire County Superior Court. The pendency of any litigation between the parties shall not affect the obligations of the parties to make payments or render services as required by this Agreement nor the rights of the parties under this Agreement.

(C) The City may not assign or subcontract (except as contemplated by Section 2 (B) and Section 16 its rights or obligations under this Agreement without the prior written consent of the Company. The Company may assign its interest in and to this Agreement to any entity that assumes the obligations of the Company hereunder if such assignment is in conjunction with the sale or other transfer by the Company of all or substantially all of its assets relating to the Facility. In addition, the Company may assign its interest in and to this Agreement as collateral security to a lender or lenders providing financing or refinancing for, and to parties issuing or participating in the issuance of letters of credit or surety bonds supporting the financing or refinancing of the Facility or to any institution acting as trustee on behalf of any such lender or other party (any such assignee being referred to herein as a "Lender"). Upon any receipt of notice from the Company of any assignment of this Agreement to a Lender, the City agrees to the Collateral Assignment Provisions set forth on Schedule C to this Agreement. The Company shall provide the City with the name and address of each assignee of this Agreement pursuant to this Section 15 (C). This Agreement shall be binding upon, and inure to the benefit of the parties hereto and their successors and permitted assigns.

(D) This Agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof and all previous agreements, discussions, communications, and correspondence with respect to the subject matter hereof are superseded by the execution of this Agreement.

(E) This Agreement may not be modified or amended except in writing signed by or on behalf of both parties by their duly authorized officers. No amendment, modification or termination of this Agreement, and no waiver of any provision or consent required hereunder by the Company, shall be valid unless consented to in writing by each Lender (unless the Company certifies to the City that such consent is not required by the

Company's agreement with such Lender).

(F) All notices, reports and other documents required or permitted under this Agreement shall be in writing, shall be deemed to have been given when received and shall be delivered personally, sent by certified mail, return receipt requested, or sent via a reputable overnight carrier that provides evidence of receipt, in either case addressed to the party to whom notice is being given at its address set forth below:

To the City:

City of Pittsfield  
70 Allen Street  
Pittsfield, Massachusetts 01201  
Attn: Commissioner, Public Works and Utilities

To the Company:

Community Eco Pittsfield, LLC  
500 Hubbard Avenue  
Pittsfield, MA 01201  
Attn: Facility Manager

Either party may change its address by notice similarly given.

(G) Contemporaneous with the execution of this Agreement, each party agrees to furnish to the other a copy of all requisite authorizing resolutions adopted by it with respect to this Agreement and such other matters as such party may reasonably request relating thereto.

(H) Each party agrees that it will, at its own expense, execute any and all certificates, documents, and other instruments and take such other further actions as may be reasonably necessary to give effect to the terms of this Agreement.

(I) In the event that any of the provisions, portions, or applications of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the Company and the City shall negotiate an equitable adjustment to the provisions of this Agreement with a view toward effecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions, portions, or applications hereof shall not be affected thereby.

(J) The headings in this Agreement are for convenience of reference only and in no way define or limit the scope or content of this Agreement or in anyway affect its provisions.

## **16. Dalton.**

(A) In the event the City desires to expand its collection services to include Recyclable Materials generated by the Town of Dalton, the Company agrees to accept Dalton's Recyclable Materials upon the same terms and conditions as if it were the City's Recyclable Materials provided that (i) Dalton residents shall not be permitted to deliver



resident generated Acceptable Waste and Recyclable Materials. The Company's invoice to the City shall breakdown of the amount of Recyclable Material attributable to the City and the amount attributable to Dalton.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

CITY OF PITTSFIELD

COMMUNITY ECO PITTSFIELD LLC

By: \_\_\_\_\_  
Linda M. Tyer, Mayor

By: \_\_\_\_\_  
Richard J. Fish, CEO

## **SCHEDULE A**

### **DEFINITIONS AND INTERPRETATIONS**

Definitions. The following words and phrases shall have the following meanings when used in this Agreement:

"Acceptable Waste" means mixed household and commercial solid waste (including trash, refuse, and garbage) generated in the City that has the characteristics of solid waste normally generated by residences, stores, other commercial establishments, schools and offices; provided that under no circumstances shall such waste include Unacceptable Waste.

"Acceptance Fee" means the following fees per ton of solid waste delivered to the Facility during the Fiscal Year set forth in Schedule D.

"Base Diesel Price" See Schedule D. In no event will such price be reduced below the prior year's price.

"Change in Law" means: (A) the adoption, modification, repeal or official change in interpretation after March 1, 2020 of any Federal, state or local law, code, regulation, or ruling; (B) the imposition of any condition on the issuance or continued effectiveness of any permit, license, or approval relating to the Facility or any landfill used in connection with the Facility after March 1, 2020 which establishes requirements more burdensome than those imposed as of March 1, 2020 by law or proposed in any pending applications for permits, licenses, or approvals relating to the Facility or any such landfill; and (C) the order or judgment of any Federal, state, or local court, administrative agency, or governmental body relating to the Facility or any landfill used in connection with the Facility, including the suspension, termination, interruption, or failure of renewal of any permit, license or approval; if not the result of willful or negligent action of: or the failure to act in accordance with this Agreement or applicable law as of March 1, 2020, by the party relying thereon. Any proposed law, code, regulation, or ruling is deemed to be adopted, modified, repealed or changed in interpretation when it is in final form and effective or to become effective without any further action by any Federal, state or local governmental body.

"City" means the City of Pittsfield, Massachusetts, a body politic of The Commonwealth of Massachusetts, and its successors and permitted assigns.

"Commencement Date" means July 1, 2021.

"Company" means Community Eco Pittsfield, LLC, a Delaware limited liability company, and its successors and permitted assigns.

"Controlled Waste" is defined in 2 (B).

"Diesel Fuel Index" means the "Retail On-Highway Diesel Price" (on a per gallon basis, including all taxes) for the New England region as published weekly by the U.S. Department of Energy on Form EIA-888 (also currently published on the internet at [www.eia.doe.gov/pub/oil\\_gas/petroleum/data\\_publications/weekly\\_on\\_highway\\_diesel\\_prices/current/htmVdiesel.html](http://www.eia.doe.gov/pub/oil_gas/petroleum/data_publications/weekly_on_highway_diesel_prices/current/htmVdiesel.html)).

"Event of Force Majeure" means any event or condition having a material and adverse

effect on the ability of the party relying thereon to perform pursuant to this Agreement, if such event or condition is beyond the reasonable control of such party, including (1) acts of God, landslides, lightning, earthquakes, hurricanes, tornadoes, blizzards, fires, explosions, floods, acts of a public enemy, wars, or civil disturbances; (2) strikes that are in violation of any labor agreement in effect with the Company or the City, work slowdowns, or work stoppages; (3) a partial or entire delay or failure in the provision of necessary utilities or services to any part of the Facility or any landfill used in connection with the Facility; or (4) a Change in Law.

"Facility" means the solid waste processing facilities, steam generation facilities, resource recovery facilities and appurtenant facilities and equipment located at 500 Hubbard Avenue in Pittsfield, Massachusetts.

"Facility Capacity" means the annual average of the number of tons of waste combusted at the Facility during the last two full calendar years preceding the date in question.

"Fiscal Year" means the period beginning on July 1 preceding the calendar year in question and ending on June 30 of said calendar year. For example, the 2022 Fiscal Year will begin on July 1, 2021 and end on June 30, 2022.

"Host Fee" is defined in Section 3(C) See Schedule D.

"Host Fee Inflation Factor" means the percentage increase of the Boston Consumer Price Index for all urban consumers for the twelve-month period ending the previous October first.

"Independent Consulting Engineer" means Roy F. Weston, Inc., R.W. Beck & Associates, or HDR Engineering, Inc. (or any successor to any such firm), or any other firm of consulting engineers mutually agreed to by the Company and the City pursuant to Section 12.

"Inflation Factor" means the sum of (i) one, plus (ii) an amount equal to (x) 90% times (y) the amount by which the following fraction exceeds one: the denominator shall be the Base CPI and the numerator shall be the CPI published for the December immediately preceding the first day of the Fiscal Year for which the Acceptance Fee is being adjusted. As used above, "Base CPI" means the CPI published for December, 2020. As used above, "CPI" means the index whose full title is "United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for AU Urban Consumers (CPI-U), U.S. City Average" and any comparable successor index. If the CPI shall be discontinued with no successor comparable index, there shall be substituted for the CPI such alternative index as the parties shall agree on. For example, the Inflation Factor for Fiscal Year 2023, which begins July 1, 2022, shall be determined by dividing the CPI for December 1, 2021, by the CPI for December, 2020.

"Lender" is defined in Section 15 (C).

"MADEP" means the Massachusetts Department of Environmental Protection, and any successor thereto.

"MRF" means the recyclable materials recovery facility located at 84 Birnie Avenue,

Springfield, Massachusetts.

"Recyclables Acceptance Fee" See Schedule D, as said fee may be adjusted as described in Sections 6 (B) and 6 (C) of this Agreement.

"Recyclable Materials" means materials that have been source separated from the municipal waste stream for purposes of reuse or recycling, such as paper materials, glass bottles and jars, plastic containers, metal or aluminum cans, yard waste and any other materials for which the City can furnish documented evidence of reuse or recycling.

"Resident-Delivered Materials" is defined in Section 3 (B).

"Residential Recyclable Materials" means source separated Recyclable Materials collected by or on behalf of the City from the residential units and or other locations described in Schedule B; provided that under no circumstances shall such materials include Unacceptable Materials.

"Term" is defined in Section 4.

"Termination Charge" See Schedule D In no event will such amount be reduced below the prior year's amount.

"Transportation Fee" See Schedule D Fee for each trailer containing Residential Recyclable Materials that is transported by the Company to the MRF, as said Fee may be adjusted as described in Sections 6 (B) and 6 (C) of this Agreement.

