

2018

Town of Gray Maine Ordinances

Gray, Me.

Follow this and additional works at: <https://digitalcommons.library.umaine.edu/towndocs>

Repository Citation

Gray, Me., "Town of Gray Maine Ordinances" (2018). *Maine Town Documents*. 7334.
<https://digitalcommons.library.umaine.edu/towndocs/7334>

This Plan is brought to you for free and open access by DigitalCommons@UMaine. It has been accepted for inclusion in Maine Town Documents by an authorized administrator of DigitalCommons@UMaine. For more information, please contact um.library.technical.services@maine.edu.

CHAPTER 205
ANIMAL CONTROL ORDINANCE
TOWN OF GRAY MAINE

Adopted September 4, 1990

The Council of the Town of Gray hereby ordains that Chapter 205, an ordinance regulating the Control of Barking Dogs, be rescinded in its entirety; and that Chapter 205, Animal Control Ordinance, be amended by rescinding Section 205.2 and replacing it with the following:

SECTION 205.2 DEFINITIONS

As used in this Ordinance, unless the context otherwise indicates,

- a) "Dog" shall be intended to mean both male and female dogs.
- b) "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping or harboring a dog.
- c) "At Large" shall be intended to mean off the premises of the owner; and not under the control of the owner; a member of his immediate family or other authorized person, either by leash, cord, chain, voice control or otherwise.

SECTION 205.3 ANIMAL CONTROL OFFICER

The Town Manager shall be responsible for appointing an Animal Control Officer(s) whose duties shall be enforcement of the following sections; and such other duties to control animals as required by law.

SECTION 205.4 ANIMAL CONTROL OFFICER TO INVESTIGATE DOG BITES

The Animal Control Officer shall investigate all dog bites or other violations of this Ordinance or State law referred for investigation.

SECTION 205.5 PENALTY FOR NONCOMPLIANCE

Whoever keeps a dog contrary to the provisions of this Ordinance shall be punished by a fine of not less than \$100, to be recovered by complaint before any district court. Initial warnings may be issued by the Animal Control Officer or hand delivered; and shall constitute legal notice prior to any legal action.

SECTION 205.6 LICENSE, RECORD, TAG REQUIREMENTS GENERALLY

License, record and tag requirements for dogs shall be as prescribed and required by State law.

SECTION 205.7 RABIES

Any dog which is suspected of having Rabies, or has been bitten by another dog having or suspected of having Rabies (or, in either event, not having been immunized against Rabies) shall be immediately impounded in an animal shelter, veterinary clinic, animal refuge league or similarly authorized facility; and there confirmed for observation in a humane manner, as provided for by State law; provided, however the dog is transported immediately by its owner or the owner's agent to such a facility, without requiring Town transportation; then no transportation fee under Section 205.8 shall be charged.

SECTION 205.8 RECLAIMING

The owner shall be entitled to resume possession of an impounded dog after complying with the license provisions, paying a fifty dollar (\$50) transportation fee per animal, and paying the impoundment fees.

SECTION 205.9 DOGS NOT TO RUN AT LARGE

It shall be unlawful for any dog, licensed or unlicensed, to run at large, except when used for hunting. The owner or keeper of any dog found running at large shall be subject to the penalties provided in this ordinance and under State law.

Any Animal Control Officer shall be authorized to seize, impound or restrain any dog found in violation of this section; and deliver it to any shelter, animal refuge league, or similarly authorized facility, as provided for by State law; or shall take the dog to its owner, if known. If ownership cannot be established, such animals may be handled as strays for the purposes of acceptance by an approved shelter.

SECTION 205.10 BARKING, HOWLING DOGS

No person shall own, keep or harbor any dog which by loud, frequent or habitual barking, howling or yelping shall disturb the peace of any person.

CHAPTER 201
BUILDING CODE
TOWN OF GRAY MAINE

Adopted March, 1963
Amended December 6, 1968
Amended August 14, 1984
Amended January 20, 1989
Amended March 5, 1996
Amended January 1, 2001

SECTION 201.0 – TITLE AND SCOPE

This ordinance shall be known and may be cited as the Building Code of the Town of Gray, Maine.

The Building Code relates to the design, materials of construction, alteration, repair, and use of buildings and structures or parts thereof, all to promote the health, safety, and general welfare of the occupants and users of such buildings and structures and of the public, and for the protection against ignition and spreading of fires and prevention of accidents.

Buildings and structures, parts thereof and equipment in or on or in connection with buildings or structures, shall not be constructed, altered, installed, repaired, used, or changed as to use contrary to the provisions of this code; but the provisions of this code shall not apply to buildings or structures constructed or maintained within the limits of a public highway by public authority; to railway bridges or trestles, to buildings or structures owned or to be owned by the United States, to the State of Maine, or county of Cumberland; and shall not apply to an existing building or structure, its existing equipment or appurtenances unless and until such building or structure, its existing equipment or appurtenances are to be enlarged, altered, moved, converted to other uses or demolished, or unless otherwise provided in this code.

SECTION 201.2 – ADMINISTRATION

- A. The Office of Code Enforcement is hereby created. The office will be headed by a Code Enforcement Officer who acts as Building Inspector, Plumbing Inspector, and Electrical Inspector and who is assisted by a designated member of the Fire Department and such other personnel as is deemed necessary by the Code Enforcement Office or by the Town Council and then only after authorization and appointment by the Town Manager. The Code Enforcement Officer will be named to the three offices, namely Electrical Inspector, Plumbing Inspector, and Building Inspector, by the Town Manager for a one-year period beginning April first. (Refer to Personal Policy for more specific information).
- B. The Building Inspector shall inspect all buildings or structures during construction to see that the provisions of law are complied with and that construction is performed safely.

Whenever, by reason of defective or illegal work in violation of a provision of this code, the continuation of a building is contrary to public welfare, the code Enforcement Officer may order all further work to be stopped and may require suspension of work until the condition in violation has been remedied.

SECTION 201.3 – CONSTRUCTION PERMITS

- A. No building or structure shall be built, enlarged, altered, or moved without a permit from the building Inspector, who may require a plan of the proposed work, together with a statement of the materials to be used. Prior to the issuing of the permit by the Building Inspector, the applicant must satisfy the Building Inspector that soil conditions are or will be suitable for a sanitary absorption of

waste materials from proposed septic tanks if the same are to be used in conjunction with the construction work. The expense of soil surveys that may be required will be borne by the applicant. No building permit shall be issued where the proposed work would violate any provision of the Zoning Ordinance or any other ordinance or statute. No building permit or renewal thereof granted hereunder shall be valid unless the work for which its issued is commenced within six (6) months from the date of issue or renewal, and the work so commenced is completed within one (1) year; if requested and if renewal fee paid, an automatic renewal will be issued for 1 year.

B. Fee Collections

Building Permit Fees collected will be accounted for by the Building Inspector and submitted to the town as they are collected.

SECTION 201.4 – UNSAFE BUILDINGS AND STRUCTURES

A. Removal or made safe

When a building or structure or any portion thereof is found unsafe upon inspection by the Building Inspector, he/she shall order such building or structure or any portion thereof to be made safe or to be taken down and removed. The term unsafe building or structure or portion thereof shall include any building or structure or portions thereof structurally unsafe; unstable; unsanitary; inadequately provided with exit facilities; constituting a fire hazard; unsuitable or improper for the use of occupancy to which they are put; constituting a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or otherwise dangerous to life or property.

B. Restoration of unsafe building or structure

A building or structure or part thereof declared unsafe by the Building Inspector may be restored to safe condition; provided that if the damage or cost of reconstruction or restoration is in excess of 50 percent of the value of the building or structure, exclusive of foundations, such building or structure, if reconstructed or restored shall be made to conform, with respect to materials and type of construction, to the requirements of this code; but no change or use of occupancy shall be compelled by reason of such reconstruction or restoration.

C. Notice of unsafe building or structures

Upon determining that a building or structure or portion thereof is unsafe, the Building Inspector shall serve or cause to be served on the owner, or someone of the owners, his agents, lessees, or other persons who may have interest in the same, a written notice containing a description of the building or structure or portion thereof deemed unsafe, a statement of the particulars in which the building or structure or portion thereof is unsafe, and an order requiring the same to be made safe and secure or removed, as may be deemed necessary by the Building Inspector. If the person to whom such notice and order is addressed cannot be found after diligent search, or if the owner of such property is unknown, then such notice and order shall be sent by registered mail to the last known address of such person or of the last known owner, and a copy of such notice shall be posted in a conspicuous place on the premises to which it relates. Such mailing and posting shall be deemed adequate service.

D. Disregard of unsafe notice

If a person or owner served with a notice or order to remove or repair an unsafe building or structure or portion thereof should fail, within a reasonable time, to comply with the requirements thereof, the Building Inspector shall advise the Town Council of all the facts in the case, and the Town Council shall thereupon cause an appropriate legal action to be instituted to compel a compliance.

E. Emergency work

In case there shall be, in the opinion of the Building Inspector, actual and immediate danger of

failure or collapse of a building or structure or portion thereof so as to endanger life or property, the Building Inspector shall obtain the necessary funds from the Town Treasury, to purchase such material and employ such labor and cause the necessary work to be done to render said building or structure or portion thereof, temporarily safe, whether the procedure prescribed in this section has been instituted or not.

F. Vacating unsafe buildings or structures and closing streets

When a building or structure or portion thereof is in an unsafe condition so that life is endangered thereby, the Building Inspector shall order and require the owners or occupants thereof to vacate the same forthwith. He/She shall when necessary for the public safety, temporarily close sidewalks, streets, buildings, structures and places adjacent to such building or structure, and prohibit the same from being used.

G. Recovery of costs

The Town Council shall cause to be instituted proper actions against the owner of the premises for the recovery of all costs incurred by the Building Inspector in the performance of emergency work.

SECTION 201.5 – ADOPTION OF BUILDING CODE

A certain document, three (3) copies of which are on file in the office of the Town Clerk of the Town of Gray being marked and designated as the “The BOCA National Building Code, “Fourteenth Edition, 1999” as published by the Building Officials and Code Administrators International, Inc. be and hereby adopted as the Building Code of the Town of Gray in the State of Maine; for the control of buildings and structures as herein provided; and each and all of the regulations. Provisions, penalties, conditions and terms of said BOCA National Building Code, are hereby referred to, adopted and made part here of as if fully set out in this ordinance, with the additions, deletions and changes, if any, as prescribed in the following sections.

SECTION 201.6 – FOUNDATIONS

- A. Detached non-residential buildings (1000) one thousand square feet or less are exempted from the current BOCA code section 1806.
- B. Any non-dwelling detached public structure over (1000) one thousand square feet shall require a design professionals stamp and may be constructed on posts or piers carried (4) four feet below the finished grade or on a reinforced concrete slab.
- C. Any non-dwelling, detached private structure over 1000 square feet, may be constructed on posts or piers, 8 inches in diameter, spaced at a maximum of 8 feet on center, carried 4 feet below the finished grade or otherwise designed by a professional engineer. Agricultural structures are exempt from this provision.

SECTION 201.7 – SPAN TABLES-RESIDENTIAL CONSTRUCTION

The standards and specifications in the 1998 edition of the International One and Two Family Dwelling Code referencing floor joists, ceiling joists and roof rafters shall be adhered to. The town clerk shall keep on file three copies of the International One and Two Family Dwelling Code, for public use and examination.

SECTION 201.8 – ELECTRICAL INSTALLATIONS

The following standards and specifications for electrical installation and all work in connection with the installation, alteration, repair, maintenance of, or additions to electrical equipment of any nature whatsoever in the town shall comply with the most recent Edition of the National Electrical Code, as

published by the National Fire Protection Association. The town clerk shall keep on file three (3) copies of the most recent edition of the National Electrical Code, available for public use and examination.

SECTION 201.9 – ELEVATORS AND CONVEYING SYSTEMS

Adopt State statues regarding elevators and tramways, installers and operators, Maine state elevator law, title 32 chapter 133 of the Maine state elevator code and all applicable amendments.

SECTION 201.10- PLUMBING INSTALLATIONS

The standards and specifications for plumbing installation and all work in connection with the installation, repair or maintenance of plumbing and equipment to be used in connection therewith in the town shall comply with the State of Maine Internal Plumbing code (5-83), revised (7-2-94) and the State of Maine External Plumbing code (6-1-00).

The town clerk shall keep on file three copies of the State Plumbing Code, available for public use, inspection and examination.

SECTION 210.11 – ACCESSIBILITY

Adopt following State regulations, title 25 chapter 331; ADA; MHRA, subchapter 5; MHRA subchapter 4 Fair Housing AA; section 504, BOCA 1996 NFDA 101; ME. State plumbing; ABA; IRS Tax code(s).

SECTION 210.12 – SOLID FUELS

Adopt the standards of specifications for the use of oil and solid fuels adopted by the State of Maine. Reference Maine state oil and solid fuel laws and rules 1998 edition and amendments.

SECTION 210.13 – GRADING LUMBER

The use of non-graded or rough sawn lumber in residential and commercial construction shall be allowed in the Town of Gray.

SECTION 210.14 – ENERGY CODE

Adopt the State of Maine energy efficiency building standards adopted 2/92 revised 11/95.

SECTION 210.15 – APPEAL

- A. In case of refusal to issue a permit or amendment thereof, appeal shall lie from the decision of the Building Inspector to the Municipal Officers. The Municipal Officers may affirm or reverse the decision of the Inspector as to the interpretation of the provision of this code. In specific cases wherein the enforcement of this code would involve practical difficulty or unnecessary hardship and wherein desirable relief may be granted without substantially departing from the intent and purposes of this code, but not otherwise, the Municipal Officers may, by three consenting votes of their membership, permit exceptions to and variations from the provisions of this Code.
- B. The Town Council with the advice of Code Enforcement, the Fire Department, and the Planning Board shall have authority to regulate the cost of inspections and permits under this code; to regulate standards of design and construction materials so that the requirements of the code will conform to the statutes of the State of Maine, and may conform to the State Building Code and to the several codes relating hereto as approved and published by the National Fire Protection Association.

SECTION 201.16 – PENALTIES AND LEGAL PROCEEDINGS

- A. Any person or persons, firm or corporation being the owner, or having control of any building or structure or part thereof, who violates any of the provisions of this Ordinance, or fails to conform to any of the provisions thereof, or fails to obey any order of any officer charged with the enforcement

of the provisions of this Ordinance in relation to the matters and things herein contained; or any architect, engineer, contractor, builder, subcontractor, foreman, plumber, carpenter, electrician, employee, or other person who shall violate or assist in the violation of this Ordinance, or of any certificate, order or permit issued there under, shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a penalty of not less than five (5) dollars nor more than one-hundred (100) dollars. Each and every day on which the person or persons, firm or corporation continues to violate the provisions of this Ordinance, after having been notified of such violation, shall constitute a separate offense. Such penalty or fines to be recovered by complaint to the use of the Inhabitants of the Town of Gray.

- B. Whenever the Inspector or other employee of the Town charged with the enforcement of any part of this Code is satisfied that any provision thereof, or any law enforced by the Town applicable to the same subject matter, has been violated in any respect, or that any order or direction made pursuant of this Code has not been complied with, he/she may apply to the Town Council for the purpose of instituting civil proceedings, provided that nothing in this section and no action taken hereunder shall be held to exclude such criminal proceedings, provided that nothing in this section and no action taken hereunder shall be held to exclude such criminal proceedings as may be authorized by this Code or by any laws or ordinances in force in the Town of Gray or to exempt anyone violating this Code or any of the said laws from any penalty which may be incurred.

SECTION 201.17 – VALIDITY AND APPLICATION

Should any section, or part thereof, of this Code be declared by the courts to be invalid, the same shall not affect the validity of this Code as a whole or any part thereof, other than the part so declared to be invalid. All laws or parts of laws of this Town in conflict with this code are hereby repealed but only to the extent of such conflict.

CHAPTER 208
COIN-OPERATED AMUSEMENT DEVICE ORDINANCE
TOWN OF GRAY MAINE

Adopted October 6, 1981
Amended February 16, 1982

SECTION 208.1 – TITLE

This Ordinance shall be known and be cited as the Coin-Operated Amusement Device Ordinance of the Town of Gray, Maine.

SECTION 208.2 – PURPOSE

The Town of Gray hereby ordains the following Coin-Operated Amusement Device Ordinance for the purpose of regulating the location and operation of any such device in or on any premises or location within the Town of Gray.

SECTION 208.3 – DEFINITIONS

- A. Coin-Operated Amusement Device-A coin-operated amusement device shall include all of those machines whether mechanical or electronic which upon insertion of a coin, slug, token plate or disc may be operated by the public generally at a public premises for use as a game, entertainment, or amusement, but not limited solely to musical entertainment, whether or not registering the score and which are created for amusement only and do not dispense any form of payoff, price or reward except free replays.
- B. Good Moral Character-Proof of good moral character shall include general testimony of the applicant's reputation in the community and the results of a records check to be conducted by the police. Such results shall be considered relevant only if they disclose a felony conviction within the last ten (10) years.
- C. Effect on Neighboring Properties-The applicant shall establish that the location of a premises for the operation of coin-operated amusement devices will not adversely affect the property values of other real property in the immediate vicinity of said premises. Any plans the applicants may have in regard to supervision of said premises to prevent vandalism and other potential property damage or personal injury to abutters shall be considered in this regard.
- D. Traffic Hazards-Traffic conditions on any public way adjacent to said premises shall be evaluated to insure that the location of said premises will not unnecessarily aggravate said conditions; such evaluation shall be conducted by the police in conjunction with the Department of Public Works.
- E. General Health and Safety-The Code Enforcement Officer in conjunction with the Fire Chief shall inspect said premises and report on the general health and safety of the premises in regard to any violations or possible violations of the Building Code, Health Code, Fire Code, or State Plumbing Code.

SECTION 208.4 – LICENSES

- A. It shall be unlawful for any person, firm, corporation or association to keep for public patronage or to permit or allow the operation of any coin-operated amusement device in or on any public patronage premises or location under his, hers or its charge, control or custody without having first obtained a license from the Town Council. Said license shall be issued upon approval by the Council and upon the payment of the annual fee of fifty (50) dollars of each for the first three (3) machines

and seventy-five (75) dollars for each additional machine located at said premises and said license shall expire on December 31, of each year.

- B. Exceptions and conditions of License. A license shall not be issued until authorized by the municipal officers following public hearing on the establishment of said coin-operated amusement device location. Such hearing shall be held within thirty (30) days of the receipt of such license application and authorization or denial by said officers shall be by written decision stating the reasons thereof. At the public hearing the municipal officers shall receive testimony and take evidence as to the good moral character of the applicants as well as to such factors regarding the premises for location of said devices as traffic hazards, effect on neighboring properties and general health and safety of the premises to house said coin-operated amusement devices. Each establishment shall maintain restroom facilities for public use. Children under the age of eighteen unaccompanied by an adult shall not be permitted to play or operate such machines except in the presence of an adult attendant of at least twenty-five (25) years of age. In this regard, the Code Enforcement Officer shall be required to submit written reports on his evaluation of said premises. The license shall be granted subject to such conditions and restrictions as the Council may deem necessary.
- C. License Specifics. The license required by this ordinance shall be posted securely and conspicuously on the premises for which it is granted. Said license shall designate the number of machines licensed. Said license shall not be transferable to any other person, firm, corporation or association or from location to location and shall be valid only at the location and for the person, firm, corporation or association designated therein. Further, such license shall not be granted to any person under the age of twenty-five (25) years, nor to any firm, corporation or association whose officers are under said age.
- D. Revocation of License. Any such license herein shall be revoked by the Municipal Officers after hearing when any of the following violations are found:
1. There are more machines located on the premises than are described in the license application.
 2. That minors under the age of eighteen (18) years unaccompanied by an adult have been allowed to operate said machines in violation of the terms of the ordinance.
 3. That any of the other specific findings required by this ordinance and defined in Section 208.3 have been violated and/or cease to be true.
 4. When it has been established to the municipal officers' satisfaction that the premises for which said license was granted had ceased to be a proper location due to the creation of a public nuisance at said premises.

SECTION 208.5 – APPEAL

The decision of the municipal officers may be appealed to the Superior Court within thirty (30) days from the rendering of said decision.

SECTION 208.6 – PENALTY

Any person, firm or, in the case of a corporation or association, any official thereof, violating any of the provisions of this ordinance, shall upon conviction be punished by a fine of not less than twenty-five (25) dollars nor more than one-hundred (100) dollars for each offense, and each day such violation exists shall constitute a separate offense.

CHAPTER 202
FIRE ORDINANCE
TOWN OF GRAY MAINE
Adopted March 6, 1950

SECTION 202.1 – TITLE

This Ordinance shall be known and may be cited as the Fire Ordinance of the Town of Gray, Maine.

SECTION 202.2 – PROHIBITION OF FIRES

- A. It shall be unlawful for any person or persons to burn, kindle, ignite or set fire to any household accumulation, paper, cardboard or other light combustible material, on his own land or elsewhere, except when such burning shall be done in a screened receptacle having a screened covering, or a steel barrel or drum with a metal cover, and under proper safeguards, said screened receptacle, barrel or drum to be located not less than twenty-five (25) feet from any building or structure and providing at least five (5) feet of mineral soil completely surround said receptacle, barrel or drum, or except when the ground is covered with snow, without first obtaining a permit from the Fire Chief.
- B. It shall be unlawful for any person or persons to burn, kindle, or set fire to or ignite any combustible material of any sort within the limits of any public way, within the Town of Gray without the written permission of the Fire Chief of said Town.
- C. The Chief of the Gray Fire Department shall by publication in a Portland newspaper prohibit or ban all outdoor burning of trash, leaves, grass or other combustible materials for such period of time as he deems necessary, when in his opinion a condition of serious fire hazard exists due to drought or other reasons. During the period of such prohibition or ban it shall be unlawful for any person or persons to set fire to, burn, kindle, or ignite any trash, lumber, leaves, straw, grass or other combustible materials anywhere out-of-doors, except that during such period of prohibition or ban the Chief may grant specific written permission for burning at such time and in such manner as he deems necessary to assure safe control of fire.

SECTION 202.3 – EQUIPMENT

- A. No person shall use any Fire Department apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the said Department.
- B. No person shall enter any place where Fire Department apparatus is housed or handle any apparatus or equipment belonging to said Department unless accompanied by, or having special permission of an authorized officer of the said Fire Department or by permission of the Town Manager.
- C. The Town of Gray is hereby authorized to enter into agreements or contracts with nearby communities or governing bodies of other organizations to provide the members of such communities or organization with fire protection or to establish a mutual aid system.
- D. No apparatus shall be used by the Department or any person or persons for any purpose except public fire prevention and control, or permitted to leave the Town of Gray except in response to a call for aid at a fire in a neighboring community, without the consent of the Chief of the Fire Department or the Town Manager. The officer in charge of the Department shall have power to assign equipment for response to other cases only when the absence of such equipment will not jeopardize protection in the Town of Gray.

SECTION 202.4 – GENERAL

- A. No person shall drive any vehicle over fire hose except on specific order from the Fire Chief or other authorized officer of the Fire Department in charge, where such hose is used.
- B. It shall be unlawful for any person or persons to park any vehicle in any manner which will obstruct the entrance to any fire station in said Town of Gray, or obstruct the entrance to any such fire station in any other manner, or to park any such vehicle within ten (10) feet of any fire hydrant or cistern.
- C. No unauthorized person in any vehicle shall follow within three-hundred (300) feet of any apparatus belonging to the Fire Department, proceeding to answer an alarm, nor park any vehicle within three-hundred (300) feet of a fire.
- D. All motor equipment of the Fire Department, and all personal cars or vehicles of department members shall have right-of-way over all other traffic when responding to a fire alarm.
- E. No person shall maliciously turn in or cause to be turned in a false fire alarm.

SECTION 202.5 – PENALTIES

Any person or persons found guilty of a violation of this ordinance under Sections I, 202-2, 202-3, or 203-4 shall be punished by a fine of not less than fifty (50) dollars nor more than five hundred (500) dollars for each such violation, to be recovered by complaint to the use of the inhabitants of the Town of Gray.

CHAPTER 209
FIREWORKS ORDINANCE
TOWN OF GRAY MAINE

Proposed May 1, 2018, 2nd Reading May 15th 2018

Approved May 15th 2018, Effective June 14, 2018

SECTION 202.1 – PURPOSE

This Ordinance regulates the use of professional fireworks and consumer fireworks to ensure the safety of the residents of Gray and property owners of the Town of Gray and the general public.

SECTION 202.2 – TITLE AND AUTHORITY

This Ordinance shall be known as the "Town of Gray Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. Section 3001, and the provisions of 8 M.R.S.A. Section 223-A, and the Town Charter for the Town of Gray.

SECTION 202.3 – DEFINITIONS

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. Consumer Fireworks: "Consumer Fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. Consumer Fireworks does not include the following products:

1. Missile-type rockets, as defined by the State Fire Marshall Rule by rule;
2. Helicopters and aerial spinners, as defined by State Fire Marshall by rule; and
3. Sky rockets and bottle rockets. For purposes of this definition, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshall by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color and/or sound at or near the height of flight.

B. The term "Fireworks" does not include consumer fireworks or toy pistols, toy canes, toy guns, or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol, paper caps, or plastic caps that contain less than 20/100 grains of explosive mixture, or sparklers that do not contain magnesium chlorates or perchlorates.

C. Fireworks Display: An entertainment feature where the public or a private group is admitted or permitted to view the display of fireworks or consumer fireworks or special effects.

D. Fireworks: The same meaning as that term defined under State Law, 8 M.R.S.A., Section 221-A (4), as may be amended from time to time.

E. Person: Any individual, partnership, limited liability company, corporation, governmental entity, association, or public or private organization of any character.

F. Town: The Town of Gray, Maine.

SECTION 202.4 – USE OF CONSUMER FIREWORKS RESTRICTED

A person shall not use, display, fire, or cause to be exploded (collectively "Setting Off") consumer fireworks within the Town of Gray or in or from any watercraft within waters of the Town except upon the following conditions:

A. No fireworks shall be set off on any day with a Fire Danger Class of 3, 4, or 5. Any person(s) setting off fireworks shall be responsible for verifying the Fire Danger Class on any day that consumer fireworks are set off.

B. No person shall use, display, throw, drop or cause to set off any consumer fireworks or fireworks within any public way or within 50 feet of a public way.

C. Consumer Fireworks may only be set off during the following days/times:

Summer:

1. July 3rd: 12:00 P.M. until 10:00 P.M.
2. July 4th: 12:00 P.M. until 11:00 P.M.
3. From 6:00 P.M. to 10:00 P.M. for the following days:
 - a. Saturday following July 4th
 - b. Saturday preceding Labor Day weekend
 - c. Labor Day weekend Saturday

New Year's:

4. 9:00 AM on December 31st until 12:30 A.M. on January 1st
5. January 1st from 12:00 P.M. until 10:00 P.M.

D. No person shall use, display, throw, drop or cause to set off any consumer fireworks or fireworks within 75 feet of any building or structure.

SECTION 202.5 – PROFESSIONAL FIREWORKS STANDARDS

Pursuant to 8 M.R.S.A. Section 227-B, this section establishes standards for the use, display, or setting off fireworks, as defined in 8 M.R.S.A., that require a permit from the Maine Commissioner of Public Safety or designee.

A. No fireworks shall be set off on any day with a Fire Danger Class of 3, 4, or 5. The person or entity setting off fireworks shall be responsible for verifying the Fire Danger Class on any day that fireworks are set off.

B. Any person that is required to obtain a fireworks display permit from the Maine Commissioner of Public Safety under 8 M.R.S.A, Sections 221-237 and 227-A shall also be required to obtain a permit from the Gray Department of Public Safety. The applicant shall submit the following information to the Gray Fire Chief at least 14 days in advance of the scheduled event:

1. Location of the event including a plan showing the area where the display is to occur.
2. Responsible party including contact information both prior to and during the event.
3. Commencement time and ending time.

4. Description and listing, including approximate quantity, of the fireworks to be displayed.

5. Detailed description of safety and security measures to be taken.

C. The professional fireworks display shall not occur unless the Gray Department of Public Safety has duly issued the Town permit.

D. No permit for professional fireworks display shall be issued between May 10th and June 20th on any property or location within 2000 feet of a body of water in excess of 10 acres.

E. The party or entity setting off the fireworks display shall be responsible for ensuring that all fireworks stored on the site before the display are sufficiently secured and protected including having appropriately trained personnel staying on site.

SECTION 202.6 – ADMINISTRATION AND ENFORCEMENT

A. Copy to State Fire Marshall: Per Title 8 M.R.S.A. Section 223, the Town Clerk shall file a copy of this Ordinance, any amendments thereto, with the State Fire Marshall within 30 days of adoption or amendment.

B. Any State or County Law Enforcement official may enforce the provisions of this Ordinance specifically including duly-authorized representatives from Cumberland County Sherriff, Maine State Police, Maine Inland Fish & Wildlife, and Maine Department of Public Safety (Fire Marshall Office).

SECTION 202.7 – SEIZURE AND DISPOSAL

The Town or any person authorized to enforce this Ordinance may seize fireworks that it has probable cause to believe are to be used in violation of this Ordinance. All fireworks lawfully seized under this Ordinance shall be forfeited to the State per 8 M.R.S.A. Section 237 (2).

SECTION 202.8 – VIOLATION(S) AND PENALTIES

A. Use of fireworks in violation of this Ordinance shall be subject to a fine of not less than \$100 nor more than \$250 plus attorney costs for the first offence, or a fine not less than \$250 nor more than \$750 plus attorney costs for each subsequent offence within any previous two (2) year period.

B. Injunction: In addition to any other remedies available at law or equity, the Town of Gray, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated, or threatened violation of this Ordinance.

SECTION 202.9. – APPEALS

Appeals with respect to this Ordinance including fines shall be taken to the Gray Town Council who shall be the final authority.

SECTION 202.10 – SAVINGS CLAUSE

In the event that any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, this finding shall not affect the remainder of this Ordinance.

SECTION 202.11 – EFFECTIVE DATE

This Ordinance shall be effective on June 14, 2018.

CHAPTER 405
FLOODPLAIN MANAGEMENT ORDINANCE
TOWN OF GRAY, MAINE

Enacted April 20, 1993
Amended December, 1992

STATEMENT OF PURPOSE AND INTENT

Certain areas of the Town of Gray, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of Federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Gray, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in the attached Floodplain Management Ordinance.

It is the intent of the Town of Gray, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to MRSA Title 30A, Sections 3001-3007, 4352 and 4401-4407.

ARTICLE I – ESTABLISHMENT

The Town of Gray, Maine elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town having a special flood hazard be identified by the Federal Emergency Management Agency (FEMA) and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Gray, Maine.

The areas of special flood hazard, Zones A, A1-30, AE, AO, and AH, identified by FEMA in a report entitled “Flood Insurance Study – Town of Gray, Maine, Cumberland County, “ dated July 6, 1981 with accompanying “flood Insurance Rate Map” dated January 6, 1982 is hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II – PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the Town of Gray, Maine.

ARTICLE III – APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name and address of the applicant;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

- D. A statement of the intended use of the structure;
- E. A statement as to the type of sewage system proposed;
- F. Specification of dimensions of the proposed structure;
- G. The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones A1-30, AE, AO, and AH from data contained in the “Flood Insurance Study – Town of Gray, Maine,” as described in Article I; or,
 - b. in Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- H. A description of a base flood elevation reference point established on site of all new or substantially improved structures;
- I. A written certification by a registered land surveyor that the elevations shown on the application are accurate;
- J. Certification by a registered professional engineer or architect that floodproofing methods for any non-residential structures will meet the floodproofing criteria of Articles III.G.4; VI.G; and other applicable standards in Article VI.
- K. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- L. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV – APPLICATION FEE AND EXPERT’S FEE

A non-refundable application fee of \$50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert’s fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

ARTICLE V – REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the “Flood Insurance Study – Town of Gray, Maine,” as described in Article I. In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Article III.G.1.b.; Article VI.I; and Article VIII.D, in order to administer Article VI of this Ordinance;
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Office of Community Development prior to any alteration or relocation of a water course;
- F. Issue a two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an application for Part II of the Flood Hazard Development Permit and shall include an Elevation Certificate completed by a registered Maine surveyor for compliance with the elevation requirements of Article VI, paragraphs F, G, H, and K. Following review of the application, which review shall take place within 72 hours of receipt of the application, the Code Enforcement Officer, shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; and,
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates and Certificates of Compliance required under the provisions of Article VII of this Ordinance.

ARTICLE VI – DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. New construction or substantial improvement of any structure shall:
 1. be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and,
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.
- F. New construction or substantial improvement of any residential structure located within:
1. Zones A1-30, AE, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified.
 4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.G.1.b.; Article V.B; or Article VIII.D.
- G. New construction or substantial improvement of any non-residential structure located within:
1. Zones A1-30, AE, and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.J and shall include a record of the elevation above mean sea level of the lowest floor including basement.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from them.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; or,
 - c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Article VI, paragraph G.1.
4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.G.1.b; Article V.B; or Article VIII.D.

H. New or substantially improved manufactured homes located within:

1. Zones A1-30, AE, or AH shall:
 - a. be elevated on a permanent foundation so that the lowest floor is a least one foot above the base flood elevation; and,
 - b. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (i) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (homes less than 50 feet long require one additional tie per side); or by,
 - (ii) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (homes less than 50 feet long require four additional ties per side).
 - (iii) All components of the anchoring system described in Article VI.H.1 shall be capable of carrying a force of 4800 pounds.
2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from them.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; and,
 - c. meet the requirements of Article VI.H.1. (a) (b).
4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.G.1.b; Article V.B; or Article VIII.D.

I. Floodways

1. In Zones A1-30 and AE encroachments, including fill, new construction substantial improvement, and other development shall not be permitted in riverine areas, for which a regulatory floodway is designated on the community's "Flood Boundary and Floodway Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A1-30 and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
3. In Zone A riverine areas, in which the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of Article VI, paragraph I.2.

J. New construction or substantial improvement of any structure in Zones A1-30, AE, AO, Ah, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces less than three feet in height may be enclosed below the elevation requirements provided all the following criteria are met or exceeded:

1. Walls, with the exception of crawlspaces less than three feet in height, shall not be part of the structural support of the building; and,
2. Enclosed areas are not "basements" as defined in Article XIII; and,
3. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:
 - a. be certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (ii) the bottom of all openings shall be no higher than one foot above the lowest grade; and,
 - (iii) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means, and,
4. The enclosed area shall not be used for human habitation; and,

5. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

ARTICLE VII – CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. The applicant shall submit an Elevation Certificate completed by:
 1. a registered Maine surveyor for compliance with Article VI, paragraphs F, G, H, or K; and,
 2. a registered professional engineer or architect, in the case of floodproofed non-residential structures, for compliance with Article VI.G; and,
- B. The application for a Certificate of Compliance shall be submitted by the applicant in writing along with a completed Elevation Certificate to the Code Enforcement Officer.
- C. The Code Enforcement Officer shall review the application within 10 working days of receipt of the application and shall issue a Certificate of Compliance, provided the building conforms with the provisions of this Ordinance.

ARTICLE VIII – REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.
- E. Any proposed development plan shall include a statement that the developer will require that structures on lots in the development be constructed in accordance with Article VI of this ordinance and that such requirement will be included in any deed, lease, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The construction requirement shall also be stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX – APPEALS AND VARIANCES

The Board of Appeals of the Town of Gray, Maine, may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Code Enforcement Officer in the administration of the provisions of this Ordinance. The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 3. a showing that the existence of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in “undue hardship,” which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character or the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances may be issued by a community for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI-I are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued by a community for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in Article IX, paragraphs A through D.
- F. Any applicant who meets the criteria of Article IX, paragraphs A through E shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 2. such construction below the base flood level increases risks to life and property; and,
 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant’s decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- G. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code

Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

ARTICLE X – ENFORCEMENT AND PENALTIES:

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to 30A MRSA § 4452.
- B. The penalties contained in 30A MRSA § 4452 shall apply to any violation of this ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
 - 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, or ordinance;
 - 3. a statement that the public body making the declaration has authority to do so and a citation to that authority;
 - 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 - 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI – VALIDITY AND SEVERABILITY

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

ARTICLE XII – CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIII – DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

Adjacent Grade – means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of a Shallow Flooding – means a designated AO and AH zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard – means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood – means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement – means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building – see Structure.

Certificate of Compliance – A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer – any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Development – means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

Elevated Building – means a non-basement building:

- 1) built, in the case of a building in Zones A1-30, AE, A, A99, AO, or AH, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers or “stilts;” and
- 2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.
- 3) In the case of Zones A1-30, AE, A, A99, AO, or AH, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters.

Elevation Certificate – An official form (FEMA Form 81-31, 05/90, as amended) that:

- 1) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- 2) is required for purchasing flood insurance.

Flood or Flooding – means:

- 1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a) The overflow of inland or tidal waters.
 - b) The unusual and rapid accumulation or runoff of surface waters from any source.

- 2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.

Flood Elevation Study – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) – means an official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study –see Flood Elevation Study.

Floodplain or Flood-prone Area – means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management – means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations – means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain Ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing – means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway – see Regulatory Floodway.

Floodway Encroachment Lines – mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard – means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use – means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure – means any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National register;

- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior, or
 - b) Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum – means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor – means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI of this ordinance.

Manufactured Home – means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision – means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale..

Mean Sea Level – means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate map are referenced.

New Construction – means structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100-year flood – see Base Flood.

Regulatory Floodway –

- 1) means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- 2) in riverine areas is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area – see Area of Special Flood Hazard.

Start of Construction – means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure – means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage – means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- 1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- 2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance – means a grant of relief by a community from the terms of a floodplain management regulation.

Violation – means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XIV – ABROGATION

This Ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.S. 90-488, as amended).

60.3 (c & d)

CHAPTER 204
HAZARDOUS MATERIALS CONTROL ORDINANCE
TOWN OF GRAY MAINE

Enacted May 1979
Amended May 7, 2002

TABLE OF CONTENTS

SECTION 204.1 – TITLE	1
SECTION 204.2 – PURPOSE	1
SECTION 204.3 – LEGISLATIVE AUTHORITY	1
SECTION 204.4 – DEFINITIONS	1
SECTION 204.5 – REGULATION	4
SECTION 204.6 – ADMINISTRATIVE PROCEDURES	5
SECTION 204.7 – HAZARDOUS MATERIALS USE, STORAGE OR DISPOSAL SITE PERMIT APPLICATIONS	7
SECTION 204.8 – HAZARDOUS MATERIALS USE, STORAGE, OR DISPOSAL SITE DESIGN STANDARDS	13
SECTION 204.9 – HAZARDOUS MATERIALS USE, STORAGE, OR DISPOSAL SITE OPERATION	16
SECTION 204.10 – DECISION MAKING CRITERIA	20
SECTION 204.11 – SUSPENSION AND REVOCATION OF PERMIT	20
SECTION 204.12 – PRESENT HAZARDOUS MATERIALS USERS	20
SECTION 204.13 – AVAILABILITY OF RECORDS AND ACCESS FOR INSPECTIONS	21
SECTION 204.14 – CHANGE OF OWNERSHIP, ADMINISTRATION, LOCATION, OR SERVICES	21
SECTION 204.15 – VIOLATIONS AND APPEALS	22
SECTION 204.16 – PERMIT APPLICATION FEES AND ANNUAL PERMIT FEES	22

SECTION 204.1 – TITLE

This Ordinance shall be known and be cited as the Hazardous Materials Control Ordinance of the Town of Gray, Maine.

SECTION 204.2 – PURPOSE

The regulations set forth in this ordinance are adopted to:

- A. Provide for the protection of groundwater and surface water quality through the control of hazardous materials handling, storage, or disposal;
- B. Protect the health, safety, and welfare of the citizens of Gray.

SECTION 204.3 – LEGISLATIVE AUTHORITY

This ordinance is enacted pursuant to authority granted in 30 M.R.S.A. Section 1917, 38 M.R.S.A. Section 1320, and 38 M.R.S.A. Section 1321.

SECTION 204.4 – DEFINITIONS

- A. “Hazardous Materials” shall mean all materials in quantities controlled by this ordinance with the characteristics listed below, specifically excluding salt, solid wastes lawfully deposited in the Gray Landfill, domestic sewage, domestic sewage sludge, nonradioactive cooling water, boiler blow down water, sand and gravel washing waste, waste that is lawfully discharged to surface waters or any public sewerage system, virgin petroleum products for retail sales or use on site as a fuel, and agricultural organic wastes.
 - 1. “Type 1 Toxic Materials” shall mean a material which, due to toxicity, ability to harm genetic material, or persistence of a representative sample of a standard leachate from the waste, has any of the properties defined below.
 - a. Has a concentration of any substance, for which a federal drinking water standard exists, greater than or equal to ten (10) times that drinking water standard.
 - b. Has a concentration (mg/l) of any substance in the NIOSH Registry of Toxic Effects of Chemical Substances (“Registry”) greater than or equal to 0.35 times the lowest oral mammalian LD50 expressed in mg/kg units for that substance.
 - c. Has a concentration (mg/l) of any substance equal to 10 times the lowest 96 hour LC50 (mg/l) for that substance as listed in the “Registry”.
 - 2. “Type 2 – Reactive Materials” shall mean a material which has any of the following properties:
 - a. Materials which in themselves are normally unstable and readily undergo violent chemical change but do not detonate. Also materials which may react violently with water, which may form potentially explosive mixtures with water, or which generate toxic fumes when mixed with water.
 - b. Materials which in themselves are capable of detonation or explosive reaction but require a strong initiating source or which must be heated under confinement before initiation or which react explosively with water.

- c. Materials which in themselves are readily capable of detonation or explosive decomposition or reaction at normal temperatures and pressures.
 - d. Reactive materials can also be identified by the following tests:
 - (i) Thermally unstable liquid materials can be identified using the JANAF (Joint Army-Navy-Air Force) L.P. Test No. 6.
 - (ii) Thermally unstable liquid or nonfluid materials can be identified using the protocol specified in ASTM Standard Method E-476—73.
 - (iii) Materials unstable to mechanical shock can be identified using the Picatinny Arsenal Impact Test (Picatinny Arsenal Technical Report No. 1740 (Revision 1) (1958) or the Bureau of Mines Impact Test (U.S. Bureau of Mines Bulletin 346 (1931)).
3. “Type 3 – Radioactive Materials” shall mean low level liquid and gaseous radioactive materials and high level solid, liquid or gaseous materials. Low level liquid and gaseous radioactive materials shall mean all liquid and gaseous materials that exceed the maximum permissible concentrations for discharge to unrestricted areas as listed in Appendix B, Table II, Columns 1 and 2 of Title 10, Part 20 of the Code of Federal Regulations except that defined as high level liquid or gaseous radioactive waste. High level liquid and gaseous radioactive waste includes the liquid and gaseous wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing of irradiated reactor fuel; and, any other radioactive waste which the Planning Board shall subsequently specify as high level radioactive waste as adopted by order of the Council.
 4. “Type 4 – Flammable Waste” shall mean any waste such that any sample of that waste has a flash point less than 140 degrees Fahrenheit (60 degrees Centigrade) determined by the Pensky-Martens Closed Cup Tester, using the protocol specified in ASTM Standard D-93-73.
 5. “Type 5 – Corrosive Waste” shall mean any waste such that any sample of that waste has either of the following properties:
 - a. pH less than 2, or greater than 12, as determined by the pH meter, using the protocol specified in the “Manual of Methods for Chemical Analysis of Water and Wastes” (EPA-625-16-74 003).
 - b. A corrosion rate greater than 0.250 inch per year on steel (SAE 1020) at a test temperature of 130 degrees Fahrenheit as determined using the protocol specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69.
 6. “Type 6 – Infectious Waste” shall mean any waste which is generated from the following sources:
 - a. Health care facilities
 Certain departments of hospitals as defined by Standard Industrial Classification (SIC) Codes 8062 and 8069 in “Standard Industrial Classification Manual, 1972” U.S. Government Printing Office, Stock No. 4101-0066.
 - (i) Obstetrics department including patients’ rooms
 - (ii) Emergency department

- (iii) Surgery department including patients' rooms
- (iv) Morgue
- (v) Pathology department
- (vi) Autopsy department
- (vii) Isolation rooms
- (viii) Laboratories
- (ix) Intensive care unit
- (x) Pediatrics department

b. Laboratories, as defined by SIC Codes 7391, 8071 and 8922 but does not include any waste which is discharged directly to an underground seepage system at the site at which it is generated.

7. "Type 7 – Other Waste" shall mean any industrial waste which is not a Type 1 – Toxic Waste; Type 2 – Reactive Waste; Type 3 – Radioactive Waste; Type 4 – Flammable Waste; Type 5 – Corrosive Waste; or Type 6 – Infectious Waste; and which is not discharged directly to an underground seepage system at the site at which it is generated.

8. "Waste Oil" shall mean discarded oil generated by residential, institutional, commercial, industrial, agricultural sources or oil recovered from spills.

B. "Hazardous Materials Use Permit" shall mean a certificate issued by the Gray Planning Board authorizing the handling, transportation, storage, or disposal of hazardous materials for a specific use site by a specific person or firm and specifying the types of records which must be kept, the types and schedules of reports which must be filed, and such other requirements which the Planning Board finds to be necessary for the protection of the health, safety, and welfare of the citizens of Gray.

C. "Planning Board" or "Board" shall mean the Gray Planning Board.

D. "Code Enforcement Officer" shall mean the Code Enforcement Officer of the Town of Gray or employees of the Town of Gray under his direction.

E. "Storage" shall mean the placement of materials in drums, tanks, lagoons, or other structures intended to retain the materials for subsequent use or disposal.

F. "Use" shall mean any employment of materials for any purpose unless specifically exempted by this ordinance.

G. "Disposal" shall mean the discharge, dumping, spilling, leaking or placing of any materials into or on the land or water.

H. "Ground Water" shall mean the water present in the saturated zone of an aquifer.

I. "Aquifer" shall mean geologic deposits or structures from which useable quantities of ground water are available for households, municipalities or industries.

J. "Industrial Waste" shall mean waste oil, liquid waste, containerized gaseous waste or waste sludge produced by an industrial process or produced by an industrial waste water treatment plant but does not include any solid waste nor any domestic sewage or domestic sewage sludge or cooling water or

boiler blow down water or sand washing or gravel washing waste or waste that is discharged directly into a municipal sewer system or waste that is lawfully discharged into any surface body of water.

- K. “Hazardous materials use, storage or disposal site” shall mean real and personal property acquired, constructed or operated for the purpose of the storage, use, or disposal of hazardous material. Such sites shall be placed in one of the following five classifications: Class I, Class II, Class III, Class IV, or Class V.
 - 1. “Industrial Waste Incinerator” shall mean an arrangement of chambers and equipment designed for burning industrial waste to a gaseous emission and a residue.
- L. “Liner” shall mean a layer of material used as a barrier to impede the movement of hazardous materials or industrial waste into ground or surface water. Liners may include but not be limited to natural soils, asphalt treatments, polymeric membranes and/or treated soils.
- M. “Load” shall mean a mass or weight of industrial waste or hazardous material contained in one transporting container.
- N. “Manifest” shall mean a separate record for identifying the quantity, composition, type and the origin, routing and destination of hazardous materials or industrial waste.
- O. “Oil” shall mean any of a class of substances typically unctuous, viscous, combustible, liquid at sixty (60) degrees Fahrenheit and soluble in either or alcohol but not in water.
- P. “Open Burning” shall mean the combustion of any material under such conditions that the products of combustion are emitted directly into the open atmosphere without passing through a stack or chimney.
- Q. “Operator” shall mean any authorized individual responsible for the control of the site.
- R. “Person” shall mean any individual, group of individuals, firm, corporation, association, partnership or private or public entity, including a district, county, city, town or other governmental unit or agent thereof, and in the case of a corporation, any individual having active and general supervision of the properties of such corporation.
- S. “Surface Water” shall mean a body of water whose top surface is exposed to the atmosphere including but not limited to rivers, ponds, lakes, streams, marshes and wetlands.
- T. “Solid Waste” shall mean garbage, refuse and other discarded solid materials generated by residential, institutional, commercial, industrial and agricultural sources but does not include solids or dissolved material in domestic sewage or sewage sludge.
- U. “Water Table” shall mean the upper level of the ground water.

SECTION 204.5 – REGULATION

- A. The construction, expansion, or utilization of facilities to handle, store, or dispose of hazardous materials Types 1, 2, 4, 5, 6, 7 and 8 in quantities in excess of 120 gallons, 16 cubic feet, or 1000 pounds at any one time, or 180 gallons, 24 cubic feet, or 1500 pounds per month, shall require a hazardous materials use permit. The construction, expansion, or utilization of facilities to handle,

transport, store, or dispose of Type 3 hazardous materials (radioactive materials) in quantities in excess of one pound shall require a hazardous materials use permit.

- B. No person shall construct, develop, establish, operate, manage, own or maintain an industrial or commercial site which will use, store, or dispose of hazardous material in quantities covered by the ordinance without having first obtained a permit from the Planning Board. A permit or permit renewal shall be issued for a period of one (1) year from the date of issuance, unless sooner suspended or revoked. Each permit or permit renewal shall be issued only for the site designated in the plans accompanying the application and shall not be transferable or assignable except with the written approval of the Planning Board.
- C. There shall be five classes of hazardous materials use, storage, and disposal permits issued by the Planning Board. These permits shall be issued to the respective classes of sites, categorized by the expected use of the site as described below. The five classes of hazardous materials use, storage, or disposal sites may accept or store hazardous materials in quantities covered by this ordinance in accordance with the following:
 - 1. Class I hazardous materials use, storage, or disposal sites may accept, use, process, and dispose of all types of hazardous materials, unless specifically prohibited by the Planning Board.
 - 2. Class II hazardous materials use, storage, or disposal sites may accept all types of materials for storage in tanks but only Types 4, 5, 6 and 7 hazardous materials and waste for storage in lagoons or for disposal unless specifically prohibited by the Planning Board.
 - 3. Class III hazardous materials use, storage, or disposal sites may accept all types of hazardous materials for storage in tanks preparatory to use on site or resale.
 - 4. Class IV hazardous materials use, storage or disposal sites may accept only Types 6 and 7 hazardous materials for storage in lagoons or pits or for disposal unless specifically prohibited by the Planning Board.
 - 5. Class V hazardous materials storage sites may drain hazardous materials, including waste crank case oils, hydraulic fluids, and coolants from automobiles and trucks and store such materials on site within the volume limitation of this ordinance and in accordance with their permit limitations.
 - 6. Where a particular hazardous material or an inseparable mixture of hazardous materials may be categorized into more than one type of hazardous materials that which has the lowest type number will be the basis for determining the class site that must be used for the disposal of this material or mixture of materials.

SECTION 204.6 – ADMINISTRATIVE PROCEDURES

- A. The Planning Board shall receive applications from applicants desirous of being permitted to operate hazardous materials use, storage, or disposal sites. The application must be made upon forms provided by the Planning Board and shall contain plans and specifications required by this ordinance. The application shall also contain such other information as the Planning Board requires which may include affirmative evidence of ability to comply with this ordinance.
- B. Application for the renewal of a permit must be submitted three (3) months prior to the expiration date of the permit.

- C. Each application shall be accompanied by a list of direct and indirect owners, in affidavit form. If the entity is a corporation or association, the list shall include all officers, directors and other persons owning ten percent (10%) or more of the corporate stock.
- D. Applications for hazardous materials use permits shall contain the information required in Section 204.7 of this ordinance.
- E. The Planning Board shall issue permits for hazardous materials use, storage and/or disposal in accordance with the provisions of this ordinance.
- F. The Planning Board may impose such permit conditions as it determines are necessary for the protection of the health, safety, and welfare of the Town of Gray. Such conditions may include, but are not limited to, testing of ground and surface waters, specific limitations on the manner and methods by which hazardous materials are handled, transported, stored or disposed of, and/or such performance bonding as the Board determines to be necessary. No such limitation may be less restrictive than the requirements of this ordinance for Class I and II permits. Variance may be granted for Class III, Class IV and Class V permits providing that such variances do not increase the risks to the health, safety, and welfare of the citizens of Gray and meet the purposes of this ordinance.
- G. The Planning Board shall respond within sixty (60) days to persons submitting an application for a hazardous materials use permit. This response shall state whether or not the information supplied in the application is sufficient for the Board to determine that the health, safety and welfare of the citizens of Gray will be adequately protected. The Planning Board shall respond to each new set of information presented by the applicant within 60 days of its submittal. If the Planning Board determines that the information is sufficient to determine whether or not the proposed use will threaten the health, safety, and welfare of the citizens of Gray, it shall call a public hearing on the proposal within thirty (30) days of formal notice of that determination.
- H. The applicant shall respond to each determination by the Planning Board that the information contained in the application is not sufficient with the required information within forty-five (45) days, or some other period of time as specified by the Planning Board.
- I. The Planning Board shall grant a hazardous materials use permit within forty-five (45) days of public hearing if it determines that the proposed use will not threaten the health, safety, and welfare of the citizens of Gray. If issued, this permit shall contain record keeping requirements and such other conditions as it determines are necessary. If the Planning Board denies a hazardous materials use permit, it shall state the reasons for rejection of the application in its order for denial.
- J. A permit issued hereunder shall be kept posted in a conspicuous place on the permitted facility and must be kept legible and protected from the weather.
- K. The permit shall apply onto the operations and site which is delineated on plans submitted as part of the application. Additional areas or services shall be subject to the approval of the Planning Board in accordance with this ordinance.
- L. Separate permits shall be required for hazardous materials use sites which are located in separate geographical areas even though they are under the same management.
- M. A separate permit may be issued to a distinct part of a site which can be identified as a separate unit.
- N. A permittee shall notify the Planning Board of the impending closure of the site at least thirty (30) days prior to such closure.

- O. Permits shall expire one (1) year from the date of issue, unless sooner suspended or revoked, but may be renewed.