"Unacceptable Materials" means any material which by reason of its composition, characteristics, or quantity may cause injury to the Facility, or its personnel, may present a danger to public health, safety or welfare or may cause the Facility to be in violation of any permit, license or approval or any federal, state or local law, regulation or mandate (including the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq., the Massachusetts Hazardous Waste Management Act, G.L. c.21C, the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, G.L. c.21E and G.L. c.111 §150A, and the regulations promulgated pursuant thereto).

"Unacceptable Waste" means (A) any material which by reason of its composition, characteristic,, or quantity may cause injury to the Facility, or its personnel, may present a danger to public health, safety or welfare or may cause the Facility to be in violation of any permit, license or approval or any federal, state or local law, regulation or mandate (including the Resource Conservation and Recovery Act of 1976., 42 U.S.C. 6901 et seq., the Massachusetts Hazardous Waste Management Aa., G.L. c.21C, the Massachusetts Oil and Hazardous Material Release Prevention and Response Ac G.L. c.21E and G.L c.111 §150A, and the regulations promulgated pursuant thereto); (B) any material which by reason of its size, durability, composition, characteristics or quantity cannot be accepted at the Facility, may materially impair the structures or equipment at the Facility or has a reasonable possibility of otherwise adversely affecting the operation of any part of the Facility, including any materials which may from time to time be designated by the Company in the delivery procedures described in Section 10 as Unacceptable Waste pursuant to this clause (B); and (C) any materials which are banned from combustion or landfilling by any Waste Ban Policy, extremely odoriferous materials, and any single material which constitutes greater than 25%

of a load and which cannot be handled without advance notice to the Facility.

"Waste Ban Policy" means the regulations of the MADEP set forth at 310 CMR 19.017, and any other federal, state or local law, regulation or ruling that restricts the disposal of materials, or requires the separation of materials from solid waste that is disposed of, at a resource recovery facility or a landfill.

Rules of Interpretation. In this Agreement, unless the context otherwise requires:

1. The terms "hereby", "hereof", "herein", "hereunder", and any similar terms as used in this Agreement refer to this Agreement.
2. The terms "include", "includes" and "including" are not limiting.
3. Words importing the singular number shall mean and include the plural number and vice versa.
4. Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons.
5. References to any law or regulation shall include any amendment or modification to such law or regulation.
6. The word "ton" herein refers to a short ton (2,000 pounds).

## SCHEDULE B

### DESCRIPTION OF WASTE CONTROLLED BY THE CITY

Waste controlled by the City is collected and delivered to the Facility by a contracted private hauler which collects waste on behalf of the City. The contract with the private hauler requires that all waste collected be delivered to the Facility.

A. There are currently approximately 16,500 stops covering the residential units described below. A contracted waste collection company collects waste on behalf of the City and delivers the same directly to the Facility. Waste collected on behalf of the City is generated at the following locations:

- all single family residences
- all multi-family residences with four or less units
- all municipal buildings and facilities, including City Hall, police stations, fire stations, City department buildings, libraries, senior housing units, school buildings, and City parks

B. Waste is currently collected curbside, Monday through Friday, each and every week, with adjustments made for municipally defined holidays. Collection of Recyclable Materials takes place on alternate weeks, more specifically, paper materials alternating with mixed containers.

### RESIDENT-DELIVERED MATERIALS

For purposes of Section 3 of this Agreement, the respective responsibilities of the parties for providing the containers into which Recyclable Materials are placed, and for removing said containers from the Facility when they are full, are as follows:

| <b>Recyclable Materials</b> | <b>Party Responsible for Providing Container</b> | <b>Party Responsible for Removing Container</b> |
|-----------------------------|--|---|
| Cans and Bottles            | City   | City  |
| Cardboard                   | Company  | Company   |
| Concrete and Bricks         | Company  | Company   |
| Magazines and Newspaper     | City   | City  |
| Metals and White Goods      | Company  | Company   |
| Yard and Landscape Wastes   | Company  | Company   |

## SCHEDULE C

### COLLATERAL ASSIGNMENT PROVISIONS

1. The City agrees that it will deliver to each Lender copies of all notices of default given to the Company under this Agreement contemporaneously with the delivery thereof to the Company and will not exercise any remedies upon a default by the Company hereunder unless it has given each Lender written notice of such default.
2. Any assignment to a Lender may provide that it shall not constitute an assumption of any obligation of the Company hereunder on the part of the Lender. Notwithstanding any such assignment, the Company shall be and remain liable to the City under all provisions of this Agreement, this Agreement shall continue in accordance with its terms and any payments made by the City to a Lender or any other actions taken by the City with respect to a Lender pursuant to any such assignment shall be in full satisfaction of any duties or responsibilities which the City would otherwise owe to the Company.
3. Each Lender will be entitled to cure, or cause to be cured, any default under this Agreement by the Company at any time within a reasonable period (not to exceed 180 days) after receipt by the Lender of notice of such default. The City agrees to accept performance on the part of the Lender or its designee as though the same had been done or performed by the Company.
4. Upon receipt of written notice from a Lender that (a) the Company is in default of its obligations under an agreement with the Lender, (b) the Lender desires to exercise its rights under its assignment of this Agreement, and (c) the Lender requests the City to continue to perform its obligations under this Agreement, the City shall continue to perform its obligations under this Agreement for the benefit of the Lender provided the Lender agrees to assume performance of the Company's obligations under this Agreement from and after the date of such notice. The City agrees that upon receipt of such notice the Lender may directly enforce this Agreement against the City. In the event of a default referred to in (a) above, the Lender shall be entitled to further assign the Company's rights and interests under this Agreement to any person or entity, provided such assignee assumes the obligations of the Company hereunder, and such assignee shall be entitled to all the benefits of a Lender hereunder.
5. In the event of the termination of this Agreement prior to its stated expiration date by reason of any bankruptcy or insolvency of the Company or otherwise by operation of law, the City agrees that it will give each Lender notice of such termination and will reinstate this Agreement for the benefit of any Lender or its assignee upon the same terms as contained in this Agreement, except for requirements which are no longer applicable or have already been performed, if the Lender makes written request upon the City for such reinstatement within 3 months after such termination.

**SCHEDULE D  
FEES**

**1) Acceptance Fee**

|                                 |                            |
|---------------------------------|----------------------------|
| Fiscal Year 2021                | \$88.07                    |
| Fiscal year 2022 and thereafter | \$88.07 x Inflation factor |

**2) Base Diesel Fuel Price**

|                                 |                                      |
|---------------------------------|--------------------------------------|
| Fiscal Year 2021                | \$2.30 per gallon                    |
| Fiscal Year 2022 and thereafter | \$2.30 per gallon x Inflation factor |

**3) Host Fee**

|                                 |   |
|---------------------------------|---|
| Calendar Year 2021              | \$ 3.80 per ton of solid waste                                |
| Fiscal Year 2022 and thereafter | \$ 3.80 per ton of solid waste x Host Fee<br>Inflation Factor |

**4) Recyclables Acceptance Fee:**

|                  |  |
|------------------|--|
| Fiscal Year 2021 | \$23,938.94 per month  |
| Fiscal Year 2022 | \$ 23,938.94 per month as adjusted as described<br>in Sections 6 (B) and 6 (C) of this Agreement |

**5) Recyclables Transportation Fee:**

|                  |  |
|------------------|--|
| Fiscal Year 2021 | \$295.95 per month   |
| Fiscal Year 2022 | \$295.95 per month as adjusted as described in<br>Sections 6 (B) and 6 (C) of this Agreement |

**6) Recyclables Termination Charge**

|                                 |   |
|---------------------------------|---|
| Fiscal Year 2021                | i) \$13,810 + ii) \$7,000.00 per month for each<br>month remaining in the Term                    |
| Fiscal Year 2022 and thereafter | i) \$13,810 x Inflation Factor + ii) \$7,000.00 per<br>month for each month remaining in the Term |







# THE CITY OF PITTSFIELD

OFFICE OF THE MAYOR

70 Allen Street, Pittsfield, MA 01201  
(413) 499-9321 • ltyer@cityofpittsfield.org

**Linda M. Tyer**  
Mayor

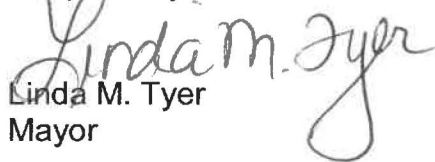
June 16, 2021

To the Honorable Members of the City Council  
City of Pittsfield  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors:

Please accept a brief presentation from Payton Ramella, a student at Taconic High School. Payton is submitting this "mock" petition as a way to learn more about the legislative process at the municipal level. It is my hope that this opportunity will inspire Payton to continue her civic engagement as she further explores learning about local government.

Respectfully submitted,

  
Linda M. Tyer  
Mayor

LMT/CVB



# City of Pittsfield

June 15, \_\_\_\_\_ 20 \_\_\_\_\_ 21

To the City Council of the City of Pittsfield:—

The undersigned respectfully

Requests that the City of Pittsfield consider changing the voting age to 16 for the munipicle election

Thank you in adavance,

Payton Ramella

*Payton Ramella*

Dear Honorable members of the City Council and Colleagues,

My name is Payton Ramella. I am a Pittsfield resident and a High School Student at Taconic High School. I am petitioning to lower the voting age in Massachusetts to the age of 16.

In my mind, voting at age 16 would be a successful concept because by lowering the voting age this allows young teens to have the chance to stand up for what they believe. This makes sense to me because I feel as though we can be motivated to get the proper information at home from our families and at school by our teachers and peers.

I feel as though other countries such as Austria and Scotland could help back this up due to the fact that the voting age in these countries is 16. The reason they allow 16 year olds to vote is because they want to engage young people and improve educating young adults to become clear thinking people who participate in decisions concerning society in our cities and States.