SECTION 204.7 – HAZARDOUS MATERIALS USE, STORAGE OR DISPOSAL SITE PERMIT APPLICATIONS

- A. Class I and Class II Hazardous Materials use Permits – A person shall be entitled to a Class I or Class II hazardous materials use permit if he or she meets the following:
1. The applicant must document his or her right, title and interest to the land on which the hazardous material use, storage, or disposal is to occur and the site must be at least twenty (20) acres in size.
 2. If the site is to be used for hazardous materials disposal, the applicant must have access to at least one piece of earth-moving equipment with a minimum weight of 17,000 pounds.
 3. The applicant must have obtained zoning approval from the Town of Gray for the proposed use and site.
 4. The applicant must have complied with the minimum criteria set forth for the particular class site for which the permit is sought as delineated in this ordinance.
 5. The applicant must have obtained all permits from the Department of Environment Protection which do not require the approval of the Town of Gray for the disposal, storage, or use of hazardous materials.
 6. The applicant must affirm that neither the site nor the owner is, in whole or in part, encumbered in any way whatsoever by any preexisting injunctive court order prohibiting the use of the site for the use, storage or disposal of hazardous materials.
 7. The applicant must have obtained a surety bond in the amount of \$1,000,000.00 guaranteeing the operation on the site in accordance with these rules and regulations, or the applicant must post a sum equal to or greater than \$1,000,000.00 with the Town of Gray, any or all of which may be used by the Town of Gray to correct failures to comply with this ordinance or to pay for actual damages it finds have been caused by the applicants hazardous materials use, storage, or disposal activities. Such surety bonds or cash deposits shall be held by the Town of Gray for a period of forty (40) years after the site is no longer in operation.
 8. The applicant must have submitted an application in accordance with the procedures and requirements set forth in the ordinance.
 9. The applicant must have paid the application fee.
- B. Class III and Class IV Hazardous Materials use Permits
1. A person shall be entitled to a Class III and Class IV hazardous materials use permit if he or she meets the following:
 - a. The applicant must document his or her right, title, and interest to the land on which the hazardous materials use site is to be operated.
 - b. The applicant must have obtained zoning approval from the Town of Gray for the site at which hazardous materials use, storage or disposal will occur.
 - c. The applicant must demonstrate compliance with the minimum criteria set forth for the particular class site for which the permit is sought as delineated in this ordinance.

- d. The applicant must have obtained the necessary permits and/or approval from the Department of Environmental Protection of the State of Maine which do not require the approval of the Town of Gray for the disposal, storage, or use of hazardous materials.
 - e. The applicant must affirm that neither the site nor the owner is, in whole or in part, encumbered in any way whatsoever by any preexisting injunctive court order prohibiting the use of the site for the use, storage or disposal of hazardous materials.
 - f. The applicant must have submitted an application in accordance with the procedures and requirements set forth in this ordinance.
 - g. The applicant must agree to:
 - (i) obtain a surety bond of not more than \$500,000 to guarantee the operation of the site in accordance with this ordinance, or
 - (ii) post a sum of not more than \$500,000 with the Town of Gray, any or all of which may be used by the Town of Gray to correct failures to comply with this ordinance or to pay for damages it finds have been caused by the applicants use, storage, or disposal of hazardous materials.
2. The amount of the bond or the amount of cash to be posted shall be determined by the Planning Board based upon its review of the application and its assessment of the risk associated with the activities for which the hazardous materials use permit is being sought. Such surety bonds or cash deposits shall be held by the Town of Gray throughout the life of the permitted facility, and shall terminate or be relinquished only after the prescribed closure period, from zero (0) to twenty (20) years, as set by the Planning Board, has elapsed.
- C. Class V Hazardous materials Storage Permits A person shall be entitled to a Class V hazardous materials storage permit if he or she meets the following criteria:
- 1. The applicant must demonstrate right, title, or interest to the site at which the proposed hazardous materials storage is to be located.
 - 2. The proposed use must be in accordance with the zoning ordinance of the Town of Gray, and any waivers, variances, special exceptions, and other permits for deviations from this ordinance must be obtained prior to making application for this permit.
 - 3. The applicant must have obtained the necessary permits and/or approvals from the Department of Environmental Protection, the Department of Human Services, or other departments of the State of Maine prior to making application for this permit.
 - 4. The applicant must have submitted an application in accordance with the procedures and requirements of this ordinance.
 - 5. The applicant must never have had a Class V hazardous materials storage permit revoked by the Town of Gray.
 - 6. The applicant must affirm that neither the site nor the owner is, in whole or in part, encumbered in any way by any preexisting injunctive court order prohibiting the use of the site for the storage of hazardous materials.
 - 7. The applicant must have paid all fees required by this ordinance.

- D. Industrial Waste Incinerator Permits – A person shall be entitled to an industrial waste incinerator permit if he or she meets the following criteria:
1. The applicant must document right, title and interest to the land on which the industrial waste incinerator is to be operated.
 2. The applicant must have obtained zoning approval from the Town of Gray for the location of the industrial waste incinerator.
 3. The applicant must have complied with the minimum criteria set forth as delineated in this ordinance.
 4. The applicant must have obtained the necessary permits and/or approval from the Department of Environmental Protection of the State of Maine.
 5. The applicant must affirm that neither the site nor the owner is, in whole or in part, encumbered in any way whatsoever by any preexisting injunctive court order prohibiting the use of the site for the operation of an industrial waste incinerator.
 6. The applicant must have obtained a surety bond in the amount of \$1,000,000.00 guaranteeing the operation on the incinerator site in accordance with this ordinance, or the applicant must post a sum equal to or greater than \$1,000,000.00 with the Town of Gray, any or all of which may be used by the Town of Gray to correct failures to comply with this ordinance or to pay for actual damages it finds have been caused by the applicants hazardous materials use, storage, or disposal activities. Such surety bonds or cash deposits shall be held by the Town of Gray for a period of five years after the site is no longer in operation.
 7. The applicant must have submitted an application in accordance with the procedures and requirements set forth in this ordinance.
 8. The applicant must have paid the application fee.
- E. The following plans and specifications shall be submitted as application supporting information for applications for Class I, II, III, and IV permits. All plans except the initial investigation plan must be stamped by a registered professional engineer (ME. Regis,) a registered land surveyor, a certified geologist, or a registered soil scientist, as is appropriate.
1. Initial Investigation Plan – A copy of the latest geologic survey map available, with the site outlined, should be submitted prior to all other required information. This will allow initial investigations of the area relating to wetlands, aquifers and impacts to shoreland zones before large investigation and development expenditures are made.
 2. Radius Plan – A radius plan including all of the information listed below shall be submitted. The radius plan shall include all areas within a one-half (1/2) mile radius out from all perimeter property lines of the site and shall locate and delineate the following:
 - a. Zoning of the areas
 - b. All building and dwellings
 - c. All water supplies (wells, etc.)
 - d. All surface water courses and other wetlands
 - e. All roads

- f. All boring locations
 - g. Site property lines
 - h. North arrow
 - i. Extent of 100 year flood plain
 - j. Monitoring well locations
3. Site Plan – A site plan including all of the information listed below for all areas within the site shall be submitted.
- a. All boring locations
 - b. All buildings
 - c. All water supply wells
 - d. All surface water courses and wetlands
 - e. All roads
 - f. Site property lines
 - g. Powerlines, pipe lines, rights of way and other utilities
 - h. All fences
 - i. North arrow
 - j. All disposal trenches (if any)
 - k. Ground contours at two foot intervals
 - l. All monitoring well locations
4. Hydrological Survey Plan – A hydrological study shall be made for each site. A plan including all of the information listed below shall be submitted.
- a. Ground water contours
 - b. Boring locations
 - c. Monitoring well locations
 - d. Top of monitoring well pipe elevation
 - e. Soil profiles including ground water location and impervious formations
 - f. Boring logs from borings and monitoring wells
5. Cross Section Plan – A minimum of two cross section plans, drawn at right angles, including all of the information listed below shall be submitted for Class I and II Permits, for Industrial Waste Incinerator Permits, and at the option of the Planning Board, for Class III and Class IV Permits.
- a. All disposal locations
 - b. Bedrock location
 - c. Ground water elevation
 - d. Soil profiles

- e. Location of liner (if any)
 - f. Design of liner system
 - g. Under-drain monitoring system (if any)
 - h. Trenches (if any)
6. Operating Plan – An operating plan including all of the information listed below shall be submitted.
- a. Proposed operations
 - b. Fire control and prevention provisions
 - c. Operating hours
 - d. Types of hazardous materials to be used, stored, or disposed
 - e. Personnel and duties
 - f. Projected use of completed site if used for disposal
 - g. Odor control program
 - h. Equipment to be on site during operation
 - i. Communication equipment available
 - j. Estimated life of site
 - k. Aesthetic considerations
 - l. Salvaging operations
 - m. Leachate treatment operations (if any)
 - n. Surface drainage control method
- F. The following plans and specifications shall be submitted as application supporting information for Class V Permits.
1. Radius Plan – A radius plan including all of the information listed below shall be submitted. The radius plan for an automobile service garage shall include all areas two hundred (200) feet in all directions for all perimeter property lines of the site. The radius plan for all automobile graveyards shall include all areas one thousand (1000) feet from the perimeter property lines of the site. Both radius plans shall locate and delineate the following:
- a. Zoning of the areas
 - b. All buildings and dwellings
 - c. All water supplies including public and private wells
 - d. All surface water courses and other wetlands
 - e. Site property lines
 - f. North arrow
 - g. Extent of the 100 year flood plain

2. Site Plan – A site plan including all information listed below for all areas within the site shall be submitted.
 - a. All buildings
 - b. All water supply wells
 - c. Site property lines
 - d. Roads
 - e. Tank locations and access points
 3. Operating Plan – An operating plan including all of the information listed below shall be submitted.
 - a. Proposed operation
 - b. Proposed removal schedule for hazardous materials stored on site
- G. The following plans and specifications shall be submitted as application supporting information for Class I Industrial Waste Incinerator Permits. All plans must be stamped by a registered professional engineer. (ME. Regis.).
1. Initial Investigation Plan – A copy of the latest geologic survey may available, with the incinerator site outlined, should be submitted prior to all other required information. This will allow initial investigations of the area relating to wetlands, aquifers and impacts to shoreland zones before large investigation and development expenditures are made.
 2. Radius Plan – A radius plan including all of the information listed below shall be submitted. The radius plan shall include all areas within a one-half (1/2) mile radius out from all perimeter property lines of the industrial waste incinerator site and shall locate and delineate the following:
 - a. Zoning of the areas
 - b. All buildings and dwellings
 - c. All water supplies (wells, etc.)
 - d. All surface water courses and other wetlands
 - e. All roads
 - f. All boring locations (if any)
 - g. Site property lines
 - h. North arrow
 3. Site Plan – A site plan including all of the information listed below for all areas within the site shall be submitted.
 - a. All boring locations (if any)
 - b. All buildings
 - c. All water supplies wells
 - d. All surface water courses and wetlands
 - e. All roads

- f. Site property lines
 - g. Power lines, pipe lines, rights of way and other utilities
 - h. All fences
 - i. North arrow
 - j. On site residue disposal and storage areas (if any)
 - k. Site drainage facilities
4. Construction and Engineering Plans – A complete set of construction and engineering plans and specifications relating to the incinerator and all associated buildings, equipment, and hazardous materials storage must be submitted.
 5. Operating Plan – An operating plan must be submitted including all of the information listed below.
 - a. Operating hours
 - b. Operating and design capacities
 - c. Personnel and duties
 - d. Odor control
 - e. Substitute disposal arrangements
 - f. Communication equipment
 - g. Provisions for limited access
 - h. Aesthetic considerations
 - i. Residue disposal arrangements
 - j. Fire control and prevention provisions
 - k. Routine overhaul and maintenance schedules
 - l. Industrial waste handling procedures
 - m. Water and waste water treatment and disposal
 - n. On site traffic control
 - o. Storage procedures
 - p. Industrial waste container disposal procedures

SECTION 204.8 – HAZARDOUS MATERIALS USE, STORAGE, OR DISPOSAL SITE DESIGN STANDARDS

- A. Class I sites shall be located, designed, constructed and maintained in accordance with the following:
 1. The containment vessel must be lined on all surfaces except the top surface with material that is equivalent to a five foot layer of soil with a permeability of 1.0×10^{-8} centimeters per second.
 2. The liner material may not be reactive with the hazardous material (s) to be placed in any storage or disposal site.
 3. Deposited material shall not have top surfaces directly exposed to the atmosphere.

4. The liner must be covered by at least four feet of suitable fill material that will minimize frost effects on the liner, or a registered professional engineer (ME. Regis.) must certify that any tanks used will not be subject to the effects of frost.
 5. Industrial waste shall not be disposed of within 2,500 feet of any dwelling or private drinking water supply well. Industrial waste shall not be disposed or stored in any watershed of an existing or planned public drinking water supply well.
 6. Sites shall not be located within any 100 year flood plain.
 7. All areas, including a 200 foot buffer zone, of the site shall be enclosed with a chain link fence six (6) feet in height.
 8. The site shall not be located within 1,000 feet of a surface body of water within its watershed.
- B. Class II sites shall be located, designed, constructed and maintained in accordance with the following:
1. The containment vessel must be lined on all surfaces except the top surface with material that is equivalent to a ten foot layer of soil with a permeability of 1.0×10^{-7} centimeters per second.
 2. The liner materials may not be reactive with the deposited hazardous materials.
 3. Deposited materials shall not have top surfaces directly exposed to the atmosphere.
 4. The liner must be covered by at least four feet of suitable fill materials that will minimize frost effects on the liner or a registered professional engineer (ME. Regis.) must certify that any tanks employed to store hazardous materials will not be subject to the effects of frost.
 5. Hazardous materials shall not be disposed of within 2,500 feet of any dwelling or private drinking water supply well. Hazardous materials shall not be disposed or stored on any watershed used as a surface public drinking water supply or any area likely to drain to a public drinking water supply.
 6. The site shall not be located within any 100 year flood plain.
 7. All areas, including a 200 foot buffer zone, of the site shall be enclosed with a chain link fence six feet in height.
 8. The site shall not be located within 1,000 feet of any residence.
- C. Class III hazardous materials use or storage sites shall be located, designed, constructed, and maintained in accordance with the following:
1. The material separating the deposited or stored material and the highest level of the ground water table must be equivalent to a five foot layer of soil with a permeability of 1.0×10^{-5} centimeters per second.
 2. The liner material may not be reactive with the stored or used hazardous materials.
 3. Hazardous materials stored on site shall not have its top surface directly exposed to the atmosphere.
 4. The storage area liner and the storage tanks must be certified by a registered professional engineer (ME. Regis.) to be designed in such a fashion that frost, normal wear, and foreseeable accidents will not adversely affect their functioning.

5. Hazardous materials covered by this permit shall not be stored or used within 500 feet of any residence, or public or private drinking supply well, and all lands within this area shall be controlled through ownership, easement, or other legal means to assure that such uses are not established within 500 feet during the life of the site. Nor shall they be stored or used in any watershed tributary to a public drinking water supply whether from surface waters or from wells.
 6. The site shall not be within the 100 year flood plain.
- D. Class IV sites shall be located, designed, constructed and maintained in accordance with the following:
1. The material separating the deposited or stored material and the highest level of the ground water table must be equivalent to a five foot layer of soil with a permeability of 1.0×10^{-2} centimeters per second.
 2. Hazardous materials to be disposed of on site shall not be disposed within 1,000 feet of any dwelling or within 500 feet of a private drinking water supply well. Industrial or commercial waste containing hazardous materials shall not be deposited on any watershed used as a surface public drinking water supply or any areas likely to drain to a public drinking water supply well.
 3. Any trenches used for the disposal of hazardous materials in the site must either be enclosed with six (6) foot chain link fencing or covered with grates constructed of chain link fence and supported by frames.
 4. The site shall not be located within 200 feet of any surface body of water.
 5. Hazardous materials stored for subsequent sale, or use on site shall be stored at least 200 feet from the nearest residence and shall be stored in a manner which the Planning Board deems to be protective of the health, welfare, and safety of the citizens of Gray.
 6. The site shall not be within the 100 year flood plain.
- E. Class V sites shall be located, designed, constructed, and maintained in accordance with the following:
1. The Class V hazardous materials storage site shall not be within the 100 year flood plain unless flood protection of the area in which hazardous materials are stored is provided by structures designed by a registered professional engineer (ME. Regis.).
 2. The Class V hazardous materials storage site shall provide not more than one (1) underground tank with 500 gallon capacity to store waste oil drained from automobiles or trucks serviced on site.
 3. Automobile graveyards with Class V hazardous materials storage permits shall use underground storage for hazardous materials drained from unserviceable, discarded, worn-out, or junked motor vehicles, or parts thereof, store or processed on site.
- F. There is only one class (Class I) of industrial waste incinerators. Class I incinerators may burn all types of industrial waste unless specifically prohibited by the Planning Board.

Class I Industrial Waste Incinerators- Class I industrial waste incinerators shall be located, designed, constructed and maintained in accordance with the following:

1. The minimum temperature at the exit of the final combustion chamber shall be retained in the combustion chamber for a minimum of two (2) seconds.
2. The rate of combustion shall not exceed the design limitations.
3. Gaseous and particulate emissions from the incinerator shall conform with the regulations of the Division of Air Quality of the Department of Environmental Protection of the State of Maine.
4. An alternate method of disposal using a class I industrial waste disposal site must be available for use in the event of breakdown.
5. The incinerator shall not be located within 1,000 feet of any private dwelling or private drinking water supply well. No incinerator shall be located on any watershed of a surface public drinking water supply or any area likely to drain to a public drinking water supply well.
6. The incinerator shall not be located within any 100 year flood plain.
7. All areas of the site, including as 200 foot buffer zone, shall be enclosed with a chain link fence six feet in height.
8. The site shall not be located within 1,000 feet of a surface body of water.
9. All industrial waste must be stored within a building or in an area that would meet the design criteria of a Class I industrial waster disposal site.
10. The residue from the incinerator must be disposed of at a Class I hazardous materials use, storage or disposal site, or at such other sites outside of the Town of Gray which meet the requirements of that town and the state in which it is located.
11. All water used to quench the incinerator residue, scrub the flue gas, clean and facility, as well as all drainings from the incinerator and the storage buildings, shall be disposed of in a manner that will not pollute any source of private or public water supply, any of the waters of the state or ground waters.
12. All incinerator facilities shall have a suitable means for extinguishing all types of fires.

SECTION 204.9 – HAZARDOUS MATERIALS USE, STORAGE, OR DISPOSAL SITE OPERATION

- A. Class I, II, III, IV and V Hazardous Materials Use, Storage or Disposal Sites shall be operated as follows:
1. Water Contamination – Hazardous materials use, storage or disposal sites shall not be located or operated in a manner so that they will cause or contribute to the pollution of any source of private or public water supply or any surface water or any ground water.
 2. Open Burning – Open burning of hazardous materials at hazardous materials use, storage or disposal sites shall be prohibited.
 3. Inspection – All land, buildings, facilities and equipment used in the use, storage or disposal of hazardous materials must be available for inspection by the Code Enforcement Officer at any reasonable time.
 4. Sampling – All industrial wastes must be available for sampling and testing by the Code Enforcement Officer at any reasonable time.

5. Odors- Suitable measures shall be taken to minimize odors originating at all hazardous materials use, storage or disposal sites. No odors shall be detectable off the site.
6. Safety – Hazardous materials use, storage or disposal sites shall be designed, operated and maintained in such a manner as to protect the health, safety and welfare of the users of the site, personnel associated with the operation of the site, and any other persons or their property who or which might come into contact with the site or with gaseous or liquid materials emanating from the operations of the site.
7. Record Keeping – Records shall be kept by the operator of the hazardous material use, storage or disposal site except Class V sites stating accurately and truthfully the source, quantity, type of hazardous materials, hauler and any other pertinent information for each load of hazardous material accepted for use, storage or disposal. These records shall be submitted monthly or at some other interval specified by the Planning Board to the Code Enforcement Officer and made available during inspections of the site and at other times as requested.
8. Signs – A sign shall be erected and maintained at the entrance to the Type I, II, III and IV hazardous material use, storage or disposal site, clearly legible and visible, which shall contain the following:
 - a. Name of site
 - b. Emergency phone number
 - c. Accepted types of hazardous materials
 - d. Operating hours
9. Fire Protection – All hazardous material use, storage or disposal sites shall arrange in writing for the Gray Fire Department to provide emergency service whenever called, and shall provide such special equipment and training as is necessary to reasonably prepare the Gray Fire Department to respond to emergencies at the site.
10. Labeling – No Class I, II, III, and IV hazardous materials use, storage or disposal site shall accept any hazardous material unless each load has an identifying label accurately describing the contents affixed to each transporting container.
11. Maintenance of Site – For a period specified in the permit and by Section 204.7 A7 and B7 of this ordinance following the last use, storage or disposal of hazardous material at permitted sites, the operator shall retain control of the site and maintain the site in a condition consistent with this ordinance unless the permitted use of a Class III site was for hazardous materials use and storage only. Such maintenance of the site shall be guaranteed by an escrow account established by the individual or firm operating the site through equal annual payments over the first half of the site's life expectancy. The total amount this account shall be determined by the Planning Board and shall be a condition of the permit.
12. Ground Water Separation – No land disposal of hazardous materials, and no lagoon storage of hazardous materials shall be conducted where the deposited material shall be within five feet of the maximum ground water table measured during the wet season as determined by the Planning Board at time of application.

13. Limited Access – Access to and all operations at hazardous materials use, storage or disposal sites where disposal of hazardous materials is occurring shall be limited to those hours between sunrise and one-half hour past sunset and only when authorized operating personnel are on duty.
14. Fire Extinguishers – All mobile equipment used at a hazardous material use, storage or disposal site shall be equipped with dry chemical fire extinguishers.
15. Surface Drainage – Adequate measures shall be taken to prevent surface water runoff from entering the area of hazardous material use, storage or disposal and to prevent the collection of standing water within the hazardous materials use, storage or disposal site.
16. Hazardous Materials Disposal Areas – The depositing, storing or disposing of any hazardous material at a hazardous material disposal site in places not designated for this purpose on the site plan shall be prohibited.
17. Borings- A sufficient number of borings, but not less than six (6) at Class I and II sites and not less than three at Class III and Class IV sites, shall be installed at each site in order to allow for the adequate determination of ground water contours, soil profiles and other data. The boring shall be installed to a depth of twenty (20) feet below the ground water table or to refusal whichever is first. Pipes shall be installed in each boring hole so that ground water level determinations can be made during the wet season as determined by the Planning Board a minimum of twenty-four (24) hours after the boring is installed. After these measurements have been made, the pipes shall be removed and the boring holes shall be filled with suitable material prior to the installation of any liner at the site and/or the acceptance of any hazardous material at the site.
18. Monitoring Wells – The operator of a Class I, II, III, or IV hazardous materials use, storage or disposal site shall install and maintain monitoring wells in locations selected by the Planning Board and shall be of a design approved by the Planning Board. It shall be the responsibility of the operator of the site to arrange for the sampling and analysis of these wells before the acceptance of any hazardous material and on a monthly schedule or other schedule as set by the Planning Board thereafter. Results of these analyses must be submitted to the Code Enforcement Officer monthly or as required by the permit if another sampling schedule is set.
19. Equipment – All operators shall have all equipment necessary for operating the site in accordance with this ordinance. All equipment shall be maintained in such a manner that it shall be fit for the purposes for which it was intended by the manufacturers.
20. Communication – A suitable means of communication (telephone, two-way radio, etc.) shall be available at the site.
21. Manifest – The operator of any site shall not accept any industrial waste unless a manifest is completed for each load of hazardous material.
22. Insurance – The operator of any hazardous materials use, storage or disposal site shall be insured for damages to employees and other persons and their property. The amount of such insurance may be a condition of the permit.
23. Automobile Graveyard Hazardous Materials Storage – Operators of an automobile graveyard shall drain, in so far as is practical, all hazardous materials contained in unserviceable, discarded, worn-out, or junked motor vehicles, or parts, thereof, to tanks provided on site immediately upon bringing such motor vehicles or parts on site.

24. Tank Inspections – All hazardous material storage tanks shall be pressure tested annually, and tanks failing such tests shall be reported immediately to the Code Enforcement Officer, drained or pumped to another permitted storage or disposal facility, and replaced within ten (10) days.

B. Industrial Waste Incinerators shall be operated as follows:

1. Water Contamination – Industrial waste incinerators shall not be located or operated in a manner so that they will cause or contribute to the pollution of any source of private or public water supply or any surface water or any ground water.
2. Open Burning – Open burning at an industrial waste incinerator site shall be prohibited.
3. Inspection – All land, building, facilities and equipment used in the disposal of industrial waste must be available for inspection by the Code Enforcement Officer at any reasonable time.
4. Sampling – All industrial wastes must be available for sampling and testing by the Code Enforcement Officer at any reasonable time.
5. Odors – Suitable measures shall be taken to minimize odors originating at all industrial waste incinerators. No odors shall be detectable off the incinerator site.
6. Safety – Industrial waste incinerators shall be designed, operated and maintained in such a manner as to protect the health, safety, and welfare of the users of the incinerator, personnel associated with the operation of the incinerator, and any other persons or their property who or which might come into contact with the incinerator or with gaseous or liquid materials emanating from the operations of the incinerator.
7. Record Keeping – Records shall be kept by the operator of the industrial waste incinerator stating accurately and truthfully the source, quantity, type of waste, hauler, and any other pertinent information for each load of industrial waste accepted for disposal. These records shall be submitted monthly to the Code Enforcement Officer or at such other intervals as the Planning Board shall require and they shall be made available during inspections of the incinerator and at other times as requested.
8. Signs – A sign shall be erected and maintained at the entrance to the industrial waste incinerator, clearly legible and visible, which shall contain the following:
 - a. Name of incinerator
 - b. Emergency phone number
 - c. Accepted types of waste
 - d. Operating hours
9. Emergency Protection – All industrial waste incinerators shall arrange in writing for the Gray Fire Department, The Gray Rescue Squad, and with such other organizations as are necessary to provide emergency service whenever called, and they shall provide whatever special equipment and training is reasonably necessary to enable these organizations to respond to emergencies or fires at the site. Documentation of this arrangement shall become a part of the emergency plan for the site, and copies of this plan shall be made available to all affected organizations.
10. Labeling – No industrial waste incinerator shall accept any industrial waste unless each load has an identifying label accurately describing the contents affixed to each transporting container.

11. Fire Extinguishers – All mobile equipment used at an industrial waste incinerator shall be equipped with dry chemical fire extinguishers.
12. Surface Drainage – Adequate measures shall be taken to prevent surface water runoff from entering the area of the incinerator and to prevent the collection of standing water within the industrial waste incinerator site.
13. Waste Disposal Areas – The depositing, storing or disposing of any industrial waste at an industrial waste incinerator site in places not designated for this purpose on the site plan shall be prohibited.
14. Equipment – All operators shall have all equipment necessary for operating the industrial waste incinerator in accordance with these rules. All equipment shall be maintained in such a manner that it shall be fit for the purposed for which it was intended by the manufacturer.
15. Communication – A suitable means of communication (telephone, two-way radio, etc.) shall be available at the industrial waste incinerator.
16. Manifest – The operator of any industrial waste incinerator shall not accept any industrial waste unless a manifest is completed for each load of industrial waste.
17. Insurance – The operator of any industrial waste incinerator shall be insured for damages to employees and other persons and for damages to property. The amount of such insurance shall be determined by the Planning Board and shall be a condition of the permit.

SECTION 204.10 – DECISION MAKING CRITERIA

The Planning Board may adopt such a guidelines and regulations regarding the classification, use handling, storage, or disposal of hazardous materials as it may deem necessary to implement the provisions of this ordinance.

SECTION 204.11 – SUSPENSION AND REVOCATION OF PERMIT

- A. The Code Enforcement Officer is authorized to suspend or revoke a permit where he/she finds there has been a failure to comply with this ordinance.
- B. Whenever the Code Enforcement Officer determined that a hazardous materials use, storage or disposal site is not being operated in conformance with any portion of this ordinance, he/she may cause to have issued a notice of violation indicating corrective action necessary to comply with this ordinance. Such notice may include an order to cease the operation of the site where violations of the permit constitute a threat to the public health, safety, and welfare.
- C. The permit holder may appeal the Code Enforcement Officer's suspension or revocation of his/her permit of the Code Enforcement Officer's notice of violation to the Planning Board for Administrative review.

SECTION 204.12 – PRESENT HAZARDOUS MATERIALS USERS

- A. Existing persons to whom this ordinance applies shall submit an application for a hazardous materials use permit within sixty (60) days of the date at which this ordinance is in force in order to receive the protection afforded in Part B & C of this section.

- B. No applicant for a hazardous materials use permit Class I or Class II whose present business or hazardous materials use would require a permit under the conditions of this ordinance shall be held to be in violation of this ordinance until such time as the Planning Board either issues or denies the permit for which application is made. The Planning Board may consider the permit application made by persons to whom this section applies for a period not to exceed six (6) months plus the period of time set by the Planning Board for two extensions (to be granted at the Board's discretion). If the Planning Board does not grant the applicant the permit for which the application is made during the time specified above, the application shall be deemed to have been denied.
- C. No applicant for a hazardous materials use permit Class III, Class IV, or Class V, whose present business or hazardous materials use would require a permit under the conditions of this ordinance, shall be held to be in violation of this ordinance until such time as the Planning Board either issues or denies the permit for which application is made. The Planning Board may deny the permit application where it determines that the applicant has failed to provide an adequate application or where it determines that the applicant has failed to provide such additional information as the Planning Board has requested pursuant to the provisions of this ordinance.

SECTION 204.13 – AVAILABILITY OF RECORDS AND ACCESS FOR INSPECTIONS

- A. The permit holder shall keep such records as are required by the permit and shall make such records available upon the request of the Code Enforcement Officer of the Town of Gray, the Planning Board or designees of the Council during normal business hours.
- B. The permit holder shall make all lands, buildings, facilities, and equipment used in the handling, storage, transportation, or disposal of hazardous materials available to the Code Enforcement Officer, the Planning Board and/or other designees of the Council of the Town of Gray for purposes of inspection at any time.

SECTION 204.14 – CHANGE OF OWNERSHIP, ADMINISTRATION, LOCATION, OR SERVICES

- A. The permit(s) shall immediately become void and shall be returned to the Planning Board upon the sale, lease or change in ownership of the business or other use for which the hazardous materials use permit has been issued.
- B. The Planning Board may extend the expiration date of the permit for such time as is required for processing a new application for a hazardous materials use permit.
- C. The permit shall apply only to those sites, uses and methods specifically delineated in the application; additional services, changes in operation, uses, or methods, or changes in sites shall require a separate permit or a modification of the existing permit at the option of the Planning Board.
- D. The Planning Board shall issue a temporary permit to the purchaser, lessor, or other new operator of an existing, permitted hazardous materials use, storage, transport, or disposal site upon the return of the previous permit and upon the presentation of a bond or cash deposit in the amount required for the previous permit. The conditions of the temporary permit shall be identical to the conditions of the previous permit. The temporary permit shall be for a period of not more than six (6) months, but may be extended at the option of the Planning Board.

SECTION 204.15 – VIOLATIONS AND APPEALS

- A. Persons aggrieved by the conditions of a permit issued by the Planning Board or the denial of a permit by the Planning Board under the terms of this ordinance may, within thirty (30) days of permit issuance or notification of denial, appeal the conditions or denial to the Superior Court of the State of Maine.
- B. Any person found to be in violation of this ordinance shall be subject to a fine of not more than \$1,000 and not less than \$250 for each offense, each day during which a violation occurs shall constitute a separate offense.

SECTION 204.16 – PERMIT APPLICATION FEES AND ANNUAL PERMIT FEES

Section 204.16.A is hereby amended by deleting the entire subsection and substituting the following: *Applicants for a Class I, II, III, IV and V permit to operate a hazardous materials use, storage or disposal site shall pay an application fee to the Town of Gray in accordance with the Codified Fee and Fine Schedule. Applicants for Class I, II or Class I Industrial Waste Incinerator Permits shall also establish an escrow account from which the Gray Planning Board may make payments for professional review of an advice on the applications. The amount of this escrow account shall be determined by the Codified Fee and Fine Schedule for the Town of Gray.*

Section 204.16.B is hereby amended by deleting the entire subsection and substituting the following: *The annual permit fees shall be determined by the Codified Fee and Fine Schedule for the Town of Gray.*

CHAPTER 213
HOME SOLICITATION ORDINANCE
TOWN OF GRAY MAINE
Adopted November 19, 1985

SECTION 213.1 – TITLE

This ordinance shall be known and may be cited as the Home Solicitation Ordinance of the Town of Gray, Maine.

SECTION 213.2 – SCOPE

This ordinance shall apply to persons, both principals and agents, offering goods, wares, and merchandise for unsolicited sale by sample for future delivery; to those who offer for unsolicited sale goods, wares, and merchandise at retail from a motor vehicle; and to hawkers or peddlers on the streets, or peddlers from motor vehicles.

SECTION 213.3 – DEFINITIONS

Charitable solicitor: any person, firm or organization acting on behalf of any church, civic group, public institution, youth organization or any organization which is granted tax exempt status by the State of Maine.

Route salesperson: any individual who has established customers to whom he/she makes periodic deliveries on a regular basis.

SECTION 213.4 – EXCEPTIONS

Sections 213.5, 213.6, 213.7, 213.8, 213.9, 213.10, 213.14 and 213.16 shall not apply to charitable solicitors and route salespersons as defined above.

SECTION 213.5 – LICENSE

No person described in Section 213.2 shall be or remain in or on any of the streets, ways, or public places of the Town of Gray without obtaining a license which has been duly issued by the Town Clerk.

SECTION 213.6 – APPLICATION

The application for such a license shall be on a form provided by the Town Clerk and shall contain at least the following information:

- A. The name of the applicant
- B. his/her home address
- C. his/her telephone number
- D. the name of his/her employer
- E. the address of his/her employer
- F. the telephone number of his/her employer
- G. the license number and general description of any motor vehicle or motor vehicles which the applicant intends to use in the conduct of his/her business

- H. an authorization for the release of any information about the applicant from any law enforcement agency to the Town of Gray
- I. the application must be signed under oath

SECTION 213.7 – INSURANCE

In addition to the information required in Section 213.5, an applicant for a license shall provide a certificate of insurance indicating that he/she carries motor vehicle liability insurance coverage in amounts not less than \$50,000 for injury to, or death of, one person; \$100,000 for injury to, or death of, more than one person in a single incident; and property damage insurance in the amount of not less than \$25,000.

SECTION 213.8 – LICENSE FEE

The license fee shall be \$25.00 for residents of the Town of Gray and \$50.00 for non-residents and shall be paid at the time of filing the application.

SECTION 213.9 – EXPIRATION DATE

All licenses issued under this ordinance shall expire one year from their date of issue.

SECTION 213.10 – DISPLAY OF LICENSES

All licenses granted under this ordinance shall be conspicuously displayed at all times while the licensee is conducting business in the Town of Gray.

SECTION 213.11 – NOTICE OF RIGHT OF RECESSION

- A. Before executing any contract for the sale of goods in excess of \$250 which sale is regulated by this ordinance, the seller shall give the buyer a notice on a form provided by the Town Manager's office, obtain the buyer's signature on the notice in the space provided and affix the notice to either the copy of the contract or any receipt given by the seller to the buyer and return said notice to the Town Manager's office within forty-eight hours of the date of the execution of the contract.
- B. Said notice shall, at least, specify the consumer's rights under 9-A MRSA, Section 3.502.(1).

SECTION 213.12 – PROHIBITION AGAINST FRAUDULENT PRACTICES

It shall be unlawful for any person to engage in any of the practices described below:

1. Uses any plan, scheme or ruse or makes any statement which indicates that the purpose of such person's visit is other than to obtain orders for or to make sales of goods or services;
2. Does not disclose to the prospective customer at the outset, his/her name and company and product he/she represents;
3. Fails to show, upon request, company identification setting forth his/her name, company and product he/she represents;
4. Misrepresents the right of the buyer to rescind or cancel a sale under state and federal law;

5. Causes likelihood of confusion or misunderstanding as to the source, sponsorship, approval or certification of goods or services;
6. Causes likelihood of confusion or misunderstanding as to affiliation, connection, or association with, or certification by another;
7. Represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities that they do not have or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that he/she does not have;
8. Represents that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or second-hand;
9. Makes false or misleading representation of fact concerning the reasons for, existence of, or amounts of price regulations; or
10. Makes false or misleading representations concerning the availability of credit or the nature of the transaction or obligation incurred.

SECTION 213.13 – HOURS OF SOLICITATION

No sale or offer to sell regulated by this ordinance shall be made between the hours of 9:00 p.m. and 8:00 a.m.

SECTION 213.14 – FALSE STATEMENTS

Any false statement in an application, either original or supplementary, for a license shall subject such applicant or licensee to the same penalty if he had no license.

SECTION 213.15 – PENALTY

Anyone found guilty of violating any provision of this ordinance shall be subject to a fine of \$100. Each day such violation continues shall be deemed a new offense.

SECTION 213.16 – APPEAL

Denial of a license under this ordinance may be appealed through the Municipal Officers of the Town of Gray.

CHAPTER 408
IMPACT FEE ORDINANCE
TOWN OF GRAY MAINE
Adopted September 6, 2016

SECTION 1 – TITLE

This Ordinance shall be known and cited as the “Impact Fee Ordinance” of Gray, Maine (hereafter referred to as the “Ordinance”).

SECTION 2 – AUTHORITY

The Town adopts this Ordinance under the authority of 30-A M.R.S.A §4354 and its statutory and constitutional home rule provisions.

SECTION 3 – PURPOSE

- A. The purpose of this Ordinance is to ensure that new development in the Town of Gray will be accomplished in a safe and healthful manner and that such development will bear a proportional or reasonably related share of the cost of new, expanded, or modified infrastructure necessary to service the needs of the development through: 1) the payment of impact fees that shall be dedicated to paying for the needed improvements, or 2) the construction of appropriate improvements as provided for herein.
- B. As applicable, payment of impact fee(s) shall also be required for public infrastructure constructed within the past five (5) years prior to the adoption of this ordinance that was specifically designed and constructed to create future reserved capacity.

SECTION 4 – DEFINITIONS

Unless otherwise defined in this Ordinance, the terms used in this Ordinance shall have the same meaning as defined in Chapter 402, the Zoning Ordinance.

SECTION 5 – APPLICABILITY

Any activity, development, construction, or change of use after the adoption or amendment to this ordinance shall be subject to one or more of the following impact fees:

[RESERVED]

SECTION 6 – PAYMENT OF IMPACT FEES

The impact fees provided for under this Ordinance shall be determined annually by vote of the Town Council, as a part of its annual fee setting Order, after notice and hearing, in accordance with the provisions for the calculation of each impact fee as established by the Town Council and set forth below in SECTION 12. Impact fees may be reduced in whole or in part by the Town Council as specified in SECTION 11. The required impact fee(s) shall be paid to the Town of Gray in care of the Code Enforcement Officer. The fee shall be paid prior to the issuance of any building, plumbing, or other permit for the project subject to the fee.

SECTION 7 – REPLACEMENT DWELLING UNITS OR STRUCTURES

An impact fee shall not be required to be paid for the replacement of a dwelling unit or other principal structure subject to an impact fee if the dwelling unit or principal structure existed as of the date of adoption of this ordinance or if an impact fee has been previously paid for the unit or structure being replaced.

CHAPTER 408
IMPACT FEE ORDINANCE
TOWN OF GRAY MAINE
Adopted September 6, 2016

SECTION 8 – IMPACT FEE ACCOUNTS

All impact fees collected under the provisions of this ordinance shall be segregated and accounted for in separate impact fee accounts designated for the particular improvements in question.

SECTION 9 – USE OF IMPACT FEES

Impact fees collected under this Ordinance shall only be used to pay for the capital cost of the infrastructure improvements specifically associated with the fee as described below. No portion of the fee shall be used for routine maintenance or operational activities.

The following costs may be included in the capital cost of the infrastructure improvement:

- A. Acquisition of land or easements including conservation easements,
- B. Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the construction of the improvement,
- C. The actual construction of the improvement including, without limitation, demolition costs, clearing and grading of the land, and necessary capital equipment,
- D. Mitigation costs,
- E. Legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project,
- F. Debt service costs including interest if the Town borrows for the construction of the improvement,
- G. Relocation costs,
- H. Additional costs that are directly related to the project; and
- I. Additional capacity from appropriate public buildings or facilities built within the past five (5) years prior to the adoption of this ordinance.

SECTION 10 – REFUND OF IMPACT FEES

Impact fees collected in accordance with this Ordinance shall be refunded in the following cases:

- J. If the building or other permit is surrendered or lapses without commencement of construction, the permit holder or developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that project. A request for a refund shall be made in writing to the Town Manager and shall occur within ninety (90) days of the lapse or the expiration of the permit.
- K. Any fees collected that are not spent or obligated by contract for the specified improvements by the end of the calendar quarter immediately following ten (10) years from the date the fee was paid shall be returned to the current owner of the property for which the fee was paid together with interest calculated at one (1) percent per year from the date of the payment of the fee.

CHAPTER 408
IMPACT FEE ORDINANCE
TOWN OF GRAY MAINE
Adopted September 6, 2016

SECTION 11 – MODIFICATION OF IMPACT FEES

The Town Council may by formal vote waive the payment of a required impact fee, in whole or in part, if it finds that:

- A. The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to construct the improvement for which the impact fee would be collected or an equivalent improvement duly approved by the Planning Board and an appropriate surety received by the Town, and/or
- B. The developer or property owner is required, as part of a development approval by the Town or a state or federal agency, to make or to pay for infrastructure improvements that are of the same nature as the improvement to be funded by the impact fee;

Provided, however, in either instance, the application for such a waiver shall first be referred to the Town's Staff Review Committee for hearing and a recommendation back to the Town Council.

SECTION 12 – REVIEW AND REVISION OF IMPACT FEES

The Town Council shall periodically review each impact fee established under this Ordinance. If the Town Council finds that the anticipated cost of the improvement has changed or that the identification of developments subject to the fee is no longer appropriate, the Council may consider changes in the impact fee. Any changes adopted by the Town Council as a result of such review shall apply to all future development, but shall not be applied retroactively to projects that have already paid an impact fee.

SECTION 13 – SEVERABILITY

Should any section or provision of this Ordinance be determined in court to be unconstitutional, invalid, or unenforceable, such determination shall not affect the validity of any other portion of the ordinance or the remainder of the ordinance as a whole.

CHAPTER 801
JOINT SERVICES ORDINANCE
TOWN OF GRAY MAINE

Adopted January 5, 2016

SECTION 801.1 – AUTHORITY; JURISDICTION

This ordinance has been prepared and is authorized under Town Charter Art. II, Sec. 4(A) and (C) and under the joint services provisions of Maine statute, 30-A M.R.S.A. Sec. 2203, and under the Home Rule Provisions of Maine law, Me. Constn. Art. VIII, Pt. 2, Sec. 1 and 30-A M.R.S.A. Sec. 3001. The jurisdictional reach of any such shared function under this ordinance shall be determined by written joint services agreement(s) with any other Maine municipality with which the Town contracts for any such shared services. Such agreements shall be subject to Town Council approval.

SEC. 801.2 SHORT TITLE.

This ordinance shall be known as the Joint Services Ordinance.

SEC. 801.3 POWER OF SHARED TOWN OFFICIAL.

In addition to the powers granted to any Town of Gray Official under the Town Charter and by the general provisions of Maine law, such shared Official may serve as a municipal official for any other Maine municipality with which the Town contracts for the provision of such joint services, including any applicable subordinate employee(s) (current or future) as reasonably required and fully covered by the municipalities' joint services agreement(s). Such agreement(s) shall provide the terms for its duration; organizational structure to provide sufficient services for each municipality, including, without limitation, physical office space in each municipality, office hours in each municipality and access to the Town Official in each municipality; administrative control of the Town Official's time and that of any applicable subordinate employee(s) within each separate municipality; respective cost sharing and funding for not only the Town Official's time, but for all applicable subordinate employee(s); provisions for termination of agreement(s); and any other necessary or appropriate matters. For administrative purposes, the Town Official and any applicable subordinate employee(s) (current or future) shall at all times remain Town of Gray employee(s) unless expressly provided to the contrary in the individual municipalities' joint services agreement.

APPLICABILITY DATE

Pursuant to 1 M.R.S.A. Sec. 302, this ordinance, once passed by the Gray Town Council, shall be deemed applicable as of January 5, 2016.

CHAPTER 302
LAND BANK ORDINANCE
TOWN OF GRAY MAINE
Adopted September 6, 1988

PURPOSE

The Commission shall recommend to the Town Council the purchase of acquisition of land and interest in land, in order to maintain and manage it in a manner which allows public use and enjoyment consistent with the natural, historic and scenic resources of the land.

SECTION 1 – DEFINITIONS

As used in this ordinance, unless the context indicates otherwise, the following terms have the following meanings:

Commission: “Commission” means the land bank commission established pursuant to section 2.

Fund: “Fund” means the land bank fund established under section 7.

Land Bank: “Land Bank” means the municipal land bank established pursuant to section 2.

Municipality: “Municipality” means the Town of Gray.

SECTION 2 – COMMISSION ESTABLISHED

A municipal land bank under the direction of the Town Council is hereby established and shall be administered by a Commission consisting of seven (7) persons appointed by the Council for staggered 3-year terms. Members must be legal residents of the municipality and shall serve without compensation. The Council must consider appointments from conservation committee, planning board, park and recreation, economic development committee, council and a member at large. The Commission shall elect a chairman and a secretary-treasurer from among its members and shall adopt reasonable rules for the conduct of its affairs and the management of its holdings. The decisions of the Commission shall be by majority vote of the majority of those present and voting, and no business may be transacted without a majority of the members present. The Commission shall establish its own-by-laws. The Commission shall keep accurate records of its meetings and actions and shall file an annual report with the Town Manager.

SECTION 3 – POWERS AND DUTIES

INTENT

It is the intent of this Ordinance to establish a partnership between the Land Bank Commission and the Gray Town Council to affirm the common goals as indicated in the Land Bank Ordinance.

For this reason, all purchase/acquisition of land, acceptance of gifts of real property interests (to include fee simple interests or lesser interests such as conservation restrictions, development rights, easements), or of funds to further the purpose of the Land Bank, or disposition of real property entrusted to the Land Bank shall require the majority vote of both the Land Bank Commission and the Gray Town Council.

All acquired land or accepted gifts of real property, intended for the management of the Commission, must contain a deed provision of the partnership noted above between the Land Bank Commission and the Town Council.

THE COMMISSION

- A. The Commission may hire such staff and obtain such professional services as are necessary in order to perform its duties, including development and updating of the Commission's open space plan within the constraints of the Land Bank fund:
- B. The Commission may maintain, manage and improve land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural, historic and scenic resources of the land, including planting, pruning and cutting of trees and shrubs to manage and enhance natural systems and constructing nature trails, bird nest boxes and nature identification signs, provided that the use of Land Bank funds within any single municipal fiscal year shall be subject to the following limitations:
 - 1. Expenditure of Land Bank funds for maintenance, management and limited capital improvement of municipally owned conservation lands purchased with Land Bank funds shall not exceed 10% of the total Land Bank funds.
 - 2. Expenditure of land bank funds for maintenance, management and limited capital improvement of municipally owned conservation or park lands not purchased with Land Bank funds shall not exceed 10% of the total Land Bank funds.
 - 3. Expenditure of Land Bank funds for administrative cases incidental to implementation of the Land Bank program shall not exceed 10% of the total Land Bank funds.

These restrictions may be removed by a majority vote of the entire Town Council.

SECTION 4 – TYPES OF LAND WHICH MAY BE ACQUIRED

Land, interests in land and other real property interests to be acquired and held as part of the Land Bank must be situated within the boundaries of the municipality. Any purchase or acquisitions must be consistent with the Commission's open-space plan. Prior to purchase or acceptance of land or interest in land, an investigation will be performed to determine any potential liability to the Town. (e.g. toxic or chemical waste).

- A. River, stream, lake or pond frontage and adjoining backlands;
- B. Marshes, flood plains and adjoining uplands;
- C. Islands;
- D. Land for future active or passive public outdoor recreational use, including hiking trails, bicycle paths, screen belts, high elevations with a view and parks;
- E. Aquifer, aquifer recharge areas and other ecologically fragile or significant property;
- F. Properties with unique historical, or geological characteristics or otherwise important to the community's cultural welfares;
- G. Woods or forestland suitable for a town forest or useable by deer as a wintering yard;
- H. Farmland or wildlife habitat;
- I. Open spaces which help to shape the settlement pattern of the community by promoting the village concept and discouraging sprawl;

- J. Vacant parcels of land, vacant buildings and properties or buildings and properties in significant disrepair which may be reclaimed for the purpose of establishing natural areas for open space or park land;
- K. Lands or interests in lands determined to be important to the Town's welfare.

SECTION 5 – MAINTENANCE OF REAL PROPERTY

The Commission shall maintain the real property interests acquired hereunder and pursuant to this Ordinance, predominantly in its natural, scenic or open condition, except as otherwise provided in this ordinance. Except upon the approval of the Town Council with the advice of the Commission, and where appropriate, subject to the constitution of Maine or State law, the Commission shall not allow:

- A. Construction or placing of buildings; roads, other than paths for pedestrian or bicycle use; signs; billboards; or other advertising utilities or other structures on or above the surface, except in furtherance of the purposes of this ordinance;
- B. Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive material;
- C. Removal or destruction of trees, shrubs or other vegetation, except where necessary for management purposes and to enhance natural systems or open-space uses;
- D. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, except limited grading to enhance the open space uses of the land;
- E. Surface use except for purposes permitting the land or water area to remain predominately in its natural, scenic or open condition;
- F. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation; or
- G. Other acts or uses detrimental to the natural, scenic or open condition of the land or water areas.

SECTION 6 – FILING OF PLAN

The Commission shall file with the Town Manager an open-space, public access and outdoor-recreation plan, developed by members of the Commission, Parks and Recreation Committee, Conservation Commission and other persons designated by the Town Council, which shall be as far as possible, consistent with the Town's Comprehensive Plan and with any regional planning relating to the area. The Commission may, from time to time, amend the plan. The Commission shall actively seek comments from the Planning Board, Conservation Commission, Town Council and the general public at a public hearing before adopting a plan or revisions to a plan. The plan must show all real property interests then currently held by the Commission, a description of the use of those interests, all potential open space being considered for purchase, and priorities for these purchases.

SECTION 7 – LAND BANK FUND

The Commission shall meet its financial obligations by drawing upon a municipal land bank fund to be set up as a separate revolving or sinking account within the Town. Deposits into the fund shall include:

- A. Funds appropriated to be deposited into the fund by vote of the Town Council;
- B. Voluntary contributions of money or other liquid assets to the fund;
- C. Interest from deposits and investments; and

D. Proceeds from disposal of real property interests.

All expenses lawfully incurred in carrying out this ordinance must be evidenced by proper vouchers and shall be paid by the Town only upon submission of warrants duly approved by the Commission. The Town shall prudently invest available assets of the fund, and all income from any investment shall accrue to the fund.

SECTION 8 – RECORDS: ANNUAL REPORT

The Commission shall keep a full and accurate account of its actions, including a record as to when, from or to whom and on what account money has been paid or received relative to this ordinance, and as to when, from or to whom and for what consideration real property interests have been acquired, improved or disposed of. These records and accounts shall be subject to examination by the Town Council. The Commission shall file annually with the Town Manager a report of all acquisitions, improvements, or dispositions of real property interests during the preceding year and a summary of disbursements from the land bank fund.

CHAPTER 106
LICENSE AND PERMIT ISSUANCE ORDINANCE
TOWN OF GRAY

Adopted September 5, 1995

SECTION 106.1 – TITLE

This ordinance shall be known and cited as the License and Permit Issuance Ordinance of the Town of Gray, Maine.

SECTION 106.2 – PURPOSE

The regulations set forth in this ordinance are adopted to promote payment of real and personal property taxes, judgments and accounts owned to the Town of Gray.

SECTION 106.3 – DEFINITIONS

- A. “Applicant” shall mean the natural person or entity submitting the application for a license or permit to the Licensing Authority.
- B. “Licensing Authority” shall mean the Town official or officer or Town body that is authorized to issue a license or permit.
- C. “License” shall mean any license that the Town of Gray, its officers, officials or bodies are authorized by statute or ordinance to issue, but excludes liquor licenses issued pursuant to 28-A; M.R.S.A.; Section 651 et seq., as amended from time to time.
- D. “Permit” shall mean any permit that the Town of Gray, its officers, officials or bodies are authorized by statute or ordinance to issue, but excludes liquor licenses issued pursuant to 28-A; M.R.S.A.; Section 651 et seq., as amended from time to time.

SECTION 106.4 – CONDITIONS FOR ISSUANCE OF LICENSES OR PERMITS

- A. No license or permit shall be issued by the Licensing Authority until said Licensing Authority determines as of the date of the license or permit application, whether or not:
 - 1. The Applicant owes any real or personal property taxes to the Town of Gray;
 - 2. There is an outstanding, final judgment against the Applicant that is due and payable to the Town of Gray;
 - 3. There is any account of the Applicant payable to the Town of Gray which has not been paid in full;
 - 4. All real and personal property taxes or final judgments due and payable to the Town of Gray on account of the premises for which said license or permit is requested have not been paid in full.

Provided, however, the requirement that all taxes and other monies owed to the Town be paid in full before the issuance of a license or permit may be waived by the vote of the Town Council if the Applicant pays the licensing fee in full and agrees, in writing, to pay the taxes, final judgments or accounts or a showing by the Applicant that there is not rational relationship between withholding the license or permit and the payment of the taxes, final judgments or accounts owed.