I would love to be afforded the opportunity to have a say at age 16 because I feel as though we are affected by local political issues just as much as everyone else. We are living in a society where we are already at age 16, driving, working, registered organ donors and doing community work.

Thank you,

Payton Ramella

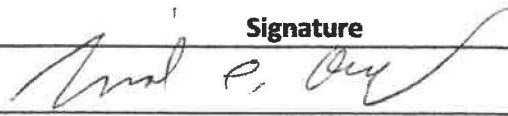
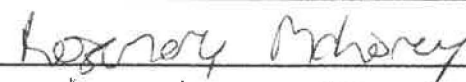
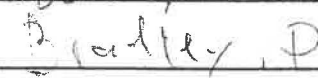
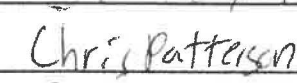
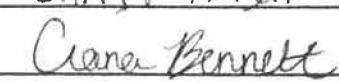
Summary = Petition to Lower the Voting Age in Pittsfield MA to the Age of 16

Reason = So teens have a chance to share their voice!!!!

|    | Printed Name    | Signature       | Town           | Date   |
|----|-----------------|-----------------|----------------|--------|
| 1  | BECKY A TALIS   | Becky Talis     | Pittsfield MA  | 6/10/  |
| 2  | MATTHEW H TALIS | Matthew Talis   | pittsfield, MA | 6/10/  |
| 3  | Sydney Talis    | Sydney Talis    | Pittsfield MA  | 6/11/2 |
| 4  | Kole Njelic     | Kole Njelic     | Pittsfield MA  | 6/11/2 |
| 5  | Shamus Gahaty   | Shamus Gahaty   | Pittsfield MA  | 6/11/2 |
| 6  | Bryn Blakmer    | Bryn Blakmer    | Pittsfield, MA | 6/11/2 |
| 7  | Kiana Dietzen   | Kiana Dietzen   | Pittsfield, MA | 6/11/2 |
| 8  | GABRIEL DELINER | Gabriel Deliner | Pittsfield, MA | 6/11/2 |
| 9  | Holly Scarfone  | Holly Scarfone  | Pittsfield MA  | 6/11/2 |
| 10 | Jennifer Zuker  | Jennifer Zuker  | Pittsfield MA  | 6/11/2 |
| 11 | Anna Barcom     | Anna Barcom     | Pittsfield MA  | 6/11/2 |
| 12 | Kevin Dwyer     | Kevin Dwyer     | pittsfield MA  | 6/11/2 |
| 13 | Hannah Bourden  | Hannah Bourden  | Pittsfield, MA | 6/11/2 |
| 14 | Gabby Starsja   | Gabby Starsja   | Pittsfield, MA | 6/11/2 |
| 15 | Robert Scriver  | Robert Scriver  | Pittsfield MA  | 6/11/2 |
| 16 | Mya Duhamel     | Mya Duhamel     | Pittsfield, MA | 6/11/2 |
| 17 | Lindsay Mac     | Lindsay Mac     | pittsfield. MA | 6/11/2 |
| 18 | Camille Kenney  | Camille Kenney  | Pittsfield, MA | 6-11-2 |
| 19 | Lola Bennett    | Lola Bennett    | Pittsfield. MA | 6-11-  |
| 20 | Sam Slacik      | Sam Slacik      | Pittsfield, MA | 6-11-2 |


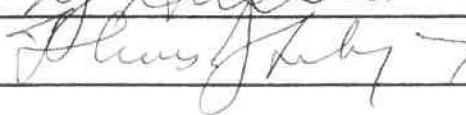
Summary = Petition to Lower the Voting Age in Pittsfield MA to the Age of 16

Reason = So teens have a chance to share their voice!!!!

|   | Printed Name       | Signature  | Town          | Date    |
|---|--------------------|--|---------------|---------|
| 1 | Michael Duffy      |  | Pittsfield MA | 6/11/21 |
| 2 | Rosemary McHoney   |  | Pittsfield MA | 6/11/21 |
| 3 | Bradley Pendergast |  | Pittsfield MA | 6/11/21 |
| 4 | Chris Patterson    |   | Pittsfield MA | 6/11/21 |
| 5 | Ciana Bennett      |  | Pittsfield MA | 6/11/21 |

Summary = Petition to Lower the Voting Age in Pittsfield MA to the Age of 16

Reason = So teens have a chance to share their voice!!!!

|    | Printed Name      | Signature  | Town                       | Date    |
|----|-------------------|--|----------------------------|---------|
| 1  | Donna J Hassett   |  | Springfield                | 6/11/21 |
| 2  | THOMAS J SAKSHAVG |  | 13 BROOKSIDE DR PITTSFIELD | 6/11/21 |
| 3  |                   |  |                            |         |
| 4  |                   |  |                            |         |
| 5  |                   |  |                            |         |
| 6  |                   |  |                            |         |
| 7  |                   |  |                            |         |
| 8  |                   |  |                            |         |
| 9  |                   |  |                            |         |
| 10 |                   |  |                            |         |
| 11 |                   |  |                            |         |



**CITY OF PITTSFIELD**

DEPARTMENT OF COMMUNITY DEVELOPMENT, CITY HALL, 70 ALLEN STREET, RM 205, PITTSFIELD, MA 01201

June 16, 2021

To The Honorable Members  
Of the City Council  
Of the City of Pittsfield

Dear Councilors:

At your meeting of May 25, Council Maffuccio submitted a petition which requested that Community Preservation Act funds be used to develop a complete evaluation of Pontoosuc Lake in order to 'bring it back to what is used to be.' I have requested and received approval from the Community Preservation Committee to re-allocate a portion of previously awarded funding to undertake a planning study of the park with the goal being to develop a master plan for future improvements. This work will be undertaken this summer and fall with assistance from Berkshire Design Group – a landscape architecture and planning firm based in Northampton, and will include robust public outreach and involvement. I look forward to your involvement in this process, and I thank you for your continued support as we seek to make improvements to the park system.

Sincerely,

A handwritten signature in dark ink, appearing to read "James McGrath", is written over a light blue horizontal line.

James McGrath  
Park, Open Space, and Natural Resource Program Manager



**CITY OF PITTSFIELD**

COMMUNITY PRESERVATION COMMITTEE, CITY HALL, 70 ALLEN STREET, RM 205, PITTSFIELD, MA 01201

June 14, 2021

To The Honorable Members  
Of the City Council  
Of the City of Pittsfield

Re: Pontoosuc Lake Park Petition

Dear Councilors:

The Community Preservation Committee supports the pursuit of funding for projects at City park facilities. In the 2018 Community Preservation Act (or "CPA") funding cycle, the Committee supported a request for \$15,000 related to work to bolster efforts to re-establish a beach at Pontoosuc Lake Park, which was then approved by the City Council. At last week's Committee meeting, the Committee approved a request from Jim McGrath to extend the contract for this project for another year, with the intent of the additional time to provide for an opportunity to begin a public process related to this previous work and future steps needed for thoughtful long-term planning. The Committee is aware that Mr. McGrath is providing a communication to the Council related to this work, so will defer to that document to further describe this effort.

Related to additional future applications for CPA funds, the Committee would like to take this opportunity to highlight the need for discussion and support from the City's Parks Commission and Park, Open Space, and Natural Resource Program Manager as part of any future application. The Committee requests as part of the application process that projects related to City property either be submitted by the relevant City entity or at the very least come with an endorsement from the relevant body and/or department.

Lastly, the Committee appreciates the interest and support of the City Council in our work and in the projects that we recommend for funding. As part of our annual cycle, we also seek public comment at our yearly public hearing typically held in September/October to evaluate CPA priorities and, when we have been able to meet in person, at our open meetings.

Please feel free to follow up with CJ Hoss (CPA Administrator) with any additional questions related to the CPA process.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Dickson", is written over a horizontal line.

John Dickson  
Chair



RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA

City of Pittsfield 2021 MAY 18 AM 8:19

May 18, 20 21

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Honorable members of the City Council and Colleagues submitted is a petition asking that Community Preservation Act Funds be used to develop a complete evaluation of Pontoosic Lake to be made back into what use to be Pontoosic Park, The Public Beach, Recreational activities, and a total redevelopment plan including of all parking areas, the boat ramp and an overall redevelopment of this Great Lake that is an attraction to all Citizens, the Tourist Community and Berkshire County. This redevelopment is an investment of what we once had. We have concentrated solely on Deming Park, Onota Lake, Burbank Park, Springside Park, and other entities / recreational areas new and old in the community while this great gem has been forgotten about and is falling into disarray. I am seeking input from the Parks Commission, Community Development Director, Community Development Board, The Mayor, The City Planner, City Council Finance Committee, and any other Department to rejuvenate this Great Gem and bring it back to its livelihood. This is a long overdue project and that the Departments start replying by our next City Council meeting with Boards and Commission following on what we can do to start the process, plan, for redevelopment to put in place as soon as possible to bring life back into this Great Recreational Area.

Respectfully Submitted  
Councilor Anthony V Maffuccio



## **CITY OF PITTSFIELD**

DEPARTMENT OF COMMUNITY DEVELOPMENT, CITY HALL, 70 ALLEN STREET, RM 205, PITTSFIELD, MA 01201

June 16, 2021

To the Honorable Members  
Of the City Council  
Of the City of Pittsfield

Re: Petition from the Community Development Board to amend the City Code  
Chapter 23, Zoning, Article 23-13, Administrative Procedures, Section 13.202 Required  
Hearing and Notice

Dear Councilors:

At its meeting on June 1, 2021, the Community Development Board voted unanimously to finalize the enclosed zoning amendment and petition the City Council to amend the zoning ordinance. In its letter to the City Council dated December 2, 2020, the Community Development Board offered to take on the task of evaluating modifications to the abutter notification process. Over the past several months the Board reviewed options for addressing enhanced abutter notification, attempting to balance and increase the range of notification via Certified Mail while removing projects whose impacts are typically more localized to immediate abutters.