SECTION 106.5 – WAIVER

The requirements in Section 106.4 that all taxes, final judgments and accounts be paid prior to issuance of a license or permit may be waived by vote of the Town Council upon good cause shown by the Applicant, which good cause includes, but is not limited to non-economic reasons beyond the

Applicant's control for failure to pay the taxes, final judgments or accounts or a showing by the Applicant that there is not rational relationship between withholding the license or permit and the payment of the taxes, final judgments or accounts owed.

SECTION 106.6 – EXCEPTION FOR CERTAIN TAX DELINQUENCIES

The above sections of this Ordinance notwithstanding, the Licensing Authority may not refuse to issue a license or permit because of the owner of the premises for which Applicant requests a license or permit during the pendency of any request for abatement, or any appeal from the real or personal property tax assessment which appears to be delinquent.

**TOWN OF GRAY
MORATORIUM ORDINANCE
ON RETAIL AND MEDICAL MARIJUANA USES**

WHEREAS, a ballot initiative to regulate the distribution of medical marijuana known as the “Maine Use of Medical Marijuana Act” was approved by the voters at a State-wide referendum election on November 3, 2009, and codified in the Maine Revised Statutes in Title 22, chapter 558-C (the “Medical Marijuana Act”); and

WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act” was approved by the voters at a State-wide referendum election on November 8, 2016 and codified in the Maine Revised Statutes in Title 7, chapter 417 (the “Retail Marijuana Act”); and

WHEREAS, the Maine Legislature adopted amendments to the Retail Marijuana Act in the Second Regular Session of the 128th Legislature via LD 1719 and adopted amendments to the Medical Marijuana Act in the Special Session of the 128th Legislature via LD 238 and LD 1539; and

WHEREAS, LD 1719 repealed chapter 417 of Title 7 of the Maine Revised Statutes and enacted the new Title 28-B of the Maine Revised Statutes; and

WHEREAS, LD 1719 was enacted upon the override of the Governor’s veto on May 2, 2018, and became effective immediately, but the agencies responsible for adopting rules pursuant to the Retail Marijuana Act have estimated that the rulemaking process will take at least nine months and will require approval by the Legislature; and

WHEREAS, LD 238 amended several provisions of Chapter 558-C of Title 22 of the Maine Revised Statutes and was enacted upon the override of the Governor’s veto on July 9, 2018, and became effective immediately; and

WHEREAS, LD 1539 also amended several provisions of Chapter 558-C of Title 22 of the Maine Revised Statutes, including some of the same provisions amended by LD 238, but LD 1539 was not enacted as emergency legislation and will take effect 90 days after the Legislature adjourns; and

WHEREAS, the Department of Health and Human Services adopted rules related to the Medical Marijuana Act that went into effect as of May 10, 2018, but those rules do not include provisions related to the amendments in LD 238 and LD 1539; and

WHEREAS, the Town adopted amendments to its Zoning Ordinance and Shoreland Zoning Ordinance related to retail marijuana establishments and retail marijuana social clubs prior to the effective date of LD 1719, and LD 1719 includes additional provisions regarding local regulation of retail marijuana establishments; and

WHEREAS, LD 238 authorizes registered caregivers to operate one retail store to sell harvested marijuana to qualifying patients for the patients' medical use, manufacture marijuana products and marijuana concentrate for medical use including marijuana extraction, compounding or other preparation of marijuana concentrate or products; and

WHEREAS, LD 238 expressly authorizes municipalities to regulate registered primary caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities; and

WHEREAS, LD 1539 additionally authorizes registered caregivers to manufacture marijuana products and marijuana concentrate for medical use including marijuana extraction, compounding or other preparation of marijuana concentrate or products; and

WHEREAS, LD 1539 expressly authorizes municipalities to regulate or prohibit registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities and regulate registered caregivers, and provides that a municipality may not authorize caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are not operating on the effective date of the section unless the legislative body has adopted an ordinance allowing such uses to operate within the municipality; and

WHEREAS, LD 1539 authorizes the continued operation of registered caregiver retail stores, registered dispensaries, marijuana testing facilities and marijuana manufacturing facilities that are operating with municipal approval prior to the effective date of the Act; and

WHEREAS, the Town's current Code of Ordinances provides for regulations of medical marijuana cultivation facilities and dispensaries pursuant to the Maine Medical Use of Marijuana Act cited above, but does not contain provisions related to registered primary caregivers, marijuana testing facilities and manufacturing facilities as amended by LD 238 and LD1539; and

WHEREAS, the Town's current Code of Ordinances provides for regulations of retail marijuana establishments and retail marijuana social clubs, but does not contain provisions related to such uses as adopted in the new Title 28-B of the Maine Revised Statutes or the rules related to the same to be adopted by the State; and

WHEREAS, the unregulated location and operation of registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, as well as retail marijuana establishments and retail marijuana social clubs within the Town of Gray raises legitimate and substantial questions about the impact of such uses and operations on the Town, including questions of the compatibility of marijuana stores, dispensaries, testing and manufacturing facilities and retail marijuana establishments and social clubs with existing uses and development in residential, commercial and industrial zoning districts; the possible connection of retail marijuana establishments and social clubs with medical marijuana cultivation facilities and dispensaries; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and

WHEREAS, the possible effect of the location and operation of registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana establishments and/or retail marijuana social clubs within the Town has serious implications for the health, safety and welfare of the Town and its residents; and

WHEREAS, the Town's existing ordinances do not provide comprehensive or sufficient provisions to regulate the location and operation of registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana establishments and/or retail marijuana social clubs within the Town and the Town needs time to review the recent changes adopted by LD 1719, LD 238, LD 1539 and the rules promulgated by the State, and to review its own Code of Ordinances to determine the implications of future proposed registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana establishments and/or social clubs to develop reasonable ordinances governing the location and operations of such uses to address the concerns cited above; and

WHEREAS, the Town, under its home rule authority, its police power generally as established by the Constitution of Maine, Article VIII, Part Second and codified in part in Chapters 111 and 187 of Title 30-A of the Maine Revised Statutes, and as expressly provided by LD 1719, LD 238 and LD 1539, has the authority to impose reasonable restrictions, conditions, and limitations on such registered caregivers, registered caregiver

retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana establishments and social clubs; and

WHEREAS, the Town Council, with the professional advice and assistance of the Cumberland County Sheriff's Office and the Maine State Police, the Planning Board and the Planning Department, shall study the Town's current Code of Ordinances to determine the land use and other regulatory implications of registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town enacts this Moratorium Ordinance on Retail and Medical Marijuana Uses;

WHEREAS, the Town's current Code of Ordinances and other applicable local laws are not adequate to prevent serious public harm that could be caused by the development of registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana establishments and social clubs and other uses authorized by the changes, and a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of such uses being located in the Town; and

NOW, THEREFORE, pursuant to the authority granted to it by 30-A M.R.S.A. § 4356, be it ordained by the Town Council of the Town of Gray, that the following Moratorium Ordinance on Retail and Medical Marijuana Uses be, and hereby is, enacted, and, in furtherance thereof, the Town Council does hereby declare a moratorium on the location, operation or licensing of any registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the Town.

In addition, the Town Council does hereby declare a moratorium on the location, operation or licensing of any new medical marijuana cultivation facilities, dispensaries, manufacturing facilities, registered caregiver retail stores, food establishments and collectives, and the expansion of any existing medical marijuana cultivation facilities or dispensaries, as permitted under Section 402.8.7 of the Town's Zoning Ordinance, within the Town.

This Moratorium Ordinance shall take effect, once enacted by the Town Council, in accordance with the provisions of Article II, Section 14 of the Town Charter, but shall be applicable as of August 7, 2018, as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the Town Council, for the express purpose of drafting an amendment or amendments to the Town's current Code of Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana establishments and social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments and social clubs with medical marijuana cultivation facilities, dispensaries, stores and manufacturing facilities; the potential adverse health and safety effects of registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the proposed "Marijuana Legalization Act" codified at Title 7, chapter 417 and as amended by LD 1719, and any applicable rules, that may be proposed to be located within the Town on or after the August 7, 2018 applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that this Ordinance shall apply to food establishments, collectives, registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities and marijuana manufacturing facilities, as those terms are defined by the "Maine Use of Medical Marijuana Act" as codified at Title 22, chapter 558-C and as amended by LD 238 and 1539 respectively, and any applicable rules, that may be proposed to be located within the Town on or after the August 7, 2018 applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed registered caregivers, registered caregiver retail stores, registered

dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana establishments or social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Town official or board prior to August 7, 2018, the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities, retail marijuana establishment or social club within the Town on or after the August 7, 2018 applicability date of this Ordinance without complying with whatever ordinance amendment or amendments the Town Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate new medical marijuana cultivation facilities, dispensaries, manufacturing facilities, registered caregiver retail stores, food establishments and collectives or expand any existing medical marijuana cultivation facility or dispensary that may be currently permitted under Section 402.8.7 of the Town's Zoning Ordinance, within the Town on or after the August 7, 2018 applicability date of this Ordinance without complying with whatever ordinance amendment or amendments the Town Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, certificate of occupancy, special exception review, site plan review and/or any other permits or licenses related to registered caregivers, registered caregiver retail stores, registered dispensaries, cultivation facilities, marijuana testing facilities and manufacturing facilities, retail marijuana establishments, retail marijuana social clubs, or the expansion of any such use; and

BE IT FURTHER ORDAINED, that those provisions of the Town's current Code of Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if registered caregivers, registered caregiver retail stores, registered dispensaries, cultivation facilities, marijuana testing facilities, marijuana manufacturing facilities, retail marijuana establishments, retail marijuana social clubs, or expansions of any such use are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Town shall be entitled to all rights available to it in law and equity,

including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Applicability Date: August 7, 2018

**TOWN OF GRAY MORATORIUM
ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS
AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act” proposed to be codified in the Maine Revised Statutes in Title 7, chapter 417, will be voted on by a State-wide referendum election on November 8, 2016; and

WHEREAS, the proposed Act authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the proposed Act, as well as the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities within its jurisdiction; and

WHEREAS, the proposed Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities;

WHEREAS, the outcome of the State-wide referendum vote is yet to be determined and the Town’s current Code of Ordinances provides for regulations of medical marijuana cultivation facilities and dispensaries pursuant to the Maine Medical Use of Marijuana Act cited above, but does not include any regulations related to retail marijuana establishments or retail marijuana social clubs under the proposed new Act, nor any regulations related to products or merchandise associated with the use, cultivation, retail sales, manufacturing or distribution of marijuana and retail stores that specialize in offering such paraphernalia for sale to consumers; and

WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the Town of Gray raises legitimate and substantial questions about the impact of such establishments and social clubs on the Town, including questions of the compatibility of retail marijuana establishments and social clubs with existing uses and development in residential, commercial and industrial zoning districts; the possible connection of retail marijuana establishments and social clubs with medical marijuana cultivation facilities and dispensaries; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town’s streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana social clubs within the Town has serious implications for the health, safety and welfare of the Town and its residents; and

WHEREAS, the Town needs time to review the proposed Act in anticipation of the election and to review its own Code of Ordinances to determine the implications of future proposed retail marijuana establishments and/or social clubs to develop reasonable ordinances governing the location and operations of such establishments and social clubs to address the concerns cited above; and

WHEREAS, the Town, under its home rule authority, its police power generally, and under 30-A M.R.S.A., chapter 187, subchapter 3 (“land use regulation”), as provided by the proposed new Act, or as otherwise provided by current law, has the authority to impose reasonable restrictions, conditions, and limitations on such retail marijuana establishments and social clubs; and

WHEREAS, the Town Council, with the professional advice and assistance of the Cumberland County Sheriff’s Office and the Maine State Police, the Planning Board and the Planning Department, shall study the Town’s current Code of Ordinances to determine the land use and other regulatory implications of retail marijuana establishments and social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, the Town’s current Code of Ordinances and other applicable local laws are not adequate to prevent serious public harm that could be caused by the development of retail marijuana establishments and social clubs and other uses authorized by the proposed changes in law to be voted on in the November 8, 2016 referendum election, thereby necessitating a moratorium; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and social clubs and other uses authorized by the proposed changes in law, if passed, to be voted on in the November 8, 2016 referendum election, being located in the Town; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town enacts this Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs;

NOW, THEREFORE, be it ordained by the Town Council of the Town of Gray, that the following Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs be, and hereby is, enacted, and, in furtherance thereof, the Town Council does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the Town.

In addition, the Town Council does hereby declare a moratorium on the location, operation or licensing of any new medical marijuana cultivation facilities or dispensaries and the expansion of any existing medical marijuana cultivation facilities or dispensaries, as permitted under Section 402.8.7 of the Town’s Zoning Ordinance, within the Town.

This Moratorium Ordinance shall take effect, once enacted by the Town Council, in accordance with the provisions of the Town Charter, but shall be applicable as of September 20, 2016, as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the Town Council, for the express purpose of drafting an amendment or amendments to the Town's current Code of Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments and social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments and social clubs with medical marijuana cultivation facilities and dispensaries; the potential adverse health and safety effects of retail marijuana establishments and social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Town in responding to the same; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the proposed "Marijuana Legalization Act" to be codified, if passed, at 7 M.R.S.A. §§ 2442 (36), (39), (40), that may be proposed to be located within the Town on or after the September 20, 2016 applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1
M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Town official or board prior to September 20, 2016, the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or social club within the Town on or after the September 20, 2016 applicability date of this Ordinance without complying with whatever ordinance amendment or amendments the Town Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a new medical marijuana cultivation facility or dispensary or expand any existing medical marijuana cultivation facility or dispensary that may be currently permitted under Section 402.8.7 of the Town's Zoning Ordinance, within the Town on or after the September 20, 2016 applicability date of this Ordinance without complying with whatever ordinance amendment or amendments the Town Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a business that engages in retail or wholesale sales of products or merchandise for which a substantial portion of its business is to prepare, cultivate, distribute or ingest marijuana or retail

or wholesale sales of such products or merchandise of the kind that are commonly offered for sale or used at so-called head shops, retail marijuana social club or retail marijuana establishment, including, without limitation, water pipes, hashish pipes, glass pipes, pipe screens, bongs, vaporizers, scales, rolling papers, hydroponic equipment and grow lights and general tobacco products in so-called smoke shops; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, certificate of occupancy, special exception review, site plan review and/or any other permits or licenses related to a retail marijuana establishment, retail marijuana social club, a new medical marijuana cultivation facility or dispensary, or the expansion of an existing medical marijuana cultivation facility or dispensary; and

BE IT FURTHER ORDAINED, that those provisions of the Town's current Code of Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if retail marijuana establishments, retail marijuana social clubs, new medical marijuana cultivation facilities or dispensaries, or expansions of existing medical marijuana cultivation facilities or dispensaries are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Applicability Date: September 20, 2016

CHAPTER 218
MESSAGE ESTABLISHMENT AND MESSAGE THERAPIST
REGULATORY ORDINANCE
TOWN OF GRAY MAINE

Adopted April 1, 1997

SECTION 218.1 – TITLE

This Chapter shall be known as the “Town of Gray Massage Establishment and Massage Therapist Regulatory Ordinance” and may be referred to by short title as the “Massage Ordinance” or the “Ordinance”.

SECTION 218.2 – PURPOSE

The Town of Gray recognizes that the practice of legitimate massage therapy by trained and experienced therapists is a valuable component of our health care system. The Town of Gray also recognizes that persons without legitimate massage training or experience may masquerade as massage therapists as a façade for unlawful purposes such as prostitution. It is the purpose of this Ordinance to clearly distinguish between these persons and to promote the public health, safety and general welfare by simultaneously acknowledging and permitting legitimate massage therapy and prohibiting the commission of sexual intercourse, sexual contacts or sexual acts for money.

SECTION 218.3 – DEFINITIONS

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly implies otherwise;

- A. “Client” means any person who receives a therapeutic massage.
- B. “Massage” or “therapeutic massage” are used interchangeably to mean any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction or manipulation of the external parts of the human body other than parts of the body above the neck, with the hands or other parts of the body or with the aid of any instrument or device.
- C. “Massage establishment” or “therapeutic massage establishment” are used interchangeably to mean any business including but not limited to a sole proprietorship in which the business operations consist of providing or making available massage in the Town of Gray for consideration or with the expectation of receiving consideration or any gratuity, whether or not the business has a fixed place of business within the Town limits.
- D. “Massage therapist/practitioner means any person who performs massage therapy, as defined by State statute, for consideration or gratuity or with the expectation of receiving consideration or any gratuity. 2
- E. “Person” means an individual, partnership corporation or other entity.
- F. “Recognized school” means any school or institution of learning approved or accredited by the American Massage Therapy Association/Commission on Massage Training Accreditation.

Approved [AMTA/COMTAA], or equivalent to or surpassing an AMTA/COMTAA approved school or the American Body Works and Massage Professional Association, which offers a course of training in the theory, method, profession and work of massage therapy consisting of five hundred (500) hours or more, the completion of which renders a student eligible for membership in the AMTA. Schools which cannot be verified shall not be deemed a recognized school. The burden of

proving that a school meets or surpasses the education and training requirements of an AMTA/COMTAA approved school shall be on the applicant.

SECTION 218.4 – EXEMPTIONS

The following persons shall be exempt from this Ordinance while licensed and practicing in accordance with the laws of this State: Physicians, physicians' assistants, surgeons, osteopaths, nurses, chiropractors, physical therapists, members of the AMTA, or those persons with no less than two hundred (200) hours of training from a recognized school as defined above, barbers, cosmetologists, beauticians and other health and hygiene professionals. Students enrolled in a recognized school who are required to give massage as part of their training shall be exempt from this Ordinance only for such training.

SECTION 218.5 – LICENSE REQUIRED

- A. Therapeutic massage establishment license. No person shall operate a therapeutic massage establishment without a valid therapeutic massage establishment license issued by the Town. A separate license shall be required for each such establishment.
- B. Massage therapist license. No person shall work as a massage therapist without a valid massage therapist license or a combined massage establishment/therapist license issued by the Town.
- C. Combined massage establishment/massage therapist license. A sole who employs no massage therapist other than himself may apply for a massage establishment/massage therapist license in lieu of both a therapeutic massage establishment license and a massage therapist license.

SECTION 218.6 – COMPLIANCE OF EXISTING THERAPISTS AND MASSAGE ESTABLISHMENTS

Any person presently operating as a massage therapist and/or operating a massage establishment in the Town as defined herein on the effective date of this Ordinance shall comply with the terms of this Ordinance by obtaining a license hereunder within one (1) month of the effective date of this Ordinance.

SECTION 218.7 – LICENSE FEE EXPIRATION

Each applicant, within thirty (30) days of approval of the application and before issuance of the license, shall pay an annual fee of Five Hundred dollars (\$500.00) if the fee is not paid within said thirty (30) days, the approval of the application shall expire. Any license issued pursuant to this Ordinance shall expire one (1) year from date of issuance, unless otherwise suspended or revoked.

SECTION 218.8 – APPLICATIONS AND INFORMATION

- A. Each applicant for a license shall:
 - 1. Complete all information upon and file an application on a form prescribed by the Town Clerk;
 - 2. Pay a nonrefundable application fee of five hundred (\$500.00) in advance to the Town Clerk;
 - 3. Submit the completed application to the Town Clerk, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation; evidence of partnership, if a partnership; or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors for each of the entities described herein;
 - 4. File an affidavit which will identify all owners, officers, managers or partners of the applicant and their places of residence at the time of the application and for the immediately preceding five (5) years;

5. For a combined massage establishment/massage therapist license or a massage therapist license, submit two (2) front face photographs of the applicant taken within thirty (30) days of application, of such size as the Clerk may specify; and
6. File the release authorized by 16 M.R.S.A., Section 620 (6) –Criminal History Record Information Act, with the application for each applicant and for each officer, owner, manager or partner of an applicant seeking a therapeutic massage establishment or combined massage establishment/massage establishment license.

SECTION 218.9 – QUALIFICATIONS OF APPLICANT, OFFICERS

Within the five (5) years immediately preceding the date of application, no applicant nor, for a massage establishment or combined massage establishment /massage therapist license, any owner, officer, manager or partner of an applicant shall have been convicted of a crime now classified under Maine Statute as a Class A, B, or C crime, a crime involving moral turpitude, the crimes of engaging in prostitution or promotion of prostitution, or of violating any of the gambling, drug or prohibitive liquor laws under the laws of the United States or the State of Maine or any other state. Hereinafter any one of the foregoing convictions or violations may be referred to as a “disqualifying criminal conviction”.

SECTION 218.10 – INVESTIGATION OF APPLICANT, OFFICERS

Upon receipt of an application or notice of a change of the owners, officers, manager or partners of the applicant;

- A. The building inspector shall verify that the premises at which the establishment will be located comply with all applicable ordinances of the Town including, but not limited to, the building code, electrical code, plumbing code and zoning ordinance, and shall report these findings in writing to the Town Clerk;
- B. The Town Clerk shall review the application and other documents and determine whether such documents comply with all of the requirements of this Ordinance;
- C. The health officer shall inspect the location or proposed location to determine whether the applicable ordinances relating to health and safety have been satisfied and shall report these findings in writing to the Town Clerk;
- D. The fire chief or designee shall inspect the location or proposed location to determine if all Town ordinances concerning fire and safety have been satisfied and shall submit these findings in writing to the Town Clerk; and
- E. The police chief or designee shall investigate the application, including the criminal history record information authorized under Section VIII herein and shall report these findings in writing to the Town Clerk.
- F. All reports under this section shall be filed with the Town Clerk.

SECTION 218.11 – BASIC PROFICIENCY

Each applicant for a massage therapist license or combined massage establishment/therapist license shall show proof of basic proficiency in the field of massage therapy which may be satisfied by:

- A. Evidence of the satisfactory completion of all formal course work and training in massage therapy required for graduation from a recognized school, which shall be in the equivalent documentation; or

- B. A written statement from a physician, nurse, osteopath, chiropractor, physical therapist or member of the AMTA stating that the person refers clients to the applicant for therapeutic massage.

SECTION 218.12 – OBTAINING LICENSE BY FRAUD

No person shall make any false, untruthful or fraudulent statement, either written or oral, or in any way conceal any material fact, or give or use any fictitious name in order to secure or aid in securing a license required by this Ordinance. Any license so secured shall be void. All names, including but not limited to maiden name, ever used by the applicant must be noted on the application.

SECTION 218.13 – USE OF LICENSE

No person shall make use of, in any manner, to his own or another's benefit, any license which has not been duly issued to him in accordance with this Ordinance.

SECTION 218.14 – STANDARDS FOR DENIAL

A license under this Ordinance shall be denied to the following persons:

A. Therapeutic Massage Establishment License

1. To a corporation not registered to do business in this State; or
2. To a corporation if any principal officer thereof or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction (as defined in Section 22390) within the immediately preceding five {5} years; or
3. To an applicant, other than a corporation, if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction within the immediately preceding five [5] years; or

B. Massage Therapist License, or Combined Massage Establishment/Massage Therapist License

1. To an applicant who has been given a disqualifying criminal conviction at any time during the five [5] years immediately preceding application; or
2. To an applicant who is not at least eighteen [18] years of age.

C. All Licenses

1. To an applicant who has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the Town Clerk or reasonably necessary to determine whether the license is suitable; or
2. To an applicant, if such applicant or any person having an actual ownership interest or management authority therein has been denied a license for knowingly making an incorrect statement of a material nature within the immediately preceding five [5] years; or
3. To an applicant, if such applicant or any person having an actual ownership interest or management authority therein has had a license granted pursuant to this Ordinance revoked for any reason within the immediately preceding five [5] years.

SECTION 218.15 – GROUNDS FOR SUSPENSION OR REVOCATION

- A. All Licenses. In addition to the grounds of denial set forth in Section XIV above, any license may be suspended or revoked upon a determination that the licensee:

1. Failed to notify the Town Clerk of any change in material fact set forth in the application for such license; or
 2. Violated any provisions of this Ordinance.
- B. Therapeutic Massage Establishment or Combined Establishment/Therapist License. In addition to the provisions of Subsection A hereof, either a massage establishment license or a combined establishment/therapist license may be suspended or revoked upon a determination that the licensee:
1. Permitted any person to perform therapeutic massage without a valid license to do so;
 2. Permitted or allowed an employee, massage therapist or conditional massage therapist, to violate any provision of this Ordinance on the premises of the establishment or in the course of conduct of the business of the establishment; or
 3. Knowingly permitted any violation of Title 17A, M.R.S.A., Sections 851 through 855 [Prostitution and Public Indecency]. Such knowledge shall be presumed if there has been a conviction of any such offense within the immediately preceding five [5] years. The applicant or licensee may rebut said presumption by showing that:
 - a. Due diligence was exercised to prevent the recurrence of any such offense; and
 - b. Despite such diligence, he or she did not know and could not reasonably have known of any subsequent offense.

SECTION 218.16 – LICENSES DISPLAYED

A valid therapeutic massage establishment license shall be displayed at all times in an open conspicuous place in the massage establishment for which it was issued. A valid massage therapist license or combined massage establishment/massage therapist must be readily available to be produced immediately if demanded of the licensee.

SECTION 218.17 – AGE RESTRICTIONS

No massage or therapeutic massage shall be practiced on a minor without the written consent of a parent or guardian.

SECTION 218.18 – MESSAGE TABLES

All therapeutic massage shall be administered on a massage table, treatment table, treatment mat or treatment chair.

SECTION 218.19 – MAINTENANCE AND CLEANING

Every person who conducts or operates a therapeutic massage establishment shall keep the same at all times in a clean and sanitary condition. All instruments, supplies and devices of any kind, or parts thereof, that come into contact with the human body shall be kept clean by a modern and approved method of cleaning.

SECTION 218.20 – PROHIBITED ACTIVITIES

- A. No massage therapist shall administer a massage to a client whose genitals are exposed.
- B. No massage therapist shall administer or agree to administer a massage to the genitals or anus of a client.

- C. No massage therapist shall administer a massage unless he or she is fully clothed with non-transparent clothing of the type customarily worn by massage therapists while administering a massage.
- D. No massage therapist shall perform sexual intercourse, commit a sexual act or make sexual contact as defined in Title 17A; M.R.S.A., Section 251, for pecuniary benefit to himself or a third party.

SECTION 218.21 – CLOSING HOURS

No massage establishment shall be kept open for massage purposes between the hours of 10:00 p.m. and 7:00 a.m.

SECTION 218.22 – SUPERVISION

At all times when open for business, a therapeutic massage establishment shall have upon the premises a licensed massage therapist or person who possesses a combination massage establishment/massage therapist license who shall be available to supervise the operation of the establishment and assure that no violations of this Ordinance occur.

SECTION 218.23 – LIST OF EMPLOYEES

The therapeutic massage establishment shall keep a written list of the names and current addresses of all employees, both on duty and off duty. Such list shall be shown to the Town Clerk, or his authorized representative or law enforcement authority, upon request.

SECTION 218.24 – PENALTIES

The violation of any provision of this Ordinance shall be punished by a fine or not less than two hundred fifty [\$250.00] nor more than five hundred dollars [\$500.00] for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this Ordinance by appropriate action, including but not limited to, revocation of the license.

SECTION 218.25 – APPEALS

An appeal from any final decision of the Town Clerk hereunder may be taken to the Town Council within thirty [30] days. An appeal from any final decision of the Town Council hereunder may be taken by any party to the Superior Court pursuant to Rule 80B of The Maine Rules of Civil Procedure. Any denial, suspension or revocation shall be in writing and shall include notification of the right to appeal and the procedure for appeal.

EMERGENCY EFFECTIVE DATE: Based upon the emergency public health, safety and welfare issues identified in the preamble, this Ordinance shall take effect immediately upon passage.

CHAPTER 215
MASS GATHERING ORDINANCE
TOWN OF GRAY MAINE

Adopted November 13, 2012
Effective December 13, 2012

ARTICLE 1 - PURPOSES AND EXEMPTIONS

215.1.1 – PURPOSES

The Town of Gray recognizes the desirability of certain outdoor events, including exhibitions, festivals, music concerts, sporting events, and fairs; and hereby ordains the following to protect the general welfare and promote public health and safety by addressing issues arising there from, such as traffic congestion, crowd control, health and sanitation, compliance with alcohol and drug laws, and protection of public and private property.

215.1.2 – EXEMPTIONS

The provisions of this chapter shall not apply to:

- A. Events held by the Town of Gray and approved by the Town Council.
- B. Public school functions involving student population or staff held on school property and approved by the MSAD 15 School Board.
- C. Private school functions involving student population and staff and held on school property.
- D. Religious institution functions held on institution property.

ARTICLE 2 - DEFINITIONS

- A. In general, words and terms used in these regulations shall have their customary dictionary meanings.
- B. Other words and terms used herein are defined as follows:
 - 1. **Assembly Area** – that portion of the premises on which the Mass Gathering is held, within which persons in attendance are expected to sit or stand.
 - 2. **Mass Gathering** – any outdoor gathering, pageant, amusement show, exhibition, festival, theatrical performance, or other special event held outdoors with the intent to attract at least one thousand (1,000) persons during the course of the event, in a single assembly area, for more than six continuous hours or overnight, not otherwise operating under the approval of the Town of Gray.
 - 3. **Not-for-profit Organization** – a religious, charitable or benevolent association or organization which is registered with the State of Maine and is tax exempt under section 501(c)(3) of the Internal Revenue Code.
 - 4. **Operator** – the licensee, the person or entity responsible for the mass gathering.
 - 5. **Performance Guaranty** – an irrevocable letter of credit from a banking institution authorized to do business in Maine, cash, an escrow, or other financial guarantee at a monetary level acceptable to the Town Manager and in a form approved by the Town Attorney or as to form, sufficiency, manner or execution.
 - 6. **Person** – any natural person, sole proprietor, partnership, corporation or other entity.

7. **Private School** – schools operated by an agency, organization, or institution other than the Town, a School Administrative district, any other municipality, the State of Maine, the United States government or any agency or instrument thereof.
8. **Public Costs** – those costs incurred by the Town in connection with a Mass Gathering which would not be incurred by the Town if the Mass Gathering were not held.
9. **Public School** – schools operated and governed by Town, a School Administrative District, any other municipality, the State of Maine, the United States Government or any agency or instrument thereof.
10. **Town** – the Town of Gray.
11. **Town Council** – the Town Council of the Town of Gray.

ARTICLE 3 - LICENSE REQUIREMENTS, FEES, AND APPLICATION PROCEDURE

215.3.1 – LICENSE REQUIREMENTS

- A. No person shall sponsor, promote, operate or hold any mass gathering without first procuring a Mass Gathering license from the Town.
- B. Licenses for a Mass Gathering shall require a license issued by the Town Council according to the procedure contained herein.

215.3.2 – FEES

- A. A non refundable application fee shall be due when the application is filed and shall be according to the adopted Fee Schedule.
- B. Licensing fees may be waived at the discretion of the Town Council.

215.3.3 – APPLICATION PROCEDURE

- A. Licensing procedure will be administered in the following manner:
 1. Any person seeking a mass gathering license shall be provided a copy of this ordinance.
 2. The person(s) seeking a license must file a completed application and the application fee with the Town Clerk not less than seventy-five (75) days before the proposed event.
 3. The application must include:
 - a. A contract with a refuse collection company or other responsible plan for removal of trash;
 - b. Proof of applicant's liability insurance;
 - c. Vender permits;
 - d. Off-premises Liquor License via a catering license if applicable;
 - e. Special Amusement Permit Application if applicable;
 - f. Game of Chance Permit application if applicable;
 - g. Written proof that the applicant is the owner of the property at which the Mass Gathering is to be held, OR a letter proving ownership, and with written permission from the owner of the property at which the Mass Gathering is to be based.

4. Within five (5) days of receipt of an application, the Town Clerk shall forward a copy of the application to the Town Manager, Director of Public Safety, Public Works Director, and Code Enforcement Officer, and the Town Clerk shall schedule a public hearing for a Mass Gathering at the earliest possible meeting of the Town Council.
5. Within ten (10) days of application, the Town shall notify abutters within 100 ft. of the proposed location of the Mass Gathering
 - a. Notification may include details including time, location, date, operator, and a brief description of the application.
6. In response to an application for a Mass Gathering License, the Town Council shall hold a public hearing to review the application and determine the conditions required to safeguard the public health, safety, and welfare. The hearing shall be conducted not less than thirty (30) days after application for the proposed event.
7. The Town Council may deny or grant the license, or grant the license and impose conditions to safeguard the public interest. Conditions may include, but are not limited to, requiring the applicant to:
 - a. Compliance with the provisions of Appendixes A through H of this ordinance;
 - b. Post a performance guaranty / bond to ensure prompt clean up of the grounds and payment for damages to public or private property in the area of the event. Within ten (10) days following the mass gathering, the Town shall release the performance guaranty upon receipt of proof that the operator / licensee has paid all clean up and public costs associated with the mass gathering.
 - c. At the licensee's expense, hire either municipal or private police & security and / or fire / rescue personnel deemed necessary by the Director of Public Safety or his designees upon his review of the application. Fees for municipal personnel are contained in the Municipal Fee Schedule.
 - d. Demonstrate by means of a written, descriptive plan that facilities will be provided at the proposed site to protect the health or attendees, including:
 - (i) Waste disposal;
 - (ii) Fire, rescue, and police personnel and equipment;
 - (iii) Water supplies;
 - (iv) Communication system;
 - (v) Demonstrate by means of an illustrative, scaled plot plan, that adequate parking spaces will be available;
 - (vi) Provide a plan showing, in sufficient detail, how crowd security and police protection of private property will be accomplished.
 - e. Provide a plan for controlling traffic, which shall contain as appropriate:
 - (i) A description of routes, that attendees will use;
 - (ii) Methods to be used to publicize alternative routes;

- (iii) The number of persons who will be present to direct traffic at the site both before and after the event, and their locations;
 - (iv) A description of what means will be available to remove disabled vehicles from locations under the control of the operator, if such vehicles would prevent the free flow of traffic;
 - (v) Public toilet facilities.
- f. Provide a plan for evacuating the site in the event of a natural disaster or other civil emergency.
8. Licenses will be issued for events to be held on property meeting the requirements of both this ordinance and the Gray Zoning Ordinance.

ARTICLE 4 - ENFORCEMENT, PENALTY, ASSIGNABILITY

215.4.1 – ENFORCEMENT

The Code Enforcement Officer or designee will enforce the provisions of this Ordinance prior to the event. Contracted Municipal security and public safety staff will enforce the provisions during the actual event.

215.4.2 – PENALTY

Violation of this ordinance constitutes a civil violation punishable by a civil penalty of one thousand dollars (\$1,000) for each violation.

215.4.3 – ASSIGNABILITY

Licenses issued under this ordinance are not transferable or assignable without prior approval of the Town Council.

215.4.4 – EXPIRATION

Licenses issued under this ordinance are valid during the proposed operating hours of the Mass Gathering.

- A. The license is void should the event be canceled or indefinitely postponed.
- B. If the event is postponed to a date certain, the license may be renewed for the new date, and an administrative fee may be assessed per the Fee Schedule.

214.4.5 – CONFLICTS WITH OTHER ORDINANCES

This Ordinance shall not repeal, annul, or in any way, impair or remove the necessity of compliance with any other rules, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures the provision of this Ordinance shall control.

ARTICLE 5 - APPENDIX

APPENDIX A - WATER SUPPLY & WASTE WATER DISPOSAL

- 1. Where water is distributed under pressure for drinking, washing, flushing toilets, and /or showers, the water supply system shall deliver water at normal operating pressures (20 psi minimum) to all fixtures at a rate of at least thirty (30) gallons per person per day.

2. Where water is not available under pressure and non-water carriage toilets are used, at least three (3) gallons of potable water per person per day shall be provided for drinking and washing purposes.
3. Waste water generated shall be estimated according to anticipated number of persons attending the event and shall have a predetermined method of disposal; sized accordingly utilizing table (501.2) located in the Maine subsurface waste water disposal rules 10-144 CMR241.
4. The Towns Local Plumbing Inspector shall have the authority to require that the applicant provide a copy of a contract with a qualified party to remove anticipated volumes of wastewater from the site during the event which may include the servicing / switching of temporary sanitary facilities during the event.
5. Water points or drinking fountains shall be well identified and conveniently accessible.

APPENDIX B - REFUSE

1. One fifty (50) gallon refuse container or its equivalent shall be provided for each one hundred (100) persons anticipated.
2. All refuse containers throughout the Mass Gathering site and parking area(s) shall be emptied at least once per day, and as often as necessary to avoid any overflow of debris from the containers.
3. The Mass Gathering area and immediate surrounding property shall be cleaned of refuse within twenty-four (24) hours following the mass gathering.
4. Areas where vehicles are parked shall have adequate sized rubbish disposal facilities one (1) for every fifty (50) vehicles.
5. Within twenty-four (24) hours of the end of the Mass Gathering, refuse that is subject to being blown to abutting properties shall be properly secured / disposed of to ensure that a storm event does not adversely affect public roads or neighboring properties.

APPENDIX C - GROUNDS

The assembly area shall be adequately lighted but not unreasonably reflect beyond the assembly area boundaries unless adjacent properties are uninhabited.

1. Light level intensities shall be at least five (5) foot candles.
2. There shall be at least twenty (20) square feet of usable space per person at the site for daytime gatherings and at least forty (40) square feet per person for overnight gatherings.

APPENDIX D - ROADS AND PARKING AREAS

1. Width of service roads shall be at least twelve (12) feet for one traffic lane, twenty-four (24) feet for two (2) traffic lanes, and seven (7) feet for parallel parking lane.
2. There shall be at least one (1) parking space for every four (4) persons; the density should not exceed one hundred (100) passenger cars or thirty (30) busses per usable acre.
3. Licensee must provide accessible parking spaces in accordance with the Americans With Disabilities Act (ADA).
4. All parking on public ways must comply with Chapter 502, the Gray Parking Ordinance.

APPENDIX E - SANITARY FACILITIES

1. Toilets shall be provided at a rate of one (1) for each hundred and fifty (150) persons.
2. Toilet Facilities at Mass Gatherings attended by the general public must comply with the Americans with Disabilities Act (ADA). With one (1) ADA accessible toilet facility for each four hundred and fifty (450) persons.
3. Sanitary facilities shall be conveniently accessible and well identified.
4. Each toilet shall have a continuous supply of toilet paper.
5. Service buildings or rooms housing necessary plumbing fixtures shall be constructed of easily cleaned, non-absorbent materials.
6. Clearly marked separate service buildings or rooms containing sanitary facilities shall be provided for each sex. Each toilet room should be provided with a self-closing door to insure privacy, or the entrance should be screened so that the interior is not visible from the outside.
7. Common drinking cups shall not be used.

APPENDIX F - SAFETY

1. Applicant may employ appropriate law enforcement, medical, and fire personnel as recommended by Public Safety Director
2. Emergency medical services may be provided, and may include, under the supervision of Gray EMS, a first aid building or tent, and adequate medical supplies. Emergency first aid vehicles may be available on site during the entire time of the Major Mass Gathering per the hours of operation stated on the application.
3. Any emergency calls to the event site during set up and break down would use the 911 system.
4. The electrical system or electrical equipment serving the Mass Gathering shall comply with the most current state and local adopted codes. All structures must be compliant with NFPA Life Safety Codes.
5. Upon receipt of completed application and fee, the applicant, the CEO, and / or the Public Safety Director will meet on site to discuss the various amenities that are envisioned to be utilized during the Mass Gathering. The Applicant should be prepared to discuss specific actions to be taken to address utilities (i.e. electric, propane), water & wastewater, stages, location and number of waste receptacles, frequency and detail of emptying waste receptacles during the event, lighting, platforms, buildings, and the number of attendees / vendors / performers etc.

APPENDIX G - NOISE CONTROL

1. The sound of the mass gathering should not carry unreasonably beyond the boundaries of the mass gathering area.
2. All noise should cease at the expiration of the license (midnight of the Mass Gathering date).

APPENDIX H - BUILDINGS AND STRUCTURES

Where applicable, the CEO will inspect buildings and structures in regard to safety and building codes during the site visit referenced in Appendix F Paragraph 5.

CHAPTER 402A
MOBILE HOME PARK ORDINANCE
TOWN OF GRAY MAINE

Enacted December 5, 1989

Amended April 3, 1992

TABLE OF CONTENTS

SECTION 402A.1 – TITLE.....	2
SECTION 402A.2 – AUTHORITY	2
SECTION 402A.3 – SCOPE AND PURPOSE	2
SECTION 402A.4 – DEFINITIONS.....	2
SECTION 402A.5 – MOBILE HOME PARK USE	4
SECTION 402A.6 – UTILITY SERVICE	4
SECTION 402A.7 – PERMIT FOR A PARK.....	5
SECTION 402A.8 – MOBILE HOME PARK DEVELOPMENT	5
SECTION 402A.9 – PERMITS FOR MOBILE HOME UNITS IN PARKS	8
SECTION 402A.10 – LICENSES	8
SECTION 402A.11 – INSPECTION OF MOBILE HOME PARKS	9
SECTION 402A.12 – COMPLIANCE.....	10
SECTION 402A.13 – STANDARDS AND SPECIFICATIONS	10
SECTION 402A.14 – SEPTIC SYSTEMS	14
SECTION 402A.15 – ELECTRICAL DISTRIBUTION SYSTEM.....	14
SECTION 402A.16 – FIRE PROTECTION	14
SECTION 402A.17 – ENFORCEMENT	14
SECTION 402A.18 – APPEALS	15
SECTION 402A.19 – VARIANCES.....	15
SECTION 402A.20 – REPEALING CLAUSE.....	15
SECTION 402A.21 – SEVERABILITY CLAUSE.....	15

SECTION 402A.1 – TITLE

This ordinance shall be known and may be cited as the “Mobile Home Park Ordinance of the Town of Gray, Maine.”

SECTION 402A.2 – AUTHORITY

This ordinance is adopted under the authority of the Constitution and laws of the State of Maine.

Regulation of the development, construction, expansion and/or alteration of mobile home parks and the attachments of reasonable conditions to such activities are exercise of valid police powers. These regulations for design, construction, and administrative review of mobile home parks are established to ensure the health, safety, and general welfare of the park residents and the community at large.

SECTION 402A.3 – SCOPE AND PURPOSE

This ordinance shall govern the location, establishment, expansion, and operation of all mobile home parks within the corporate limits of the Town of Gray, Maine.

It is the intent of this Ordinance to establish a Mobile Home Park Overlay Zone. This zone applies to all lands identified as mobile home park overlay zones on the Town of Gray, Maine Zoning Map.

Where the boundaries of the MHPOZ as delineated on the zoning map are in dispute, the Planning Board, with the advice from the town staff and the Gray Water District, shall interpret the intent and purpose of the zoning map to determine their location.

In the event of approval of a proposed mobile home park, these regulations shall take precedence over the zoning underlying the specific tract proposed for development.

In determining the suitability of a tract of land for use as a mobile home park, the factors to be considered shall include as a minimum:

- A. Soil suitability for high-density residential uses;
- B. Safe and adequate access to the public street system;
- C. The capacity of the public street to be accessed;
- D. Public water shall be provided;
- E. Tracts adjacent to developed areas, especially higher density areas, shall be preferred to tracts which “leap-frog” vacant tracts.

SECTION 402A.4 – DEFINITIONS

- A. **Accessory Buildings:** Any building customarily incidental to the principal buildings which may include a garage, porch, storage, tool or work shed.
- B. **Health Authority:** The Town Health Officer or State Department of Human Services.
- C. **License:** An authorization, or written evidence thereof, issued by the Town of Gray, to maintain and operate a mobile home park.
- D. **Manufactured Housing:** As defined by State Statute- (30-A.M.R.S.A. Sec. 4358 (1)(A)).
- E. **Mobile Home Park:** A parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes.

- F. **Mobile Home Park Lot:** The area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality may require a lot to be designated on a mobile home park plan.
- G. **Mobile Home Stand:** That part of a mobile home park which has been improved of the placement of one mobile home including all required appurtenant structures and having provisions for available utility connections.
- H. **Non-Conformities:** Lots, structures, uses of land and structures and characteristics of uses, which are prohibited under the term of this Ordinance but permitted to continue unless there is a compelling reason, such as imminent danger to health, to eliminate the non-conformity.
- I. **Parking Space:** A minimum of nine (9) feet in width by eighteen (18) feet in length.
- J. **Park Management:** The person who owns or has charge, care, or control of the mobile home park.
- K. **Permanent Buildings:** Buildings or structures permanently affixed to foundations and not including mobile homes or their accessory buildings on mobile home park lots.
- L. **Permit:** An authorization, and written evidence thereof, issued by the Town of Gray, to: construct, alter, and extend a mobile home park; or, to move or relocate a mobile home.
- M. **Person:** Any individual, firm, trust, partnership, public or private association or corporation.
- N. **Pitched, Shingled Roof:** A roof with a pitch of two or more vertical units for every twelve horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other materials, but specifically excludes corrugated metal roofing materials.
- O. **Public Water Supply:** Services, facilities and resource supply provided exclusively by the Gray Water District.
- P. **Recreational Vehicle:** A vehicle type portable structure without a permanent foundation, which can be towed, hauled, or driven and primarily designed as temporary living accommodation for recreational, camping, and travel use and including but not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes.
- Q. **Sewer Connection:** All pipes, fitting, and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe of the sewage system serving the manufactured/mobile home park.
- R. **Septic System:** An underground system with a septic tank used for the decomposition of domestic wastes.
- S. **Sewer System and Treatment:** Man-made devices for the collection, treatment, and disposal of sewage.
- T. **Street:** Any street, area, avenue, boulevard, drive, public place, or highway designed for or commonly used for the purpose of travel by vehicles within the corporate limits of the Town. Distinctions are made in this Ordinance between public streets, which are those outside the boundaries of the mobile home park, and private streets, which are those within the mobile home park.
- U. **Trailer:** A structure standing on wheels, towed or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods, or objects, or as a temporary office.
- V. **Travel Trailer:** A recreational vehicle that is towed by a car or a truck.

W. **Water Connection:** The connection consisting of all pipes, fitting, and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the mobile home.

X. **Water Riser Pipe:** That portion of the water supply system servicing the mobile home park which extends vertically to the ground elevation and terminates at a designated point at each mobile home lot.

SECTION 402A.5 – MOBILE HOME PARK USE

A. Mobile home parks shall be located within the Mobile Home Park Overlay Zone as adopted by the Town of Gray.

No portion of the Park shall be located closer than fifty (50) feet to any public way.

The placement of recreational vehicles and trailers is specifically prohibited by this Ordinance.

B. It shall be unlawful for any person to connect utilities to or to occupy a mobile home in a mobile home park within the Town of Gray unless the park is duly licensed under the terms of this ordinance.

C. Permitted Uses

1. Manufactured Housing as defined by State Statute (30 – A.M.R.S.A. Sec. 4358 (1)(A)).
2. Open Space in the park for recreational use of park residents only.
3. Specifically recognized accessory uses:
 - a. Park Management Office
 - b. Community or recreation building within the park provided for use by park residents only.
 - c. Laundry building provided for use by park residents only.
 - d. Service equipment building for storage of park maintenance equipment only
 - e. Storage facilities for use by park residents only.

D. Conditional Use: Home Occupations

E. Non-Conformities

1. Any mobile home park in existence in the municipality prior to adoption of this ordinance that complies with all applicable legal requirements then in effect is deemed to be legal non-conforming and is not subject to the provisions of this chapter except those concerning use of gas, fuel, and fire protection.
2. An individual mobile home may be replaced or relocated within a legally non-conforming mobile home park if such mobile home is blocked and anchored in compliance with the requirements of the Town of Gray, and if connections are made in compliance with the requirements of the Town of Gray.

SECTION 402A.6 – UTILITY SERVICE

Utility services (water, sewer system, septic system, solid waste, electric) shall be provided only to mobile home parks licensed in accordance with this ordinance.

All utility services shall be provided in accordance with applicable codes and regulations adopted by the Town of Gray and the State of Maine and which are in force at the time of park plan approval.

SECTION 402A.7 – PERMIT FOR A PARK

A. It shall be unlawful for any person to place, construct, or extend any mobile home park within the limits of Gray unless a plan for the park has been approved by the Planning Board and unless that person holds a valid permit issued by the Town of Gray in the name of such person for the specific construction, alteration, or extension proposed.

B. All applications shall be accompanied by the deposit of an application fee of one hundred and fifty dollars (\$150)

C. When, upon review of the application, the Planning Board is satisfied that the proposed plan meets the requirements of this ordinance, it shall authorize the Code Enforcement Officer to issue a permit.

SECTION 402A.8 – MOBILE HOME PARK DEVELOPMENT

A. Master Plan

1. Plan required – It shall be unlawful for any person to place, construct, expand, or operate any mobile home park within the limits of the Town of Gray, unless a plan for the park has been approved by the Planning Board.
2. Pre-application – Generally, prior to the official filing of a mobile home park plan, the developer shall consult with the Town Planner for briefing and advice on the procedures, policies, specifications, and standards required by the Town for mobile home park development.

A sketch plan, or concept plan, shall be submitted to save the developer time and expense in reaching general agreement with the Town as to the form of the plan and the objectives of these regulations.

Ten copies of the Sketch Plan, or concept plan, shall be submitted to the Town Planner at least 10 days prior to the date of the next Planning Board meeting.

Form and Content – Concept plan or pre-application shall show the following:

- a. General Park Plan Information
 - (i) Site conditions (i.e. existing buildings; treed areas; deer yards; etc.)
 - (ii) Proposed development;
 - (iii) Data on land characteristics (i.e.: dimensions; legal description);
 - (iv) Existing and proposed facilities with utilities;
 - (v) Number and size of lots;
 - (vi) Areas and uses adjacent to the subject tract;
 - (vii) Proposed physical improvements.
- b. Location Map
 - (i) Relationship to existing community with a one (1) mile radius.

(ii) Development name, location, scale, north arrow, and date.

c. Plan

(i) Proposed layout

(ii) Streets

(iii) Lots

(iv) Other features (i.e.: Laundromat; open space; office; landscaping; etc.)

(v) May be made directly on a print of the topographic survey, if available.

The Planning Board shall review the sketch plan, or concept plan, and notify the developer of any changes, modifications, or amendments prior to the submission of the final park plan.

3. Application and Processing of Final Park Plan – The developer shall comply with all applicable requirements and regulations as stated in all applicable State and local regulations.

The developer/owner shall submit twenty (20) copies of the final plan with all required items, including all fees, to the Town Planner at least seventeen (17) working days prior to the date on which proper consideration is to be given by the Planning Board. No incomplete final plan application shall be accepted by the Town Planner.

The Planner shall review the park plan as to its conformity with the Comprehensive Plan, the recorded plan and the standards and specifications set forth herein or referred to herein.

The park plan shall also be reviewed by the Town Manager, Town Engineer, Director of Public Works, Director of Parks and Recreation, Law Enforcement, Fire Chief, Rescue, Unit, Post Office, Code Enforcement Officer, Superintendent of the Gray Water District, and the Superintendent of Schools. They shall convey their recommendations concerning the plan to the Town Planner at least 10 days prior to the date on which proper consideration is to be given by the Planning Board. The Town Planner shall relate the comments to the Planning Board at the meeting for which such plan is scheduled for consideration.

The planner shall present the park plan to the Planning Board with comments and recommendations of staff of any other person or agency.

The Planning Board shall study the plan and all recommendations, taking into consideration the requirements of these regulations. Particular attention will be given to the health, safety, and welfare of the park occupants, the arrangement, location, and width of streets, their relation to the topography of the land, sewage disposal, drainage, lot sizes and arrangements, the further development of adjoining lands as yet unsubdivided, and the requirements of other ordinances, policies, and plans as adopted by the Town of Gray.

Within thirty (30) days from the date on which the Planning Board first reviews the Mobile Home Park, the Planning Board shall approve, conditionally approve, or disapprove such plan. In the event of disapproval, the Board will advise the applicant of the specific changes or additions it will require in the layout, and the character and extent of required improvements and reservations which it will require as a prerequisite to the approval of the plan.

4. Form and Content

- a. The plan shall be drawn on sheets twenty-four (24) inches wide and thirty six (36) inches long. It shall be drawn to a minimum scale of 100 feet to one inch. The plan shall also show the following:
- (i) Name and address of the record owner; owner's representative, if applicable; and the project engineer or surveyor.
 - (ii) Present name of the mobile home park and any other names under which the park has been reviewed, if any.
 - (iii) Mobile home park boundary, indicated by heavy lines, and its computed acreage.
 - (iv) Location, on the site and adjacent to the site, of all existing and proposed:
 - (01) Buildings and structures.
 - (02) Streets and other rights-of-way and easements.
 - (03) Locations and sizes of utilities.
 - (04) Street paving widths.
 - (05) Curb return radii.
 - (06) Parking areas.
 - (07) Screening.
 - (08) Natural and environmental features including wetlands, streams, water bodies, etc.
 - (v) Present tract designation
 - (vi) Description by metes and bounds of the perimeter of the mobile home park and its location with respect to an original survey of which it is a part.
 - (vii) Primary control points or descriptions and ties to such control points to which all dimensions, and angle, bearings, lot numbers and similar data shall be referred.
 - (viii) Exact location, dimensions, tract designation, and name of existing and proposed residential lots, parks, public areas, and other related sites within the mobile home park.
 - (ix) The location, dimensions, and flow line or existing water courses and drainage structures on the site or adjacent to it.
 - (x) Date of survey, scale, and north arrow.
 - (xi) Key map, drawn at a satisfactory scale to show the relationship of the property to adjacent existing streets and identifying features for a distance of at least one-half mile.
 - (xii) Contour lines on a basis of five vertical feet in terrain with a slope of two percent (2%) or less, and on a basis of two vertical feet in terrain with a slope of more than two percent (2%).
 - (xiii) A number or letter to identify each lot, or site, and each block.
 - (xiv) Front setback lines shown graphically on all lots and sites. Rear and side yard lines shall be described either graphically or as a note on the plan.