For the purpose of clarity, the zoning ordinance currently requires abutter notification for properties located within 300 feet of the property subject to the special permit request, as prescribed under MGL 40A. The Board reviewed multiple options and the cost difference between the existing requirement and scenarios that involved increasing the distance and mailing type. After reviewing these options with staff, the Board chose to increase the distance to 500 feet via Certified Mail. As proposed, the language exempts this requirement from special permits related to one, two, or three family residences. The Board agreed this was a more straight forward approach versus attempting to separate out specific uses or districts where enhanced notification would apply.

In addition to the proposed zoning amendment, the Board is working with staff on potential policy changes to the notification process to provide increased transparency, with the goal of finalizing any additional changes over the summer prior to the potential adoption of this ordinance amendment by the City Council.

Enclosed please find the petition and draft ordinance amendment. Also enclosed please find a memorandum drafted by staff earlier this year that details the bulk of the more

substantive review related to potential notification options and the cost implications of these various changes based on previously received special permit applications.

Sincerely yours,

COMMUNITY DEVELOPMENT BOARD

A handwritten signature in cursive script that reads "Sheila B. Irvin".

Sheila B. Irvin  
Chair

A small, stylized handwritten mark or signature, possibly initials, located to the right of the printed name.

SI/ch

Attachments



# City of Pittsfield

\_\_\_\_\_ 20 \_\_\_\_\_

To the City Council of the City of Pittsfield:-

The undersigned respectfully

petitions the City Council of the City of Pittsfield to amend the City Code Chapter 23, Zoning, Article 23-13, Administrative Procedures, Section 13.202 Required Hearing and Notice to require enhanced abutter notification at an increased distance of 500 feet by United States Postal Service Certified Mail for all special permit applications except those involving a one, two, or three-family residence.

Respectfully submitted,

PITTSFIELD COMMUNITY DEVELOPMENT BOARD

  
Sheila B. Irvin  
Chair



## **CITY OF PITTSFIELD**

DEPARTMENT OF COMMUNITY DEVELOPMENT, CITY HALL, 70 ALLEN STREET, RM 205, PITTSFIELD, MA 01201

**TO:** Community Development Board  
**FROM:** CJ Hoss, City Planner  
**DATE:** January 22, 2021  
**SUBJECT:** Enhanced Abutter Notification

As requested during the Community Development Board's discussion regarding enhanced abutter notification this past November, staff has prepared the following to help guide the initial discussion on how the Board may wish to proceed in considering potential changes to the zoning ordinance. This analysis began with a review of historical applications including types of applicants and uses as well as the number of abutters captured under the statutory notification requirements set forth in Massachusetts General Law Chapter 40A, which requires notification of abutters located within 300 feet of the property boundaries of a project with notification provided by first class mail.

### **Types of Special Permit Applications Subject to Enhance Notification Requirement**

The previous petition singled out an individual use that would require enhanced abutter notification. Legal guidance advised avoiding singling out a specific use for enhanced notification requirements. As a result, at least initially, the Board may wish to consider one of the following four approaches to determining what uses would be subject to enhanced notifications requirements:

1. enhanced notification for all special permit applications;
2. enhanced notification for commercial and industrial use special permit applications;
3. enhanced notification for individual uses that have raised community concern in past year (e.g., eating establishments with drive through windows, wireless telecommunications, commercial scale solar, cannabis cultivation, etc)
4. enhanced notification for all uses except for 1, 2, and 3 family residences

### **Type of Enhanced Notification and Estimated Cost**

Staff reviewed applications from the last several years to understand the number of abutters that were notified following the state notification requirements. In FY2020, the average number of abutters per special permit application was 38.2 per application, while in FY2021 the average number of abutters to date is 46.2 per application. While staff did not choose the example from the November 26, 2020 memorandum to the Board be representative of a typical application, the 41 total abutters for that project turned out to provide a fairly good representation of the costs of enhanced mailings on average. Using the MGL requirement of notifying abutters within 300 feet of the proposed project property boundary, it currently costs the City \$22.55 to provide a first class mailing to 41 abutters. In order to confirm receipt via certified mail, the cost increases to \$170.15, while certified return receipt would cost \$287.00.

### **Abutter Distance Receiving Notification**

The next question is whether or not the distance from the proposed project property boundary should be extended. To provide a few different specific scenarios, three previously permitted projects were selected for which the cost of abutter notifications were analyzed assuming the abutter notification range was incrementally increased to 300, 500 or 1,000 feet. The three examples provided are 20 Keeler Street (a previously proposed cell tower), 1107 Barker Road (an approved outdoor cannabis cultivation facility), and an example of a downtown development/redevelopment project utilizing 292 North Street (YMCA). Maps illustrating the three distance scenarios under each address accompany this memorandum.

#### **20 Keeler Street – Proposed Cell Tower**

| 20 Keeler Street         | Cell Tower | Abutter Range   | 300 Feet | 500 feet | 1000 feet  |
|--------------------------|------------|-----------------|----------|----------|------------|
| Mailing Type             |            | No. of Abutters | 98       | 128      | 231        |
| First class mail         | \$0.55     |                 | \$53.90  | \$70.40  | \$127.05   |
| Certified                | \$4.15     |                 | \$406.70 | \$531.20 | \$958.65   |
| Certified – Mailed Recpt | \$7.00     |                 | \$686.00 | \$896.00 | \$1,617.00 |

#### **1107 Barker Road – Outdoor Cannabis Cultivation**

| 1107 Barker Road         | Cannabis Cultivation | Abutter Range   | 300 Feet | 500 feet | 1000 feet |
|--------------------------|----------------------|-----------------|----------|----------|-----------|
| Mailing Type             |                      | No. of Abutters | 15       | 115      | 134       |
| First class mail         | \$0.55               |                 | \$8.25   | \$63.25  | \$73.70   |
| Certified                | \$4.15               |                 | \$62.25  | \$477.25 | \$556.10  |
| Certified – Mailed Recpt | \$7.00               |                 | \$105.00 | \$805.00 | \$938.00  |

#### **292 North Street – YMCA Redevelopment**

| 292 North Street         | Downtown YMCA | Abutter Range   | 300 Feet | 500 feet | 1000 feet  |
|--------------------------|---------------|-----------------|----------|----------|------------|
| Mailing Type             |               | No. of Abutters | 25       | 56       | 211        |
| First class mail         | \$0.55        |                 | \$13.75  | \$30.80  | \$116.05   |
| Certified                | \$4.15        |                 | \$103.75 | \$232.40 | \$875.65   |
| Certified – Mailed Recpt | \$7.00        |                 | \$175.00 | \$392.00 | \$1,477.00 |

### **Required Fee Changes**

Currently the cost of a typical special permit application requires an application fee of \$200 and a legal advertising fee that ranges from \$250 to \$350 (non-pandemic). These costs are borne by the applicant, with the City managing the abutter notification process, including absorbing the cost of mailing.

This process will need to be overseen by the City moving forward, but if abutter notification is expanded beyond the current process, the cost will need to be covered by the applicant. Given the disparity between potential costs from application to application in the scenarios detailed above, a new standard fee would likely be inadequate if Certified Mail or an increased distance is sought by the Board. For this to be most equitable, staff would likely need to alter the process to initially accept the application without a fee (making clear it is considered incomplete until fees have been collected), and then provide a bill to the applicant for the cost of processing the application based on the total number of abutting properties listed on the official certified property owner list from the assessor's office. An application would then be deemed complete once that fee is collected.

### **Summary**

There are multiple considerations before the Board. It is the hope of staff that the organization of topics provided above, may provide the Board with a method for incrementally deciding how to proceed and to determine what changes should be made to the abutter notification process for special permit applications. The first step is to decide if enhanced notification is desired. After which, the Board should determine the:

1. Type of Special Permit Applications Subject to Enhanced Notification Requirement
2. Type of Enhanced Notification
3. Abutter Distance Receiving Enhanced Notification
4. Party (applicant or City) responsible for enhanced notification process



No. ....

# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 23, ZONING

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

#### **SECTION I**

That the Code of the City of Pittsfield Chapter 23, Zoning, Article 23-13, Administrative Procedures, Section 13.202 Required Hearing and Notice shall be amended as follows, with text additions appearing with underline:

#### Section 13.202 Required Hearing and Notice

Special Permits may only be issued following public hearings held within sixty-five (65) days after filing of any application with the Special Permit Granting Authority. Notice of public hearing shall be given by publication in a newspaper of general circulation in the City once in each of two successive weeks, the first publication shall not be less than fourteen (14) days before the day of such hearing, and by mailing it to "Parties in Interest", as provided in Chapter 40A Massachusetts General Laws, which includes the petitioner, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred (300) feet of the property line of the petitioner as they appear on the most recent applicable tax list, the Planning Board, and the Planning Board of every abutting municipality. Abutter notification for those living within three hundred (300) feet of the property line shall apply to projects requiring a special permit that involve a single-family, two-family, or three-family residence. For projects of greater residential density, commercial, industrial, or any other use or activity that requires a special permit, abutter notification shall be expanded to five hundred (500) feet of the property line via United States Postal Service Certified Mail. The cost of Certified Mail at a distance of 500 feet shall be borne by the applicant and calculated individually for each project. An application shall not be deemed complete until such payment has been submitted to the City.

#### **SECTION II**

This Ordinance shall take effect upon its enactment.

Approved as to Form and Legality,

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City Solicitor





RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA

# City of Pittsfield

2021 JUN 14 PM 10:18

June 7, 2021

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To the City Council of the City of Pittsfield: —

The Committee on Ordinances and Rules

to whom was referred the A petition from Councilor Morandi requesting Ordinances and Rules review  
the keeping of chickens at 16 Kensington Avenue

having considered the same, report and recommend that it be filed. (4/0)

Respectfully submitted,

Councilor Peter T. White, Vice Chairman



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2021 APR 21 AM 9:15

April 21, 2021

To the City Council of the City of Pittsfield:—

The undersigned respectfully

Requests that the City Council review the case involving the keeping of chickens at 16 Kensington Avenue regarding chicken guidelines and building code regulations pertaining to accessory buildings by referring it to the Ordinance and Rules subcommittee and the Public Health and Safety subcommittee.

Respectfully Submitted,

Kevin J. Morandi  
City Councilor - Ward 2



# City of Pittsfield

June 10, 2021

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To the City Council of the City of Pittsfield: —

The Committee on Public Health and Safety

to whom was referred the

a Petition from Councilors Maffuccio, Kavey and Connell asking  
the Sub-Committee of Public Health and Safety to review the  
City's relationship with ServiceNet

having considered the same, report and recommend that

Voted to file..  
Voted 3/1 with Councilor Morandi opposed

Respectfully submitted,

Helen Moon

Chairman



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA

2020 SEP -2 AM 9:08

September 2 20 2020

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Honorable members of the City Council and Colleagues submitted for your consideration for your consideration is a petition is asking the sub Committee of the Public Health and Safety to review the Cities relationship with ServiceNet reports of the Cities FY2020 Quarterly Reports to see the number of the homeless population that are displaced in the City, there State Audit Official Audit Report issued on November 6, 2020 the amount of money that is used in the City of a Budget of 1,762,506 to 1,962,506 roughly but only \$200,000 invested in our Community by ServiceNet as Outlined in a Letter Dated August 28, 2020 that has been sent to all Members involved and the Letter to Community Development Dated August 24, 2020 of there neglect of providing housing to only 10 of the 101 misplaced Homeless Community at a time when a pandemic and Covid-19 is happening along with the cold and winter months coming soon and needs to be act a pond ASAP and the misuse of State, Federal and City Funds which all documents are included but the Letter Dated August 24, 2020 be withheld due to Legal Issues and Personal Information.

Respectfully Submitted,

Councilor Anthony Maffuccio  
Councilor Patrick Kavey  
Councilor Chris Connell



# City of Pittsfield

June 10, 2021

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To the City Council of the City of Pittsfield: —

The Committee on Public Health and Safety

to whom was referred the a Petition from Councilor Moon requesting MDPH provide an updated cancer evaluation in relation to GE site B71/H78 environmental factors

having considered the same, report and recommend that

Voted to approve the presentation from MDPH.  
Voted unanimously.

Respectfully submitted,

Helen Moon

Chairman



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2021 APR 21 PM 1:33

April 21, 20<sup>21</sup>

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Requests MDPH provide an updated cancer evaluation in relation to GE site B71/H78 environmental factors.

Respectfully submitted,

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Helen Moon  
City Councilor - Ward 1



# City of Pittsfield

June 10, 2021

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To the City Council of the City of Pittsfield: —

The Committee on

Public Health and Safety

to whom was referred the

a Petition from Councilor Morandi requesting Ordinance and Rules  
and the Public Health and Safety Committees review the keeping  
of chickens at 16 Kensington Avenue

having considered the same, report and recommend that

Voted to file..  
Voted unanimously.

Respectfully submitted,

Helen Moon

Chairman



**City of Pittsfield**

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2021 APR 21 AM 9:15

April 21, 2021

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Requests that the City Council review the case involving the keeping of chickens at 16 Kensington Avenue regarding chicken guidelines and building code regulations pertaining to accessory buildings by referring it to the Ordinance and Rules subcommittee and the Public Health and Safety subcommittee.

Respectfully Submitted,

Kevin J. Morandi  
City Councilor - Ward 2





# City of Pittsfield

June 10, 2021

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To the City Council of the City of Pittsfield: —

The Committee on Public Health and Safety

to whom was referred the a Petition from Councilor Maffuccio requesting to invite the Police Chief to the first meeting in February to give a status update on crime rate

having considered the same, report and recommend that

Voted to accept the report of the Police Chief  
Voted unanimously.

Respectfully submitted,

Helen Moon

Chairman



# City of Pittsfield

December 12 20 19

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Honorable members of the City Counsel and Colleagues submitted is a petition asking that we invite the Chief of Police to the first meeting in February to give a brief status of the current crime rate in our community and what steps are being used to combat the growing issues we are facing as a city with the topics listed below but not limited to just these questions.

- A. What is the current staffing level that the police department is at and what is the recommended staffing level we should be at for our communities' size?
- B. What steps are being taken to recruit more police officers and what is our vacancy rate at?
- C. What resources are being used in the city to combat the growing crime in the city and what's available to us, such as State Police or Berkshire County Sherriff's Department presents?
- D. What is the current condition of our Police Department's building and what necessities are needed to be changed to have a more workable and efficient facility?

I also welcome my colleagues to bring topics that they may also would like to ask the Chief during this briefing. These topics and more should be discussed in a public forum to make our citizens aware of the necessities we need and is our civic duty to keep our citizens aware of the actions that the Police Department has taken and the actions that the city needs to take to reassure there safety and confidence of City Government.

Respectfully Submitted,

Anthony V Maffuccio

Ward 7 Counselor



# City of Pittsfield

June 10, 2021

To the City Council of the City of Pittsfield: —

The Committee on Public Health and Safety

to whom was referred the

a Petition from Councilor Moon, Kelan O'Brien, Meagan Bossong and Dennis Powell requesting timeline and process information on the \$85,000 appropriation from the Patrol Office line item in the Pittsfield Police Department budget of contract Services line item in the Pittsfield Police Department budget for an additional mental health co-responder role

having considered the same, report and recommend that

Voted to accept the report of the Police Chief  
Voted unanimously.

Respectfully submitted,

Helen Moon

Chairman



## City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA

2021 MAY -5 PM 12:10

May 4 20 21

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Request that the following be referred to the Public Health and Safety Committee for discussion:

The Pittsfield City Council re-appropriated \$85,000 from the Patrol Officer line item in the Pittsfield Police Department budget to a contract services line item for an additional mental health co-responder role for FY21. Per an April 21, 2021 update from Chief Wynn to Mayor Tyler and the Council, this position is still in the interview phase and there is no contract agreement with an individual or subcontract agreement with the Brien Center in place. We are seeking discussion on what the timeline and process for establishing this position has been, and what the balance of this appropriated line item will be directed toward as FY21 is nearly concluded.

In the Shannon Grant funding for the Pittsfield Community Connection accepted by the Council on January 12th, 2021, there is a \$20,000 personnel earmark and a \$5,000 benefits earmark for a program coordinator position within the PPD (identified as being held by Joe Smith) to "manage all programmatic aspects of the Shannon Grant program." We request more information on what that role entails.

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Helen Moon  
City Councilor, Ward 1

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Kelan O'Brien  
35 Weller Ave, Pittsfield

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Meagan Bossong  
127 Wendell Ave, Pittsfield

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Dennis Powell  
NAACP - Berkshires Branch



# City of Pittsfield

June 10, 2021

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To the City Council of the City of Pittsfield: —

The Committee on Public Health and Safety

to whom was referred the a Petition from Councilor Maffuccio requesting to explore the cost and benefits of having an ambulance service with our Fire Department

having considered the same, report and recommend that

Voted to approve  
voted unanimously

Respectfully submitted,

Helen Moon

Chairman



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2020 FEB -5 AM 8:36

February 4 2020

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Honorable members of the City Council and Colleagues submitted is a petition requesting that the Mayor organize a Fire Department Ambulance Base Task Force to explore the cost and benefits of having an ambulances services within our Fire Department. This has become a public safety issue within our community with the shortages of ambulance services available. The city would benefit by having an ambulance located within the Fire Department not only by addressing the shortage of ambulances available in the community which has become an unaddressed public safety issue, but would also add personnel to the Fire Department and create a revenue source for the city. This type of service would create the revenue needed to run the service and generate extra revenue. The Fire Department are the first responders to all medical calls and do all the work now except for the transportation aspect and there has been a long period of time before an ambulance arrives to the call. We have to realize in this day and age we have a serious problem with shortages of ambulances and have to rely on other communities to assist us creating an even large issue for the county. The time has come that we accept the fact the seriousness of this issue and step up to the plate to address this issue.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Anthony V Maffuccio", is written over a horizontal line.

Anthony V Maffuccio

Ward 7 City Councilor



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA

2020 FEB 18 AM 10:35

February 15 20 20

To the City Council of the City of Pittsfield:—

The undersigned respectfully

Honorable members of the City Council and Colleagues submitted is a petition asking the Mayor to Appoint a City Youth Advisor as it refers to Section 2-228.4 Article XL Youth Commission part II: The Code / Administration in the City Code.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Anthony V Maffuccio".

Anthony V Maffuccio

Ward 7 City Councilor

A handwritten signature in dark ink, appearing to read "Kevin J Morandi".

Kevin J Morandi

Ward 2 City Councilor



## CITY OF PITTSFIELD

RESOURCE RECOVERY COMMITTEE, CITY HALL, 70 ALLEN STREET, PITTSFIELD, MA 01201

June 17, 2019

To the Honorable Members of the City Council  
70 Allen Street  
Pittsfield, MA 01201

Dear Councilors,

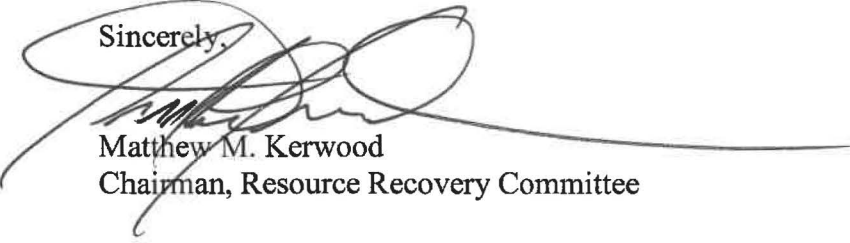
The Resource Recovery Committee is in receipt of your referral of the ordinance amending Section 8 of the City Code-Solid Waste. However, at its June 13<sup>th</sup> meeting the committee raised some questions regarding this referral that I would like to bring to your attention.