- (xv) Location of corporate limit line if it traverses the mobile home park or forms part of its boundary.
- (xvi) Other conditions on the site, both physical and technical, when deemed necessary for complete review, and to evaluate impacts on groundwater and adjacent properties (i.e. hydrogeologic studies, erosion control plans).
- (xvii) Index sheet if site plan is drawn on more than one sheet showing the entire mobile home park at a scale determined by the Town Planner.

B. REVISION OF PLAN AFTER APPROVAL

No changes, erasures, modifications, or revisions shall be made in any plan of a mobile home park after approval has been given by the Planning Board, unless said changes, erasures, modifications, or revisions are first submitted to and approved by the Planning Board.

C. RESPONSIBILITIES OF THE PARK MANAGEMENT

1. The person to whom a license for a mobile home park is issued shall operate the park in compliance with this ordinance and shall provide adequate supervision to maintain the park.
2. The park management shall supervise the placement of each mobile home on its mobile home stand in accordance with this ordinance.
3. The park management shall maintain a register containing the names of all mobile home owners identified by lot number or street address. Such register shall be available to any herein authorized person inspecting the park.

D. RESPONSIBILITY OF PARK OCCUPANT

1. The park occupant shall comply with a applicable requirements of this ordinance and shall maintain his mobile home lot, its facilities, and equipment in good repair and in a clean and sanitary condition.
2. The park occupant shall be responsible for proper placement of his mobile home and accessory structures on its mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management and State and Town codes.

SECTION 402.A.9 – PERMITS FOR MOBILE HOME UNITS IN PARKS

- A. It shall be unlawful for any person to place, construct, or extend a mobile home in a mobile home park unless that person holds a valid permit issued by the Code Enforcement Officer in the name of such person for the specific placement, construction alteration, or extension proposed.
- B. All applications for permits shall be made on a form provided by the Town and shall be accompanied by or have already on file with the Town approved master plans and licenses as provided for in this ordinance.

The Code Enforcement Officer shall review permit applications and inspect the premises to determine that the same complies with this ordinance and any other applicable codes and ordinances relative to the location, construction, arrangement, safety, and sanitary facilities of the mobile home.

SECTION 402A.10 – LICENSES

A. APPLICATION AND RENEWAL

It shall be unlawful for any person to operate any mobile home park within the limits of the Town of

Gray unless he holds a valid license issued annually by the Town Council in the name of such person for the specific mobile home park. All applications for licenses shall be made to the Town Manager. After inspection by the CEO and by other Town staff and agencies as required by the CEO, and recommendation to the Town Council, the Council shall issue a license upon compliance by the applicant with provisions of this ordinance.

Application for original licenses shall be in writing, signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and by the deposit of a fee and shall contain at a minimum: the name and address of the applicant; the location and legal description of the mobile home park; and a master plan of the mobile home park.

Applicants for renewals of licenses shall be made in writing by the holders of the licenses, shall be accompanied by the deposit fee of one hundred fifty dollars (\$150.00), and shall contain any change in the information submitted since the original license was issued or the latest renewal granted.

B. A license issued to any person for park operation shall not be transferrable in any way should the park be sold, transferred, given away, or otherwise disposed of in interest or control. The unused portion of the license renewal fee shall be pro-rated and refunded to the license holder. A new application for license must be applied for by any new owner or holder of interest in any park in accordance with Section 10.A of this ordinance.

C. DENIAL OR SUSPENSION

In the event that the Code Enforcement Officer recommends denial of a renewal of a park license or suspends a license in effect, notice of such decision shall be sent to the applicant. At its earliest possible convenience, the Town Council shall conduct a public hearing regarding the denial or suspension. Notice of such hearing shall be sent to the park owner, park manager, and all residents of the park.

In conducting its hearing, the Town Council shall review the issues which pertain to the specific situation. The Council shall review:

1. Park compliance with state and local regulations
2. Health, safety, and general welfare issues
3. Water and sewage facilities
4. Compliance of the park with its approved plan
5. Other issues which may be deemed relevant

The Town Council shall either approve, approve with conditions, or support the denial of the park license. If the applicant should disagree with the action of the Town Council, he may appeal by filing a civil action in Superior Court.

SECTION 402A.11 – INSPECTION OF MOBILE HOME PARKS

The Code Enforcement Officer or his agent is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this Ordinance and shall have the power to enter at

a reasonable time upon any mobile home park property for the purpose of inspecting and investigating conditions relating to the enforcement of this Ordinance.

It shall be the duty of park management to give access to the park register and to all lots during normal business hours to the Code Enforcement Officer or his agent for the purpose of inspection.

SECTION 402A.12 – COMPLIANCE

A. NOTICES

Whenever the Code Enforcement Officer or his agent determines that there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance; he shall give notice of such alleged violation to the person to whom the permit or license was issued as hereinafter provided. Such notice shall:

1. Be in writing
2. Include a statement of the reasons for its issuance
3. Allow a reasonable time for the performance of any act it requires
4. Be served upon the owner or his agent as the case may require, provided that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by certified return receipt to his last known address, or when he has been served with such notice by any method authorized by the laws of this state.

B. EMERGENCIES

Whenever the Code Enforcement Office finds that an emergency exists which requires immediate action to protect the public health, he may without notice or hearing issue an order reciting the existence of such an emergency and requiring that certain action be taken as he may deem necessary to meet the emergency. Notwithstanding any other provision of this Ordinance, such order shall be effective immediately. Any person to whom such an order is directed shall comply immediately, but shall be afforded a hearing before the Town Council as soon as possible. The provision of this Ordinance shall be applicable to such hearing and the order issued thereafter.

SECTION 402A.13 – STANDARDS AND SPECIFICATIONS

A. DRAINAGE, STORMWATER MANAGEMENT, AND EROSION CONTROL

1. A storm drainage study and a proposed drainage system plan bot certified by a registered professional engineer, for surface and subsurface runoff, showing measures proposed to prevent pollution of surface or ground water, soil erosion, increased runoff, changes in ground water level and flooding. The storm drainage study shall document post vs. pre-development runoff conditions for the two (2) and twenty-five (25) year, twenty-four (24) hour storms. Drainage improvements shall be designed to control the rate of runoffs for the twenty-four (24) hour storm such that the rate of post development runoff will not exceed that of the pre-development condition.
2. Soil erosion and the sedimentation control plans prepared according to the specifications of the Cumberland County Soil and Water Conservation District (CCS&WCD), including a letter of plan approval by the CCS&WCD.

B. STREET SYSTEM

1. Interior park streets shall intersect adjoining public streets at approximately ninety degrees (90°) and at locations which will eliminate or minimize interference with traffic on those public streets. Access shall be in compliance with acceptable engineering standards and with a professional engineer's seal as required by the Manufactured Housing Board.
2. Parking: All parking shall be off-street. Each mobile home unit shall be provided with two (2) on-site parking spaces. Each space shall have minimum dimensions of nine feet (9') width and eighteen feet (18') length.
3. Guest Parking: Guest parking shall be provided at a rate of one space for each four (4) mobile home units. Guest parking shall be located such that no mobile home is farther than two hundred feet (200') (walking distance) from guest parking.
4. Minimum pavement widths of park streets shall be twenty feet (20') for two-way traffic; fourteen feet (14') for one-way traffic, and at least seven feet (7') shall be added for each parking lane if provided. In addition to the minimum pavement width, all streets in a mobile home park shall have a cleared area (no vegetation or appurtenances over three feet high) of forty feet (40') within the right-of-way to provide for maneuvering of mobile homes.
5. The park street system shall have direct connection to a public street.
6. Street grades may not be more than eight percent (8%). Short runs with a maximum grade of twelve percent (12%) may be permitted, provided traffic safety is assured.
7. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets to each mobile home lot. Such access shall be provided by private park streets.
8. Entrances to mobile home parks shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets. No parking shall be permitted on the mobile home park entrance street for a distance of one hundred feet (100') from its point of beginning.
9. Park streets shall be built and designed according to acceptable engineering standards and with a professional engineer's seal as required by the Manufactured Housing Board. In the event the developer intends to offer the streets to the Town for acceptance as town ways, park streets shall be built and designed to those standards as set forth in the Town of Gray Subdivision Ordinance.
10. Park entrance streets must be able to accommodate all vehicle types having occasion to enter the park, including delivery vehicles and emergency vehicles.
11. All connections to the public street system shall be paved and shall meet the following standards:
 - a. Separation of park streets: four hundred feet (400') along the public road frontage.
 - b. Corner clearance is determined by the functional classification of the street as follows:
 - (i) Arterials: eighty feet (80')
 - (ii) Collectors: forty feet (40')
 - (iii) Minor: thirty feet (30')
 - c. Specifications for access aprons shall be equal to the specifications for the existing street and shall be built according to acceptable engineering standards and with a professional engineer's seal as required by the Manufactured Housing Board.

12. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated and is not separated from automobile traffic. Such common walks shall have a minimum width of three and one half feet (3 1/2'). If the slope of a walk is greater than five percent (5%) (1 in. rise in a 20 in. run), a handrail should be provided. The slope of a walk shall not exceed 8.33 percent (8.33%) (1 in. rise in a 12 in. run). Walks shall have a continuous common surface, not interrupted by steps or abrupt changes in level greater than 1/2 in. Where walks cross driveways or parking lots, they shall blend to a common level by means of curb cuts, ramps, or other means. Curb cuts shall have a textured nonslip surface (such as broom-finish concrete). Walks shall be provided with a level area no less than five feet (5') by five feet (5') where they terminate at the doors; in no case shall such walks extend less than one foot (1') beyond the side from which the door opens.
- C. A performance bond or similar financial guarantee acceptable to the Town Manager to secure completion of all improvements required by the Board and written evidence that the Municipal Officers are satisfied with the sufficiency of such bond shall be submitted.
- D. No part of any park shall be used for non-residential purposes except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park, except for recreation.
 1. Nothing contained in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home lot and connected to the pertinent utilities.
- E. The storage, collection, and disposal of refuse in the mobile home park shall be so conducted as to comply with the Town of Gray laws.
- F. Community facilities for the residents of each park should be provided. Facilities should meet the expected indoor and outdoor leisure time needs and may include common laundry facilities and office space for management. Facilities, when provided, shall be safely accessible to all residents. Such structures shall meet all applicable Town and State codes including those for buildings, utilities, occupancy, and handicap accessibility.
- G. Accessory structures or permanent structures within the park shall meet all construction standards for building, plumbing, electrical, and fire protection as adopted by the Town of Gray and the State of Maine.
- H. Each lot shall be marked for identification, easily readable from the park street.
- I. All mobile home parks subject to this Ordinance will connect to the public water system provided by the Gray Water District.
 1. Individual water riser pipes shall be located within the confined area of the mobile home stand at a point where the water connection will approximate a vertical position and shall include a cut-off valve before entering the mobile home.
- J. An adequate and safe septic system or sewer system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such system shall be designed, constructed, and maintained in accordance with state and local laws. Cluster septic systems shall be limited to a maximum of four dwelling units.
- K. LOT LAYOUT AND STANDS

1. Each mobile home lot shall contain a minimum area of 20,000 square feet. Units may be clustered on a 12,500 square foot lot when serviced by a central on-site subsurface waste water disposal system approved by the Maine Department of Human Services provided that a total of 20,000 square feet per unit is provided. Lot areas are exclusive of park streets.
2. Mobile home stands shall occupy no more than twenty percent (20%) of the respective lot area. The accumulated floor area of the mobile home and its accessory structures shall not exceed fifty percent (50%) of the total area of the lot.
3. Each mobile home shall be anchored to a six inch (6") thick reinforced concrete slab, the horizontal dimensions of which are the same or larger than the mobile home unit. The concrete slab shall be placed on not less than a 12" layer of well graded compacted gravel on a stripped subgrade. Suitable masonry piers shall be placed from the concrete slab to the girders and hold-down wires, chain, or cable shall be anchored into the slab. A suitable attached skirt extending from the concrete slab to the mobile home shall be provided.
4. The lots within any mobile home park shall not all be of the same size and shape if mobile homes of different sizes are to be accommodated and if effective use is to be made of the available space.
5. Buildings, mobile homes, or any structures shall be set back at least ten feet (10') from side and rear lot lines and twenty-five feet (25') from any park street. There shall be no variances of these setbacks.
6. Buildings and mobile homes shall be set back at least fifty feet (50') from any abutting property.
7. Placement of mobile homes within a park which appear to be perpendicular to a public road outside of the park is prohibited.
8. The site, including mobile home stand, patio, structures, and all site improvements shall be harmoniously and efficiently organized in relation to topography, the shape of the lot and the shape, size, and position of structures. Full attention shall be paid to use, appearance, and livability. Special attention shall be given to new mobile home designs and to common appurtenances that are available.
9. The mobile home unit shall be fitted to the terrain with a minimum disturbance to the land. Existing trees, rock formations and other natural site features shall be preserved to the extent practical.
10. The distance between mobile homes or mobile home stands shall not be less than twenty feet (20'). If structural additions to the mobile home are to be allowed, design distances must take the additional space required into account.
11. The site shall provide for a desirable residential environment which is an asset to the community. Innovative and imaginative designs shall be developed.
12. Visual buffers shall be provided within the property boundary perimeter setback area.
 - a. Screen planting shall consist of a mixture of evergreen and deciduous trees or shrubs which will be at least six feet (6') in height and seventy percent (70%) solid within three (3) years of planting.
 - b. Screen fences shall be visually attractive structures and constructed of durable weather resistant materials.

- c. Earth mounds shall be limited to slopes which can be easily maintained (3 to 1 for grassed slopes) and be used preferably in combination with screen planting.

13. A variety of lot and home orientations within each site plan shall be encouraged to:

- a. Eliminate monotony and repetitive unit siting;
- b. Ensure compatibility and specific site shapes and harmony with topography;
- c. Encourage individual mobile home site privacy;
- d. Create siting variety and improve appearance; and
- e. Take advantage of solar siting.

14. Each mobile home lot shall be designed to be occupied by one mobile home and uses thereto.

L. Each park shall provide either a recreation area or a fee-in-lieu of provision of such an area.

- 1. Recreation areas shall be not less than 2,500 square feet of area, or 100 square feet of area per space, whichever is greater. Suitable separations or other safeguards shall be provided if the recreation area abuts upon a railroad, a public street, a steep slope, or other similar hazard. Land reserved for recreation areas shall be developed, suitable, and usable for such use.
- 2. A fee in lieu of provision of land shall be made in conformance with the Town of Gray Subdivision Ordinance.

SECTION 402A.14 – SEPTIC SYSTEMS

All septic systems shall comply at a minimum with the State of Maine Plumbing Code.

SECTION 402A.15 – ELECTRICAL DISTRIBUTION SYSTEM

- A. Every mobile home park and every mobile home shall contain an electrical wiring system consisting of wiring, fixtures, equipment, and appurtenances which shall be installed and maintained in accordance with the Town of Gray Electrical Code and current edition of the National Electric Code governing such systems and approved by the Code Enforcement Officer.
- B. All electrical service to the park shall be installed to comply with standards acceptable to the service provided (Central Maine Power, etc.)

SECTION 402A.16 – FIRE PROTECTION

Mobile home parks shall be kept free of litter, rubbish, and other flammable materials.

Portable fire extinguishers rated for classes A, B, and C fires shall be kept in Community Facilities Bldg. and maintained in good operating condition. Their rating shall not be less than 1A10BC (Underwriters Laboratory Rating). Mobile homes shall conform to the requirements of the N.F.P.A. 101 Life Safety Code as amended where applicable.

SECTION 402A.17 – ENFORCEMENT

On behalf of the Town, the Town Attorney shall, when directed by the Town Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this ordinance or the standards referred to herein with respect to any violation thereof which occurs.

SECTION 402A.18 – APPEALS

If the applicant should disagree with the action of the Planning Board, he may further appeal by filing a civil action in Superior Court.

SECTION 402A.19 – VARIANCES

A. Except as provided in subsection 19A-1, the Zoning Board of Appeals may authorize a variance from the bulk and space requirements of these regulations when, in its opinion, undue hardship will result from strict compliance. A variance shall not be authorized from Section five (5) of these regulations.

A-1 Disability Variance

The Board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, disability has the same meaning as a physical or mental handicap under Title 5, MRSA Section 4553.

B. The term “undue hardship” shall mean:

1. The land in question cannot yield a reasonable return unless a variance is granted; and;
2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and;
3. The granting of a variance will not alter the essential character of the locality; and;
4. The hardship is not the result of action taken by the applicant or a prior owner.

C. All requests for variance from the ordinance shall be submitted in writing. The decision of the Board of Zoning Appeal shall be rendered prior to application for Mobile Home Park approval. Written decision shall be forwarded from the ZBA to the Town Planner.

SECTION 402A.20 – REPEALING CLAUSE

All ordinances in conflict with the provisions of this Ordinance are hereby expressly repealed to the extent of said conflict with mobile home park development requirements.

SECTION 402A.21 – SEVERABILITY CLAUSE

Should any portion or part of this Ordinance be held by a court of competent jurisdiction for any reason invalid or unenforceable, the same shall not be construed to affect any other portion hereof, but all other portions hereof shall remain in full force and effect.

CHAPTER 212
MOBILE VENDOR ORDINANCE
TOWN OF GRAY

Adopted November 19, 1985
Amended March 17, 1992

SECTION 212.1 – TITLE AND PURPOSE

This Ordinance shall be known and may be cited as the Mobile Vendor Ordinance of the Town of Gray, Maine.

This ordinance applies to any food service establishment, including ice cream vendors, hot dog stands, push carts, and other food services that are located on private property. Mobile units for the sale of food on public ways is regulated by the Lunch Wagon Statute under 30-A M.R.S.A. Section 3931.

SECTION 212.2 – DEFINITIONS

“Disqualifying Criminal Conviction” shall mean and include any conviction or any criminal offense punishable by imprisonment for more than one year whether or not the sentence was imposed or served, but shall not include any conviction which is more than five (5) years old or is shown to have been set aside on appeal or collaterally, or for which a pardon, certificate of rehabilitation, or equivalent under the law of the sentencing jurisdiction has been granted.

“Mobile Vendor” shall mean and include any food service establishment not more than eight (8) feet in width and eighteen (18) feet in length attached to wheels and which is capable of moving under its own power or being self-contained unit to be readily moved and must have a wash basin and napkins if selling food and which has all utilities and facilities contained within it or is capable of hookup thereto, in order to serve persons present at its location. The term shall exclude any use which falls exclusively within the definition of “lunch wagon” under 30-A M.R.S.A. Sec. 3931 as amended from time to time.

SECTION 212.3 – LICENSE

No person, firm, corporation or association shall operate as a mobile vendor in Gray without first securing a license under this ordinance. Any person seeking such a license shall annually make application to the Gray Town Council. Within thirty (30) days of receipt of said application, the Town Council shall hold a public hearing following notification of the abutters of the location at which the vendor intends to do business. Following the Public Hearing, the Council shall issue, issue with conditions, or deny the license. Said license shall expire on December 31st of each year. Fees will not be prorated. Refer to the Town’s fee schedule for the annual license fee.

SECTION 212.4 – APPLICATION FORM

This application shall be on a form provided by the Town Clerk and shall require the applicant to furnish the following information:

- A. Name, address and telephone number of mobile vendor owner.
- B. Name, address and telephone number of mobile vendor operator, if different from owner.
- C. Identification of site or sites where mobile vendor will operate.
- D. Description of mobile vendor vehicle and its license number, if any.
- E. A certificate of insurance as required in Section 212.8.
- F. A photograph or sketch, or plan of the mobile vendor vehicle.

- G. A certificate of approval issued by the Department of Human Services of the State of Maine, if required.
- H. A complete record of the applicant with respect to any disqualifying criminal conviction or a statement by the applicant that no such conviction exists.
- I. An appropriate form of statement, over the signature of the applicant, giving all persons and governmental agencies having information relevant to the above items and permission to release same to the Clerk.
- J. A description of those items which the applicant proposes to sell and dispense.
- K. Written evidence from the Code Enforcement Officer that the use is allowed in the zoning district (s) in which the applicant proposes to operate.

SECTION 212.5 – DISQUALIFYING CRIMINAL CONVICTIONS

A license granted under this section shall be denied or revoked when any applicant or licensee has received a disqualifying criminal conviction at any time during the five years immediately preceding the application or while a license granted under this ordinance is in effect – or has been imprisoned at any time during said periods for a disqualifying criminal conviction, provided that said conviction was for an offense which is rationally related to the purpose of licensing mobile vendors.

SECTION 212.6 – SCOPE OF AUTHORITY

A licensee under this ordinance shall be authorized to sell and dispense only those items which have been described in the application and which the mobile vendor is equipped to dispense pursuant to the rules described by the Department of Human Services, as they may be amended from time to time. No mobile vendor shall operate within two hundred (200) feet of any fixed base retail establishment or other mobile vendor offering the same or substantially similar goods or services. A mobile vendor shall operate only on private property and not within or on any public ways. No license shall be granted for a mobile vendor unless allowed as a land use in the underlying zoning district(s) in which it operates.

SECTION 212.7 – OPERATING STANDARDS

- A. Location. A mobile vendor may operate only on land that is owned by the operator or land which he/she has written permission to use. If the mobile vendor is to be operated on land that is not owned by the operator, a copy of the written permission to use the land of another property owner must be submitted to the Town Council along with the original application on such forms as the Town shall require.
- B. Abutters of land to be used by a mobile vendor shall be notified of the Public Hearing date at which the mobile vendor's application will be considered by the Town Council.
- C. Access. Mobile vendor license applicants demonstrate to the Town Council that there is sufficient access, parking and maneuvering space available at the site on which the mobile vendor will operate. The location and adequacy of approaches shall be first reviewed by the Code Enforcement Officer. Suitable, safe access by pedestrians must also be provided.
- D. Mobile vendors and any mobile vendor ancillary facilities such as parking shall be located at least ten (10) feet from the nearest edge of the roadway surface and ten (10) feet from the adjacent side lot lines, unless written approval is received from the abutter to locate less than ten (10) feet from the side lot line.

- E. The approved mobile vendor registration sticker issued by the Town of Gray must be conspicuously displayed on the vending equipment. This sticker is non-transferable.
- F. Mobile Vendor Signs. Mobile vendors must conform with the Town of Gray Sign Ordinance.
- G. Hours of operation shall be from sunrise to sunset. The mobile unit shall be removed from the site and relocated in a safe and suitable place between the hours of sunset and sunrise.
- H. Noise level (dBA). No loud speakers or any unnecessary noise will be allowed on the site. Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. The average dBA count resulting shall not exceed sixty (60) dBA at any point on or beyond the site.

SECTION 212.8 – RUBBISH CONTAINERS

A sufficient number of covered, metal rubbish containers shall be provided at each site immediately adjacent to the mobile vendor to hold material discarded by its customers, and the license shall cause the same to be emptied as necessary. In no case shall such containers be more than ten feet from the mobile vendor vehicle. A licensee shall keep sidewalks, roadways, and other public or private spaces adjoining and adjacent to his/her locations clean and free from paper and refuse of any kind which may be generated by the operation of the business.

SECTION 212.9 – INSURANCE

The licensee shall provide written evidence of insurance coverage for the period of the license and executed by an insurance company authorized to issue such policy in the state, in the usual form of automobile liability insurance policies in this state for injuries to persons and property resulting from the use and operation of the vehicle to be licensed.

Such policy of insurance shall be issued for the principal sum not less than \$300,000 for bodily injury, death and property damage. A certificate of insurance bearing an endorsement thereon by the issuing agent shall be deposited with the Clerk. Such certificate shall state that the issuing agent will notify the clerk in writing no less than thirty (30) days prior to the cancellation thereof.

SECTION 212.10 – AUTOMATIC REVOCATION OR SUSPENSION

No license granted under this ordinance shall be effective for any period during which the licensee's certificate of approval, issued by the Department of Human Services, is suspended or revoked.

SECTION 212.11 – GROUNDS FOR SUSPENSION OR REVOCATION

A license granted under the authority of this ordinance may be suspended or revoked by the Town Council, after notice of hearing, when the Council determines that the licensee has violated any condition of this ordinance or any other applicable law, or of the license granted to him/her.

CHAPTER 206
NO TOBACCO, ALCOHOL, OR MEDICAL MARIJUANA USE ORDINANCE
TOWN OF GRAY MAINE

Adopted November 1, 2011
Effective December 1, 2011

This Ordinance shall be known and cited as the Town of Gray “No Tobacco, Alcohol, or Medical Marijuana Use” Ordinance.

PURPOSE

The purpose of this ordinance is to protect, preserve and promote the health, safety welfare and quality of life of the children, inhabitants, guests and employees that use any or all Town of Gray property, whether building(s), and/or land.

DEFINITIONS

Municipality: Town of Gray, Maine.

Municipal Officers: Gray Town Council.

Building: Any structure, shelter or dwelling, set or installed permanently or temporarily upon land owned or controlled by the municipality.

Property: Any real estate, whether land or building, owned or controlled by the Municipality.

Rule: No person(s) shall use or partake of any form of tobacco, alcohol or medical marijuana on/in Town of Gray property, 365 days a year, 24 hours a day. There will be no designated areas to use or partake of any form of the same on/in Town of Gray property. No litter associated with tobacco, alcohol or medical marijuana may be discarded on/in Town of Gray property.

NOTICE & ENFORCEMENT

- A. The municipal officers authorize the Recreation and Conservation Committee to appropriately and visibly post signs indicating to the general public that all areas so posted are “Tobacco, Alcohol & Medical Marijuana Free”.
- B. The Recreation and Conservation Committee shall direct the Parks and Recreation Department to notify community organizations as reasonable and/or necessary when such areas are posted.
- C. Any and all organizations/individuals that contract for the use of Town of Gray property shall be subject to the terms and conditions of this Ordinance. All agencies with law enforcement authority, including without limitation the Town’s Code Enforcement Officer, shall enforce this Ordinance.
- D. The Recreation and Conservation Committee shall authorize all Town of Gray employees and their appointed designees to monitor compliance and enforcement of this Ordinance.
- E. For any person, firm or organization that violates this Ordinance, Town of Gray staff and their appointed designees shall request that the person(s), firms or organizations cease such unlawful activity by a verbal warning. If the person(s), firm or organization refuses to cease such unlawful activity, designees authorized by the same authority may request that the person, firm or organization leave the designated area. Refusal to obey such a lawful directive shall constitute a trespass for which any law enforcement agency with jurisdiction in Gray may enforce the same in accordance with Maine law.

SEVERABILITY

If any provision of this Ordinance shall be finally held to be invalid by any court of competent jurisdiction, this invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application. For this purpose, the “No Tobacco, Alcohol or Medical Marijuana Use” Ordinance is severable.

CHAPTER 219
NUDE ENTERTAINMENT ORDINANCE
TOWN OF GRAY MAINE

Adopted December 7, 2010

SECTION 219.1 – TITLE

This ordinance shall be known and be cited as the Nude Entertainment Ordinance of the Town of Gray, Maine.

SECTION 219.2 – LEGISLATIVE FINDINGS AND PURPOSE.