The Committee believes that in making the referral the Council failed to indicate what action it wanted the Committee to undertake. As you are aware, the mission of the Resource Recovery Committee is "to advise the mayor, city council and commissioner of public utilities on all matters such as, but not limited to, solid waste collection, resource recovery, and recycling in the city, in promulgating rules, regulations and rates in conformity with law." However, the Committee is unclear at this point as to what advice you are seeking from it.

In addition, the Committee expressed concern that at this point there is no plan for the implementation, communication to the public, or enforcement of the changes proposed in the ordinance. It is the Committee's opinion that these are critical components that must be thoroughly vetted before any final action is taken on the ordinance.

Therefore, the Committee respectfully requests that the City Council provide it with guidance as to what actions it wishes the Committee to take in this matter. In addition, the Committee seeks clarification on the Council's strategies regarding the implementation and enforcement of the ordinance. Thank you for your attention to this matter.

Sincerely,



Matthew M. Kerwood  
Chairman, Resource Recovery Committee





# City of Pittsfield

May 7, 2019

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To the City Council of the City of Pittsfield: —

The Committee on Ordinances and Rules

to whom was referred the a report from the Ordinances and Rules committee on a petition from Councilor Morandi requesting City Code, Chapter 8, Solid Waste and Disposal, be fully reviewed and revised where needed

having considered the same, report and recommend that it be amended and approved. (4/1)

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter T. White", is written over a horizontal line.

Councilor Peter T. White,

Chairman



# City of Pittsfield

October 16, 2018

To the City Council of the City of Pittsfield: —

The Committee on Ordinance and Rules

to whom was referred the A petition from Councilor Morandi requesting City Code Chapter 8: Solid Waste and Disposal be fully reviewed and revised where needed.

having considered the same, report and recommend that the Ordinance be approved as amended. Failed 2-2 Councilor Krol and Caccamo in favor and Councilor Mazzeo and White in opposition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter T. White".

Chairman



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA

2018 MAR 20 A 10:25

March 19 20<sup>18</sup>

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Requests that under the city code Chapter 8: Solid Waste and Disposal be fully reviewed and revised where needed by the City Council.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Kevin J. Morandi", is written over a horizontal line.

Kevin J. Morandi

City Councilor - Ward 2



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 1 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

#### **SECTION I**

That the Code of the City of Pittsfield, Chapter 8, shall be deleted in its entirety and replaced with the following:

##### **Sec. 8-1 Definitions.**

For the purposes of this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

##### **BIODEGRADABLE FOOD SERVICE CONTAINER**

Within three years having the ability to one-hundred-percent completely break down, or within three years decompose back into the natural environment without causing harm.

##### **BULKY WASTE**

Any waste item that does not fit into the standard legal container as defined by this section. These items include, but are not limited to: broken down wood furniture, upholstered chairs and couches, mattresses and box springs, carpet rolls, wooden posts or fencing, oversized plastic toys, and automotive tires.

##### **BULKY WASTE COLLECTION PROGRAM**

Prepaid sticker to identify acceptable items that allows collection with weekly curbside pickup.

##### **CHECK OUT BAG**

A bag provided by a store to a customer at the point of sale. Check-out bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store

##### **COMMERCIAL & DEMOLITION WASTE**

Any waste that is the result of construction remodeling, repair or demolition activities on buildings or other structures.

##### **COMPOSTABLE PLASTIC BAG**

A plastic bag that (1) conforms to the current ASTM D6400; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials.

##### **DESIGNATED LICENSE**

Any person, firm or concern permitted by the city to deliver, on its behalf, waste to the resource recovery facility duly licensed under Chapter 10 of the Code of the City of



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 2 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

Pittsfield.

#### **DISPOSABLE FOOD SERVICE CONTAINER**

Single-use disposable products for serving or transporting prepared, ready-to-consume food or beverages. This includes but is not limited to plates, cups, bowls, trays and hinged or lidded containers. This definition does not include single-use disposable utensils, nor does it include single-use disposable packaging for unprepared foods. The Board of Health shall have final say as to what is or is not a disposable food service container.

#### **ELECTRONICS**

Waste items including, but not limited to: televisions, radios, stereos, computer monitors or components, fax machines, copiers, video game consoles or computer.

#### **FOOD ESTABLISHMENT**

An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000 et seq., shall be considered a food establishment for purposes of this section. The Board of Health shall determine what is or is not a food establishment.

#### **FOOD WASTE**

All waste, fish, fowl, fruit, vegetable or animal matter, exclusive of animal carcasses.

#### **LANDFILL**

A disposal facility for final disposition of residue or solid waste on land and in compliance with all federal, state and local regulations.

#### **NUISANCE**

Solid waste put at the curb that creates an obstruction to traffic, prevents access to a sidewalk, is unsanitary, or attracts rodents and animals.

#### **PREPARED FOOD**

Any food or beverage prepared for consumption on the food establishment's premises, using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation.

#### **RECYCLABLE FOOD SERVICE CONTAINER**

A food service container completely capable of reuse as a food service container 10 or more times, or completely capable of being used as a high quality recycle, wherein the materials of the food service container may be completely reclaimed and used in new food service containers at least 10 times.



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 3 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

#### **RECYCLABLE MATERIALS**

Discarded non-hazardous solid waste materials of domestic origin which have the potential to be recycled and are identified, listed and accepted by the city's or its agent. Items shall include, but not be limited to: paper products; newspapers; magazines; corrugated cardboard; unbroken, empty glass bottles and containers; and clean, empty aluminum, tinned steel or bi-metal beverage or food cans or containers.

#### **RECYCLABLE PAPER BAG**

A paper bag that is 100% recyclable and contains at least 40% post-consumer recycled content, and displays in a visible manner on the outside of the bag (1) the word "recyclable" or a symbol identifying the bag as recyclable; and (2) a label identifying the bag as being made from post-consumer recycled content and the percentage of post-consumer recycled content in the bag.

#### **RECYCLING BIN**

Eighteen (18) gallon, blue bin issued by the Department of Public Utilities or another bin no larger than thirty-two (32) gallons in size procured by a resident. Any bin not provided by the Department of Public Utilities must have a clearly visible recycling logo, sticker, or marking attached to the container.

#### **RESIDUE**

Ash, fly ash, and other unburnable portions of the incinerated refuse, including minor quantities of combustible and putrescible matter.

#### **RESOURCE RECOVERY FACILITY**

A facility at which solid waste is processed for the purpose of extracting resources and converting to energy.

#### **RETAIL ESTABLISHMENT**

Any business facility that sells goods directly to the consumer whether for or not for profit, including, but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses

#### **REUSABLE BAG**

A bag with handles that is specifically designed and manufactured for multiple reuse and is either polyester, polypropylene, cotton or other durable material, or durable plastic that is at least 3.0 mils in thickness.

#### **SECURED OR SECURED MANNER**

Solid waste placed at the curb shall be either tied tightly in a bag that has no rips/openings or placed in a container in a safe and secure manner. No single items shall be collected. No overflowing barrels will be collected. All solid waste in containers shall not exceed sixty-four (64) gallons total capacity, whether in a single container or in multiple smaller



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 4 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

containers.

#### **SOLID WASTE**

Discarded material consisting of rubbish, and food waste of domestic, commercial or industrial origin. Solid or semisolid in form, shall include wood, paper, fabric, food wastes, plastics, metals, glass, earthenware, and other unwanted materials. Excluded shall be waste material generated by the razing of buildings and other structures (including road and fences), waste requiring special handling or procedures such as radioactive, pathological and explosive wastes, and recyclable materials.

#### **STANDARD LEGAL CONTAINER**

A solid waste container(s) or plastic bag(s) which can be secured and which shall not exceed sixty-four (64) gallons in capacity and which shall not weigh more than fifty (50 lbs.) pounds when filled.

#### **STYROFOAM**

The term Styrofoam shall include polystyrene and expanded polystyrene. Expanded Polystyrene (EPS) is Polystyrene that has been expanded or "blown" using a gaseous blowing agent into a solid foam. Expanded polystyrene which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term "polystyrene" shall include clear or solid polystyrene, which is known as oriented polystyrene.

#### **THIN-FILM, SINGLE-USE, PLASTIC CHECK-OUT BAGS**

Those bags typically with handles, constructed of high-density polyethylene (HDPE), low density polyethylene (LDPE), linear low density polyethylene (LLDPE), polyvinyl chloride (PVC), polyethylene terephthalate (PET), or polypropylene (other than woven and non-woven polypropylene fabric), if said film is less than 3.0 mils in thickness.

#### **VEHICLES, PRIVATE**

Passenger cars and trucks having a gross weight not in excess of 10,000 pounds and not used for business purposes.

#### **WHITE GOODS**

Heavy consumer durable such as air conditioners, refrigerators and stoves.

#### **Sec. 8-2 Resource recovery committee.**

- (a) Established. A resource recovery committee is established to advise the mayor, city council and commissioner of public utilities on all matters such as, but not limited to, solid waste collection, resource recovery, and recycling in the city, in promulgating rules, regulations



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 5 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

and rates in conformity with law.

- (b) The Resource Recovery Committee shall consist of seven members, one of whom shall be the Director of Public Health or a Board of Health member, and one of whom shall be a member of the City Council. In accordance with Article 2, Section 2-10, Article 3, Section 3-3 and Article 6 of Chapter 72 of the Acts of 2013, the Mayor shall appoint all of the members to the Resource Recovery Committee subject to City Council approval. Each member shall serve without compensation. In accordance with Article 10, Section 10-6(a) of Chapter 72 of the Acts of 2013, the members of the Resource Recovery Committee shall elect from the membership a chairperson, vice chairperson, a secretary and any other officers that the membership deems necessary.
- (c) Except for the Director of Public Health, who shall serve as long as he/she serves as a city official, the remaining members shall serve a term of five years. In the event of a vacancy, the Mayor shall appoint a successor as soon as practicable, subject to city council approval, and said successor shall fulfill the unexpired term of the member whose seat was vacated. Members may be removed by the Mayor for cause, subject to the approval of a majority of the members of the City Council.
- (d) Meetings. The Resource Recovery Committee shall meet no less than quarterly. Special meetings may be called by the Commissioner of Public Utilities, the Chairperson or by any four members.

#### **Sec. 8-3 Dumping hours.**

Dumping hours for solid waste at the resource recovery facility, or other site designated by the owners of the Hubbard Avenue resource recovery facility, or the City, shall be determined and established by the Commissioner of Public Utilities pursuant to his rule-making authority under section 8-4 of this Code.

#### **Sec. 8-4 Rules and regulations governing handling, storage, etc., generally.**

- (a) Subject to the powers and duties of the Director of Public Health as provided by statute, the collection and disposal of materials described or referred to in section 8-1 shall be under the jurisdiction and charge of the Commissioner of Public Utilities.
- (b) The Commissioner of Public Utilities shall make additional rules and regulations as necessary relating to the collection and proper disposal of solid waste which are not inconsistent with this chapter or the laws of the commonwealth.
- (c) Such rules and regulations shall take effect upon approval by the Mayor and City Council and filing in the office of the City clerk. All such rules and regulations shall be published





# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 6 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

once in a newspaper published in the City prior to their effective date and such publication shall serve as notice to all persons.

#### **Sec. 8-5 Collection generally.**

- (a) Except as set forth below, the City or its agent collector shall collect all solid waste and specified recyclables once each week on assigned days. The city, or its agent, will not pick up any refuse or solid waste which fails to comply with the provisions of this chapter or any rules or regulations established in accordance with this chapter.
- (b) The City's collection of solid waste shall be limited to residential structures containing four or fewer living units. A solid waste service charge shall be levied against the owners of four-family properties, but owner-occupied four-family properties shall be exempt from this charge. The solid waste service charge shall be adopted by the City Council.
- (c) The City shall collect recyclables, providing such recyclables are prepared and placed at the curb for collection in an appropriate recycling bin. Recyclables shall be properly contained in a manner and to an extent as to not create any health hazard or other hazard; cardboard boxes shall be knocked down, flattened or collapsed to a minimum size of 24"x24". No recycling bin shall weigh more than fifty (50) pounds when filled with recyclable materials.
- (d) Residents of every household, including multiresidential structures, shall separate waste materials into three categories before depositing such wastes for collection and disposal. Waste materials shall be separated as: i) mixed recyclable glass, metal, plastic and waxed containers; ii) mixed recyclable papers and corrugated cardboard; iii) other solid wastes. Wastes and recyclables so separated shall be properly contained in a manner and to an extent as to not create any health or other hazard and shall be placed for collection so as to be clearly identifiable to the collector.
- (e) No yard or agricultural waste consisting of leaves, grass or hedge clippings, tree branches, brush, stumps or other similar materials shall be mixed in with other solid waste in any container or bundled and placed at the curb at the same time as other solid waste for collection by the City or its agent collector.
- (f) No bulky wastes or white goods consisting of items of unusually large size, including, but not limited to, air conditioners, heating units, stoves, washing machines, dryers, refrigerators, mattresses, bedsprings, couches, tables, large auto parts, etc., shall be collected by the City or its agent collector on any regular collection day, unless there is an attached bulky waste sticker in accordance with the City's bulky waste collection program.
- (g) The City shall not collect for disposal any hazardous waste, explosive waste, demolition waste, infectious waste, electronic waste, waste prohibited from disposal by incineration or landfill by any federal or state law or regulation, or any other special waste, which, by itself



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 7 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

or in combination with other wastes, exists in any chemical or physical state such that particular management controls and nonstandard municipal refuse collection equipment and practices are required to prevent an adverse impact from its collection, transportation, transfer, storage, processing, treatment or disposal.

- (h) Recyclable materials properly separated and deposited for collection shall become the property of the City or its agent collector for collection and disposal to the exclusion of any other person, party or agent.

#### **Sec. 8-6 Drainage and storage of containers and bulky waste.**

Solid waste is to be drained, free of water and liquids and stored in tightly covered containers. All items too large to fit into containers, such as, but not limited to, appliances, furniture and mattresses, shall be disposed of promptly, by the occupant, using the bulky waste sticker program or privately hauled to the Resource Recovery Facility. Containers shall be kept covered at all times.

#### **Sec. 8-7 Requirement of curbside solid waste.**

All solid waste to be collected by the City shall be placed at the curb in a Standard legal Container in a secured manner.

#### **Sec. 8-8 Location, maintenance, etc., of containers and solid waste.**

Containers and/or solid waste shall be available for collection at the curbside, no more than five (5) feet from the edge of the road, in such a place as not to constitute a nuisance and no sooner than sundown the day before collection. Waste collection crews shall not be required to collect containers for waste which are stored or placed in a garage, cellar hatchway, enclose porches or any portion of a house or building. Vicious animals shall be tied. Following collection, containers shall be promptly removed from curbside by sundown on the day after collection. Any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the containers thereof or the public generally shall no longer be used by the owner or user of the container. If such defects are a result of actions of the City's vendor, the City shall replace the container.

#### **Sec. 8-9 Permit for removal or transportation of solid waste, offal or other offensive substances.**

Private haulers of solid waste, offal or other offensive substances shall be required to first obtain or annually renew a permit from the Board of Health and shall conduct their work so as to ensure the safe and sanitary transportation of such materials through the city.

#### **Sec. 8-10 Disposal generally.**



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 8 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

- (a) All disposal of solid waste, unless legally disposed of at the site of origin, shall be at the Hubbard Avenue resource recovery facility, or such other place as directed by the city.
- (b) Nothing in this chapter shall prohibit the legal disposal of waste in a home, commercial or industrial establishment without the necessity of storage or collections provided such disposal meets all applicable local, state and federal regulations.
- (c) Private collectors of solid waste for disposal at the resource recovery facility shall be licensed as provided for in Chapter 10 of this Code.

#### **Sec. 8-11 Waste materials, etc., carried in vehicles to be covered, etc.**

No person owning or operating a vehicle traveling on a public way shall, by himself, his agents or servants, carry in it or cause or allow it to contain waste materials, sand, gravel, ashes, rubbish, junk, paper, paper, boxes, covers, bottles, tins or like materials, unless such materials are covered, fastened, or contained in such fashion that they may not fall from or be blown off or scattered from such vehicle. The fact that such materials do fall from or are blown off or scattered from vehicles traveling on public ways shall create a presumption that they were not properly covered, contained, or fastened as provided by this section. Violators of this section shall be subject to the cost of removal of said debris in addition to any penalties as set forth in this chapter and under Chapter 10 of this Code.

#### **Sec. 8-12 Depositing waste materials, etc., in public ways, etc.**

No person, by himself, his agents or servant, shall place or deposit or cause to be placed or deposited in or on any public way or place except at the designated disposal site, or in or on any place, public or private, where the same may be reasonably expected to be blown or scattered by the wind or other natural forces, any rubbish, paper, paper boxes, covers, bottles, tins or like materials. Violators of this section shall be subject to the cost of removal of said debris in addition to any penalties as set forth in this chapter and under Chapter 10 of this Code.

#### **Sec. 8-13 Vehicle stickers; disposal fees.**

- (a) All persons disposing of waste at the resource recovery facility or as directed by the City must obtain a vehicle sticker from the city clerk, or his designee. Private vehicles registered to city residents that are not used for commercial purposes may obtain a vehicle sticker upon presentation of vehicle registration to the city clerk, or his designee. Commercial and industrial vehicles must carry vehicle stickers assigned as set forth in Chapter 10 of this Code.
- (b) Private vehicles bearing stickers may dispose of waste at the facility at rates to be established from time to time by the commissioner of public utilities and adopted by the city



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 9 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

council.

- (c) Commercial vehicles bearing stickers shall weigh in on scales provided by the owners of the Hubbard Avenue resource recovery facility and a per ton disposal fee shall be assessed and collected by the owners of the Hubbard Avenue resource recovery facility. The disposal fee shall be established from time to time by the commissioner of public utilities, subject to the approval of the city council.

#### **Sec. 8-14 Reserved.**

#### **Sec. 8-15 Maintenance of dumpsters.**

This section shall apply to all businesses or residential dwellings in the city with dumpster(s).

- (1) All dumpsters shall be tightly secured so as to prevent its contents from being blown away by the wind or being accessible to persons, animals or rodents.
- (2) Any businesses or residential dwellings found to be violating the provisions of this section shall be ordered by an agent of the Board of Health to make its dumpster secure by placing a padlock on the dumpster.

Any business that fails to comply with such an order by an agent of the Board of Health under this section shall be subject to the provisions of Chapter 4 1/2.

#### **Sec. 8-16. Enforcement.**

- (1) The Board of Health through its designee the Health Department shall have primary responsibility for the enforcement of this provision and shall have authority to issue citations for violations. The Board of Health is authorized to establish regulations or administrative procedures and it and its designee the Health Department are authorized to take any and all actions reasonable and necessary to further the purposes of this chapter in accordance with applicable law.
- (2) The Board of Health or its designee the Health Department shall enforce this ordinance or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health or its designee the Health Department shall not preclude enforcement through any other lawful means.
- (3) Any member of the public who observes a potential violation of this section shall be able to file a complaint with the Board of Health or its designee the Health Department who shall investigate whether there is a violation of this section.
- (4) Penalties and fines for violations of this section shall be enforced as follows: The section



No. ....

# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 10 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

shall be enforced by the Board of Health through its designee the Health Department. Whoever violates any provision of this section shall be penalized by a non-criminal disposition process as provided in MGL c.40 & 21D and the City's non-criminal disposition ordinance. If non-criminal disposition is elected, then any person who violates any provisions of this section shall be subject to the following penalties:

- a. First offense: a written warning.
- b. Second offense: a fine of \$50
- c. Third offense: A fine of \$150
- d. Fourth and any subsequent offense: a fine of \$200
- e. Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- f. Whoever violates any provision of this section may be penalized by virtue of a civil complaint brought in the District Court.

#### **Sec. 8-17 Ban on use of Styrofoam.**

**(a) Prohibition:**

- i. A food establishment is prohibited from dispensing prepared food to customers in disposable food services containers that are made in whole or part from expanded polystyrene. The disposable food service container need not be biodegradable or recyclable.

**(b) Enforcement:**

- i. The Board of Health shall inquire on an annual basis regarding any food establishment's compliance with this section as a condition for renewal of the establishment's food service permit.
- ii. The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 105 CMR 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this section.
- iii. The Board of Health through its designee the Health Department shall have primary responsibility for enforcement of this provision and shall have authority to issue citations for violation(s). The Board of Health is authorized to establish regulations



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 11 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

or administrative procedures and it and its designee the Health Department are authorized to take any and all actions reasonable and necessary to further the purposes of this chapter or to obtain compliance with this chapter, including, but not limited to, inspecting any vendor's premises to verify compliance in accordance with applicable law.

- iv. The Board of Health or its designee the Health Department shall enforce this ordinance or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health or its designee the Health Department shall not preclude enforcement through any other lawful means.
- v. Any member of the public who observes a potential violation of this section shall be able to file a complaint with the Board of Health or its Designee the Health Department who shall investigate whether there is a violation of this section.
- vi. Penalties and fines for violations of this section may be enforced as follows: This section shall be enforced by the Board of Health or its designee the Health Department. Whoever violates any provision of this section may be penalized by a noncriminal disposition process as provided in MGL c.40, § 21D and the City's noncriminal disposition ordinance. If noncriminal disposition is elected, then any person who violates any provision of this section shall be subject to the following penalties:
  - a) First offense: a written warning to the food establishment which will specify the violation.
  - b) Second offense: a fine of \$25.
  - c) Third offense: a fine of \$50.
  - d) Fines are cumulative and each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
  - e) Whoever violates any provision of this section may be penalized by virtue of a civil complaint brought in the district court.

#### **Sec. 8-18 Ban on the use of Single-Use Plastic Bags.**

**(a) Purpose:** The purpose of this Ordinance is to protect the City's unique natural beauty and irreplaceable natural resources by reducing the number of single-use plastic check-out bags that are distributed in the City of Pittsfield and to promote the use of reusable bags.

**(b) General Definitions:** The following words shall, unless the context clearly requires otherwise, have the following meanings:



No. ....

# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 12 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

Enforcement Authority - shall mean the Board of Health through its designee the Health Department.

#### **(c) Regulated Conduct:**

- i. No retail establishment shall sell or convey merchandise to consumers in thin-film single-use plastic bags. If a Retail Establishment provides or sells Check-Out Bags to customers, the bags must be one of the following: Recyclable paper bag; Reusable Check-out bag; or Compostable Plastic Bag.
- ii. A retail establishment that provides any type of Check-out bag may sell them for no less than five cents (\$0.05) per bag. All moneys collected pursuant to this ordinance shall be retained by the retail establishment.

#### **(d) Exemptions:** Section 3 of this regulation shall not apply to the following items:

- i. Thin-film plastic bags typically without handles which are used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise are not prohibited under this ordinance.

#### **(e) Penalties & Enforcement:**

- i. If it is determined that a violation has occurred the Enforcement Authority shall issue a warning notice to the Retail Establishment for the initial violation.
- ii. If an additional violation of this Ordinance has occurred within one year after a warning notice has been issued for an initial violation, the Enforcement Authority shall issue a notice of violation and shall impose a penalty against the retail establishment.
- iii. The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:
  1. \$50 for the first offense
  2. \$100 for the second offense and all subsequent offenses. Payment of such fines may be enforced through civil action in the state District Court.
  3. Fines shall be cumulative and each day on which a violation occurs shall constitute a separate offense.

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City Solicitor



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 13 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

- iv. Whoever violates any provision of this chapter may be penalized by a noncriminal disposition as provided in G.L. c. 40, §21D and City Ordinance Chapter 4 ½ for non-criminal enforcement. This section shall be enforced by the Enforcing Authority.

**(f) Hardship Deferments:**

- i. A review committee shall be established to receive and review deferment request applications and to request and obtain supporting information before referring the request to the Board of Health. The review committee will consist of a member of the Board of Health or its designee, a member of the City Council, and a member of the Green Commission.
- ii. Upon written application from a retail establishment, the Board of Health, or its designee, may temporarily defer application of the ordinance for a period of up to one year upon showing by the retail establishment that the conditions of this ordinance would cause:
  - a) Circumstances or situations unique to the particular Retail Establishment such that there are no reasonable alternatives to bags that are not Recyclable Paper Bags, Compostable Plastic Bags or Reusable Bags;
  - b) Circumstances or situations unique to the Retail Establishment such that compliance with the requirements of this chapter would deprive a person of a legally protected right;
  - c) Circumstances or situations where a Retail Establishment requires additional time in order to draw down an existing inventory of single-use plastic check out bags;
  - d) Circumstances or situations where compliance with any section of this ordinance would cause significant economic difficulty and or undue hardship.
- iii. A deferment granted in accordance with this section may be extended for no more than two additional six month periods, upon written application to the Board of Health at least two months prior to the expiration of the prior deferment period and upon a showing that the circumstances justifying the deferment continue to exist.
- iv. The Board of Health may approve the deferment application, in whole or in part, with or without conditions that it deems necessary to protect the environment and public health and further the interests of this ordinance.
- v. Deferment decisions are effective immediately and final.



No. ....



# City of Pittsfield

In the Year Two Thousand

## AN ORDINANCE

### AMENDING THE CODE OF THE CITY OF PITTSFIELD CHAPTER 8, SOLID WASTE COLLECTION AND DISPOSAL (page 14 of 14)

*Be it ordained by the City Council of the City of Pittsfield, as follows:*

#### **(g) Severability and ordinance numbering:**

Any word, term, or provision declared invalid or unenforceable for any reason may be severed from this ordinance without affecting viability of the whole.

#### **Sec. 8-19 Severability.**

In case any one or more of the provisions contained in this chapter shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this chapter, but this chapter shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

#### **SECTION II**

This ordinance shall take effect upon enactment.

Approved as to Form and Legality,

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*City Solicitor*



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2021 JUN 10 PM 12:48

June 10 20 2021

To the City Council of the City of Pittsfield:-

The undersigned respectfully

I am respectfully requesting that Mayor Tyer address the city council and the city asking for her plan for the city in eliminating the gun violence that has been happening in the city in the past few weeks.

Respectfully submitted  
Chris Connell ward 4 councilor



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2021 JUN 11 AM 10:41

June 11 20 2021

To the City Council of the City of Pittsfield:--

The undersigned respectfully

Honorable members of the City Council and Colleagues submit is a petition asking the City Planner and the Director of Community Development come up with a Master Plan to redevelopment and revitalization for Pontoosuc Lake for future use figuring out the needs to return it to a beach, picnic areas, play ground, parking lots resurfacing, etc. This is a heavily use attractive to all community and tourist destination.

Respectfully  
Councilor Anthony V Maffuccio



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2021 JUN 14 PM 10:43

June 14 20 2021

To the City Council of the City of Pittsfield:—

The undersigned respectfully

Honorable Members of the City Council and Colleagues submitted is a petition asking the Commissioner to install a Loading Zone located on Lenox Avenue for the Wahconah Street Green House for their deliveries.

Respectfully Submitted  
Councilor Anthony V Maffuccio



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA

2021 JUN 14 PM 10:43

June 14 20 2021

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Honorable Members of the City Council and Colleagues submitted is a petition that the City Council opt out of the Berkshire County Mosquito Control Project Program as it is a failed program and not Environmentally Safe, toxic, demonstrating corrupt scam by B.C.M.C.P we've been lied to all theses year and our neighboring Communities are opting out slowly also. 95% of Stockbridge voters cut ties with the program. Most Communities have already opted out except for Hinsdale, Lanesborough, Otis, Richmond and Tyringham, are last vote was a non-binding vote and we need to be clear this time

Respectfully Submitted,  
Councilor Anthony V. Maffuccio



# City of Pittsfield

RECEIVED-CITY CLERK  
CITY OF PITTSFIELD, MA  
2021 JUN 11 AM 10:41

June 11 20 2021

To the City Council of the City of Pittsfield:-

The undersigned respectfully

Honorable members of the City Council and Colleagues submit is a petition that the Commissioner place Francis Avenue Extension on the in house paving for this year about 40 feet left to complete this area and Ridge Avenue on the repaving construction list for either in house or regular construction season.

Respectfully  
Councilor Anthony V Maffuccio



# City of Pittsfield

June 16 20 2021

To the City Council of the City of Pittsfield:--

The undersigned respectfully

Requests that the " keeping of chickens guidelines" be referred off to the Ordinance and Rules subcommittee for full review and revision and that any amended version be changed to a city ordinance with the recommendations to be brought back to the City Council for consideration and approval as a ordinance.

Respectfully Submitted,

Kevin J. Morandi  
City Councilor - Ward 2