WHEREAS, establishments in other communities in Maine that allow nude entertainment have been found to create or result in certain undesirable conditions; and

WHEREAS, other communities have determined that nude entertainment can induce individuals to engage in prostitution, sexual assaults, breaches of the peace and other criminal activity; and

WHEREAS, the presentation of nude entertainment in an establishment can have negative impacts upon surrounding neighborhoods and result in a tawdry atmosphere in the area; and

WHEREAS, establishments that allow or provide nude entertainment on the premises must be carefully located in a manner that minimizes their negative secondary effects on public health, safety and morals, as discussed in detail in the McCleary report for Jackson County, Missouri (dated May 9, 2008);

NOW, THEREFORE, the Gray Town Council hereby determines that this Ordinance is necessary to address the issues set forth in this section and to lessen the negative effects that nude entertainment can have on the Town.

SECTION 219.3 – DEFINITIONS

- A. Commercial Establishment: Any retail establishment that offers food, beverages, merchandise, products or entertainment services for sale to members of the general public, operated as a for-profit business and treated as such for federal or state tax purposes.
- B. Nude Entertainment: Any display of live persons in a state of nudity or in a visible state of sexual excitement whether or not clothed.
- C. Nudity: The showing of the human male or female genitals, pubic area or buttocks or the female breast below the top of the nipple or the depiction of covered male genitals in a discernibly turgid state.
- D. Person: Any individual, partnership, firm, association, corporation, trustee, lessee, agent, assignee or other legal entity.
- E. Premises: The entire building and parcel of land on which it is located where a use occurs, including storage and unoccupied areas, regardless of whether areas are partitioned into separate rooms or used for other purposes.
- F. Sodomasochistic Abuse: Flagellation or torture by or upon a person clad in undergarments or a mask or bizarre costume or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- G. Sexual Conduct: Acts of sodomy, masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is a female, breast.

H. Sexual Excitement: The condition of the human male or female genitals when in a state of sexual stimulation or arousal.

SECTION 219.4 – USE PERMIT REQUIRED

No person operating a commercial establishment in the Town of Gray shall present or allow presentation of any form of nude entertainment on the premises of the establishment concerned without first obtaining a use permit for that purpose from the Town’s Code Enforcement Officer. The application procedure and criteria for issuance of a use permit shall be as provided in Section 402.9.1 of the Zoning Ordinance; provided, however, that the following additional requirements shall apply to commercial establishments offering nude entertainment:

- A. The application for a use permit under Section 402.9.1 of the Zoning Ordinance shall state that the proposed use includes nude entertainment. The application shall describe the nude entertainment to be offered, including the intended frequency and times, and shall indicate the area of the premises where the nude entertainment shall take place.
- B. The application shall disclose the name and current residence address of all principals of the business concerned and shall disclose the name and current residence address of all persons holding a financial interest of five percent (5%) or more in the business concerned.
- C. Prior to granting a use permit, the Code Enforcement Officer shall forward the application to the Cumberland County Sheriff’s Office for a criminal information background check on each of the persons named in the application under Subsection B above. The Code Enforcement Officer shall deny the application if the applicant, any principal of the business concerned or any holder of a five-percent or greater financial interest in the business concerned has a record of conviction of prostitution, promoting prostitution or of a Class A, B, or C felony under Maine law, or equivalent offenses in other jurisdictions, during the ten-year period ending immediately prior to the application date.
- D. Location and standards.
 - 1. No use permit shall be granted for a commercial establishment offering nude entertainment unless the premises concerned are located in an eligible zoning district and the premises concerned meet all district provisions and development standards contained in the Zoning Ordinance plus the following additional requirements:
 - a. No use permit shall be granted for a commercial establishment offering nude entertainment if the premises concerned are located within 1,000 feet of any other such establishment for which a use permit previously issued remains in force; any establishment licensed to sell alcohol for on-premises or off-premises consumption under 28-A M.R.S.A. §601 et seq.; a church, chapel, parish house or other place of worship; or a public library, juvenile shelter or orphanage in existence as of the application date, as measured from the main entrance of the premises to the main entrance of a building by the ordinary course of travel.
 - b. The premises concerned must not be located within 750 feet of the nearest district boundary of any residential zoning district established under the provisions of the Zoning Ordinance, as measured in a straight line from the premises to such property.
 - c. The premises concerned must not be located within 1,000 feet of the nearest property line of any public or private school, school dormitory, or school ground, public building, public

playground or public park, as measured in a straight line from the premises to the property line.

2. For the purposes of this Subsection D, the term "eligible zoning district" means the Commercial District "C", as designated in the Zoning Ordinance and Zoning Map.
- E. No use permit shall be issued for a commercial establishment offering nude entertainment unless the premises concerned include changing rooms and toilet facilities for performers that are separated from any area of the premises to which the public will have access.
- F. No use permit shall be issued for a commercial establishment offering nude entertainment if any portion of the premises concerned consists of residential apartments or other dwelling units, whether or not occupied.
- G. The premises concerned, in addition, shall meet all applicable local code requirements.
- H. The subsequent establishment of an establishment licensed to sell alcohol, a public or private school or school dormitory, a church, chapel, parish house or other place of worship, a public library, a juvenile shelter or orphanage, a playground or public park or the rezoning of any nonresidential district within 750 feet shall not affect the validity of a use permit of a legally existing commercial establishment offering nude entertainment. In the event of the subsequent establishment of any of the foregoing uses, the commercial establishment offering nude entertainment shall be treated as any other use permitted in the zoning district.
- I. Notwithstanding any other ordinance provision to the contrary, the Code Enforcement Officer must decide any application hereunder within thirty (30) days of its receipt, the applicant must take any appeal to the Zoning Board of Appeals within thirty (30) days thereafter, the Zoning Board of Appeals must hear the case within thirty (30) days of any such appeal, and then must decide the appeal within thirty (30) days of the conclusion of the appeal hearing.

SECTION 219.5 – CONDUCT

- A. No person under the age of eighteen (18) years shall be employed in any capacity upon the premises of a commercial establishment that offers nude entertainment. The operator of each such establishment shall be responsible for verifying the age of each employee through photographic identification, including hourly employees, salaried employees and all persons working on the premises for tips, commissions or as independent contractors, contract dancers or contract performers.
 1. Each employer shall maintain records showing the name and date of birth for each employee, including a copy of the photographic identification used to verify age. Prior to any employee's beginning employment, the operator shall bring the records to the Cumberland County Sheriff's Office to verify the age of the prospective employee. These records must be maintained by the employer until six (6) months after the employee ceases to work for the employer. These records are also subject to review by the Cumberland County Sheriff's Office on the business premises during normal operating hours.
 2. In the event that the Cumberland County Sheriff's Office reasonably suspects that any employee listed in the records is under the age of eighteen (18) years, it may copy the record for investigatory purposes. Any record or information so obtained, and any subsequent information developed therefrom, is declared to be "intelligence and investigative information" under 16 M.R.S.A. § 611, Subsection 8, the Criminal History Record Information Statute, which, if

publicly disclosed, would endanger the life or safety of the individuals named therein. Record information may be disclosed to the person named therein, notwithstanding this declaration.

- B. No person under the age of eighteen (18) years shall be admitted to any commercial establishment offering nude entertainment, as a customer or patron. The operator of each such establishment shall be responsible for verifying the age of each person entering the premises, through photographic identification.
- C. No alcoholic beverages shall be sold, served or given away on the premises of any commercial establishment offering nude entertainment, whether for on-premises or off-premises consumption. Further, operators of any such establishment shall not allow customers or patrons to bring or consume alcoholic beverages on the premises.
- D. There shall be no physical contact on the premises between patrons and dancers. For the purposes of this subsection, physical contact does not include incidental touching between a dancer and patron, but does include contact that occurs if a patron is giving a monetary tip to a dancer. In no case shall incidental contact be deemed to include physical contact otherwise prohibited by law.
- E. Dancers or performers who remove any garments during the nude entertainment shall not toss or throw those garments to any customer or patron.
- F. Dancers or performers providing the nude entertainment shall not engage in any sadomasochistic abuse or sexual conduct as defined in Section 219.3.
- G. Nude entertainment presented in a commercial establishment shall not include any showing of the male or female genitals, pubic area, perineum or anus or the female breast below the top of the nipple of any person with less than a fully opaque covering.
- H. No nude entertainment shall be presented after the hour of 1:00 a.m., local prevailing time. All premises offering nude entertainment shall be closed and cleared of customers and patrons between the hours of 1:15 a.m. and 6:00 a.m. Mondays through Saturdays and 9:00 a.m. Sundays, local prevailing time.

SECTION 219.6 – VIOLATIONS AND PENALTIES

- A. Any violation of this Chapter by the owner, lessee, licensee, permittee or operator of a premises shall constitute a land use violation and shall be subject to prosecution and penalties as provided in 30-A M.R.S.A. §4452, provided that the minimum fine for any violation by such persons shall be \$500 for each offense. Each day in violation shall constitute a separate offense. In addition, the Code Enforcement Officer may suspend or revoke the use permit for any establishment offering nude entertainment in violation of this Chapter, or in violation of conditions contained in the use permit. Suspension or revocation of a certificate of occupancy shall be subject to administrative appeal as provided in Section 402.9.2 of the Zoning Ordinance, subject to the various time requirements imposed under Section 219.4(I) above.
- B. Any violation of this Chapter by a person other than the owner, lessee, licensee, permittee or operator of any premises shall be punished by a fine of not less than \$500 for the first offense, and not less than \$1,000 for the second and subsequent offenses. Each day in violation shall constitute a separate offense.

SECTION 219.7 – THEATRICAL PERFORMANCES

The provisions of Section 219.4(A) through (D) shall not apply to theaters, dinner theaters, licensed movie theaters or similar establishments which are primarily devoted to theatrical performances or the presentation of movies, provided that any displays of live nudity within such theaters, dinner theaters, licensed movie theaters or similar establishments shall be limited to occasional nudity by bona fide stage actors during the course of theatrical performances; provided also that the provisions of Section 219.4(E) through (H), 219.5(C) through (H) and 219.6 of this Chapter shall apply to nude theatrical performances under this section.

APPLICABILITY DATE: Notwithstanding any other provision of law to the contrary, and to the maximum extent allowed by the State Savings Statute, 1 M.R.S.A. § 302, this ordinance when enacted shall be applicable to any use, application, change of use or related land use or licensing ordinance applications for any use not lawfully in existence as of November 9, 2010, when this ordinance was first read before the Town Council.

CHAPTER 216
ORDINANCE REGULATING OBSCENE MATERIAL
TOWN OF GRAY MAINE

Adopted November 2, 1993

SECTION 216.1 – TITLE

This ordinance shall be known and be cited as an Ordinance Regulating Obscene Material.

SECTION 216.2 – DEFINITIONS

As used in this ordinance, the following words shall have the following meanings:

- A. Material: Anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three-dimensional obscene device.
- B. Obscene: Material or a performance that:
1. The average person, applying contemporary community standards, would find that taken as a whole appeal to the prurient interest in sex;
 2. Depicts or describes:
 - a. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or stimulated, including sexual intercourse, sodomy, and sexual bestiality; or
 - b. Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd, exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs and;
 3. Taken as a whole, lacks serious literary, artistic, political or scientific value.
- C. Obscene Device: A device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.
- D. Patently Offensive: So offensive, on its face as to be intolerable to the average person, applying contemporary community standards.
- E. Performance means a play, motion picture, dance, or other exhibition performed before an audience.
- F. Promote: To manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.
- G. Prurient Interest in Sex: A shameful or morbid interest in sex.
- H. Wholesale Promote: To manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

SECTION 216.3 – WHOLESALE PROMOTION OF OBSCENE MATERIAL OR DEVICES

- A. A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.
- B. A person commits an offense if, knowing its content and character, he:
1. Promotes or possesses with intent to promote any obscene material or obscene device; or

2. Produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.
- C. A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it, in the course of his business is presumed to do so with knowledge of its content and character.
- D. A person who possesses six (6) or more obscene devices or six (6) or more obscene articles, whether such devices or articles are similar or identical, is presumed to possess them with intent to promote the same.
- E. This section does not apply to a person who possesses or distributes obscene material or obscene devices or participates in conduct otherwise prescribed by this section when the possession, participation, or conduct occurs in the course of law enforcement activities.

SECTION 216.4 – ENFORCEMENT

The Code Enforcement Officer shall be responsible for the enforcement of this Ordinance. An enforcement action shall be brought in the name of the Town of Gray.

SECTION 216.5 – PENALTY

The violation of any provision of this Ordinance shall be punished by a civil penalty of not less than \$500, and not more than \$1,000 for each offense. Each act of violation and every day upon which any such violation occurs shall constitute a separate offense. In addition to such civil penalty, the Town may enjoin or abate any violation of this Ordinance by appropriate action.

SECTION 216.6 – VALIDITY

If any of the depictions or descriptions of sexual conduct described in this Ordinance are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this Ordinance as to other patently offensive sexual conduct included herein.

CHAPTER 217
PAID SEXUAL CONTACT ORDINANCE
TOWN OF GRAY, MAINE

Adopted November 2, 1993

SECTION 1 – TITLE

This ordinance shall be known and be cited as Paid Sexual Contact Ordinance.

SECTION 2 – DEFINITIONS

For the purpose of this Ordinance, the following definitions apply:

Sexual Contact: Any touching of the genitals, directly or through clothing, for the purpose of arousing or gratifying sexual desire.

Pecuniary Benefit: Any direct or indirect payment of money or any other object of value.

SECTION 3 – SEXUAL CONTACT FOR PECUNIARY BENEFIT PROHIBITED

Engaging in, or agreeing to engage in, or offering to engage in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or buy a 3rd person is prohibited.

Proving or agreeing to provide a person for the purposes of engaging in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a 3rd person is prohibited.

Causing or agreeing to provide a person for purposes of engaging in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a 3rd person is prohibited.

Leasing or otherwise permitting a place controlled by the defendant in any action to enforce this Ordinance, alone or in association with others, to be used as a site for sexual contact for pecuniary benefit to any person is prohibited.

SECTION 4 – ENFORCEMENT

The Code Enforcement Officer shall be responsible for the enforcement of this Ordinance. Any enforcement actions shall be brought in the name of the Town of Gray.

SECTION 5 – PENALTIES

The violation of any provision of this Ordinance shall be punished by a fine not less than five hundred (\$500) nor more than one thousand dollars (\$1000) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this article by appropriate action, including but not limited to revocation of any Town license for a premise or business in which sexual contact for pecuniary benefit is transacted.

SECTION 6 – SEVERABILITY

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

CHAPTER 502
PARKING ORDINANCE
TOWN OF GRAY MAINE

Adopted June 7, 1973

Amended May 3, 1979

Amended February 7, 1984

Amended November 20, 1984

Amended March 18, 1988

Amended June 19, 1994

Amended August 6, 1996

Emergency Amendment September 16, 2008 – Amended November 10, 2008

Amended September 2, 2014

Amended September 6, 2016

SECTION 502.1 – TITLE

This ordinance shall be known and be cited as the Parking Ordinance of the Town of Gray, Maine.

SECTION 502.2 – RESTRICTIONS

- A. All ordinances or parts of ordinances in conflict with or inconsistent with or duplicating the provision of this ordinance are hereby repealed.
- B. There shall be no parking allowed on either side of the North Raymond Road from the Camp Gregory driveway to Pole #28.
- C. There shall be no parking on either side of Mayberry Road within the road limits for a distance of 500 feet from the intersection of the North Raymond Road.
- D. Parking along the northwesterly side of U.S. Route 202, or Main Street from the fire station northeasterly to State Route 26 shall be restricted to parallel parking only.
- E. All parking along U.S. Route 100 shall be parallel parking only, except in the Municipal Parking lot.
- F. Parking is prohibited within 25 feet of the terminus of the corner radius along the curb line at street intersections except at the junction of Route 26 and North Raymond Road at Dry Mills. There shall be no parking on the south bound side of Shaker Road from Central Maine Power Pole #5S in a southerly direction to the North Raymond Road intersection. There shall be no parking from the North Raymond Road intersection for 200 feet on the west bound side of the North Raymond Road.
- G. There shall be no parking from the Village traffic lights on Route 26 northerly on both sides of the street as far as the lot line of SAD#15 (approximately five hundred ten (510) feet), Map U02, Lot 47. Any vehicles parked in a no parking zone shall be towed at the owner's expense.
- H. There shall no parking on the northerly side of Gray Park (Grange Street) for two hundred ninety (290) feet.
- I. There shall be two (2) hour parking on the east side of Route 26, Map U02, Lot 47, SAD#15, approximately four hundred fifty (450) feet to Map U02, Lot 44 (Enercon).
- J. There shall be no parking in front of Map U02, Lot 44 (Enercon) for approximately seventy five (75) feet.
- K. There shall be no parking from Pine Tree Telephone to the north side of Map U02, Lot 13, driveway.

- L. No person shall stop, stand or park a vehicle in any of the following places:
 - 1. Within 10 feet of a public or private driveway.
 - 2. Within 15 feet of a fire hydrant.
 - 3. Within 20 feet of any crosswalk.
 - 4. On the roadway side of any vehicle stopped or parked at the edge or curb of a street or double parked, so called.
 - 5. On a sidewalk.
- M. There shall be no parking on the northeasterly side of Brown Street from the intersection of Route 115 to CMP pole#5 and no parking on the southwesterly side of Brown Street for a distance of two-hundred (200) feet from Route 100.
- N. There shall be no parking on the southerly side of Greenleaf Street from the intersection of Brown Street to Route 26, except as posted.
- O. There shall be no parking on the northeasterly side of Route 26 from CMP pole #1 to the Weymouth Road.
- P. No vehicle shall be parked at any time on a public way to interfere with snow plowing or snow removal. No vehicle shall be parked on any street in the Town of Gray between the hours of 12 o'clock midnight and 6:00 a.m. from November 15, to April 15.
- Q. There shall be no parking on either side of Route 100 from the Cole Farms Restaurant and continuing in a northerly direction along Route 100 approximately 2,640 feet to the Central Maine Power Pole #68/156.
- R. There shall be no parking on both sides of Libby Hill Road up to the bus garage entrance.
- S. There shall be no parking on either side of Foster Hill Road, in a northerly direction for 1/10 of a mile, starting from Central Maine Power Pole No. 57-167 (at the intersection of Route 100 and Foster Hill Road) to Central Maine Power Pole No. 63-161 (at the intersection of Foster Hill Road and Legrow Road)
- T. There shall be no parking on either side of Legrow Road, in a westerly direction to 2/10's of a mile, starting from Central Maine Power Pole No. 55 (at the intersection of Foster Hill Road and Legrow Road) to Central Maine Power Pole No. 4.
- U. There shall be no parking on the West Gray Road (Route 202) westbound from #304 West Gray Road, Map 17, Lot#6 to Central Maine Power Pole #141, and eastbound on West Gray Road (Route 202) from the Windham and Gray town line to Central Maine Power Pole #115. There will be no parking on the Cambell Shore Road northbound from the intersection of West Gray Road (Route 202) and Cambell Shore Road to #14 Cambell Shore Road, Map17, Lot 16 and southbound from Central Maine Power Pole #7 to the intersection of West Gray Road (Route 202) and Cambell Shore Road.

SECTION 502.3 – REMOVAL OF VEHICLES IN VIOLATION

- A. Any vehicle parked upon an accepted public street in the Town of Gray in violation of any parking ordinance or in a manner that is a menace to the safe and proper regulations of traffic, or snow removal by the Town of Gray or anyone authorized to remove snow for the Town of Gray, may be

removed, by or under the direction of, or at the request of, any police officer of the Town of Gray, Cumberland County Sheriff's Department or State Police, to a garage or storage place within the limits of the Town of Gray and impounded therein. Such law enforcement officer may use such force as may be necessary to enter such vehicle and cause the same to be placed in a condition to be moved, and may employ any reputable person engaged in the business of towing or storing vehicles, for such purpose. Such person shall be entitled to receive reasonable charges for such towing and/or storage from the owner before returning such vehicle to its owner.

- B. No law enforcement official nor any other person towing or storing a vehicle pursuant to the foregoing shall be liable in any way to the owner of said vehicle.
- C. Notwithstanding any language herein contained, the removal and storage of a vehicle pursuant to this ordinance, and the payment of the charges specified herein, shall in no way relieve or prevent prosecution of the owner for the violation of any provision of the ordinances of the Town of Gray.

SECTION 502.4 – PENALTY

Every person convicted of a violation of this ordinance shall be punished by a fine of not less than ten (10) dollars no more than fifty (50) dollars for each such violation, to be recovered by complaint to the use of the Inhabitants of the Town of Gray. The restrictions contained in Subsection 502.2(P) of this Ordinance may also be enforced by the Cumberland County Sheriff's Department and/or the Maine State Police provided the restricted areas are properly signed.

CHAPTER 503
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE
TOWN OF GRAY MAINE
Enacted October 19, 2010

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE I – PURPOSE AND ENABLING LEGISLATION

§ XX-1 Purpose

By and through this Chapter, the City of/Town of Gray declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town. The City/Town declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

§ XX-2 Enabling Legislation

The City/Town enacts this Chapter/Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, et seq.).

ARTICLE II – TITLE AND DEFINITIONS

§ XX-3 Title

This Chapter/Ordinance shall be known and may be cited as “the City/Town of Gray Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

§ XX-4 Definitions

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary meanings; as used in this Chapter/Ordinance, the following words and phrases shall have the meanings indicated:

1. “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:
 - A. Will result in increased energy efficiency and substantially reduced energy use and:

- (i) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy (DOE) Energy Star program or similar energy efficiency standards established or approved by the Trust; or
 - (ii) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
- B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.
2. “Municipality” shall mean the City/Town of Gray.
 3. “PACE agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.
 4. “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.
 5. “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.
 6. “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.
 7. “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.
 8. “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.
 9. “Qualifying property” means real property located in the PACE district of the Municipality.
 10. “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.
 11. “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III – PACE PROGRAM

1. Establishment; funding. The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.
2. Amendment to PACE program. In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express

purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality’s adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE VI – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

- A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:
 - (i) the Trust will enter into PACE agreements with owners of qualifying property in the Municipality’s PACE district;
 - (ii) the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
 - (iii) the Trust, or its agent, will disburse the PACE loan to the property owner;
 - (iv) the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
 - (v) the Trust, or its agent, will be responsible for collection of the PACE assessments;
 - (vi) the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
 - (vii) the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.
- B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.
- C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality’s PACE program.
- D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. Liability of Municipal Officials; Liability of Municipality

- A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a

PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

- B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

CHAPTER 203
PUBLIC SAFETY ORDINANCE
TOWN OF GRAY MAINE

Enacted January 16, 2001

Whereas, the Municipal Officers for the Town of Gray have become aware of public safety concerns regarding vehicle and pedestrian traffic on public ways and public easements;

Whereas, Municipal Officers have the exclusive authority to enact ordinances regulating traffic and parking on public ways and on public property, including vehicular and pedestrian traffic, handicapped parking and vehicles for hire per 30-A MRSA Section 3009;

Whereas, the Municipal Officers of the Town of Gray find it necessary to promote the health, welfare, and safety of the public and that restrictions on motor vehicles be administered under a comprehensive Ordinance;

Whereas, the Town of Gray identifies the need for a comprehensive and complete Public Safety Ordinance regulating;

- The operation of motor vehicles within the Town.
- Pedestrian traffic.
- Licensing and inspection of vehicles for hire.
- Establishment of Emergency Lanes on public ways and public easements that are open to the public.
- Enforcement of Handicap Parking areas on public ways and public easements open to the public.
- Removal and disposal of snow and sleet from public ways and public easements that are adjacent to public ways.
- Enforcement against violations involving obstruction of any public ways, pedestrian way, or sidewalk.
- Enforcement against obstruction of any fire hydrant, hose, or any other fire-fighting equipment or machine.
- Vendors and sellers of wares and goods from any public way, pedestrian way, or sidewalk.
- Noise.
- Animal Control.
- Traffic Control Devices and Traffic Slowing Devices.
- Road Closings.
- The use of public ways and public easement for recreational vehicles.

Whereas, the Town of Gray has the authority under the Maine Revised Statutes Annotated to enact such an Ordinance it is hereby proclaimed that the following rules, regulations, fines, fees, actions, and sanctions are enacted;

Now therefore, the Town of Gray does hereby adopt this consolidated Ordinance regulating motor vehicles within the Town of Gray, hereby repealing and replacing any and all other ordinances which are inconsistent herewith.

The Municipal Officers shall, from time to time, direct the Town Manager to erect and maintain appropriate signs, markings, and devices reflecting action taken by the said Municipal Officers in restricting the use of designated portions of the public streets and highways, as it shall from time to time decide. The restrictions to be authorized by the Municipal Officers shall include but not be limited to the following:

- The operation of motor vehicles within the Town.
- Pedestrian traffic.
- Licensing and inspection of vehicles for hire.
- Establishment of Emergency Lanes on public ways and public easements that are open to the public.
- Enforcement of Handicap Parking areas on public ways and public easements open to the public.
- Removal and disposal of snow and sleet from public ways and public easements that are adjacent to public ways.
- Enforcement against violations involving obstruction of any public ways, pedestrian way, or sidewalk.
- Enforcement against obstruction of any fire hydrant, hose, or any other fire-fighting equipment or machine.
- Vendors and sellers of wares and goods from any public way, pedestrian way, or sidewalk.
- Noise.
- Animal Control.
- Traffic Control Devices and Traffic Slowing Devices.
- Road Closings.
- The use of public ways and public easement for recreational vehicles.

The Municipal Officers hereby direct the Town Manager and his/her designees to enforce the provisions of this Ordinance and to establish the appropriate town policies and regulations in accordance with this ordinance. The Town Manager is hereby authorized to establish, regulate and enforce all traffic and parking in conformance with the provisions of this Ordinance, provided that in the event of a fire, disaster, or any other emergency, or to expedite traffic or safeguard pedestrians, officers may temporarily direct traffic or parking as conditions may require, notwithstanding the provisions of this Ordinance or any other ordinance.

**CHAPTER 403 SHORELAND ZONING ORDINANCE
TOWN OF GRAY MAINE**

*Adopted Dec. 3, 1991
Effective Jan. 3, 1992
Amended Apr. 17, 1992
Amended Jan. 20, 1994
Amended July 4, 1996
Amended Oct. 31, 1996
Amended August 7, 1998
Amended Sept 17, 1998
Amended Nov 10, 1998
Amended August 31, 2000
Amended September 5, 2000
Amended July 7, 2009
Amended January 19, 2010
Amended February 15, 2016 / Effective April 14, 2016
Amended March 20, 2018 / Effective January 16, 2018*

CONTENTS

Section 1 – Purposes	4
Section 2 – Authority	4
Section 3 – Applicability	4
Section 4 – Effective Date	4
Section 5 – Availability	5
Section 6 – Severability	5
Section 7 – Conflicts with Other Ordinances	5
Section 8 – Amendments	5
Section 9 – Districts and Zoning Map	5
A. OFFICIAL SHORELAND ZONING MAP	5
B. SCALE OF MAP	5
C. CERTIFICATION OF OFFICIAL SHORELAND ZONING MAP	5
D. CHANGES TO THE OFFICIAL SHORELAND ZONING MAP	5
Section 10 – Interpretation of District Boundaries	6
Section 11 – Land Use Requirements	6
Section 12 – Non-Conformance.....	6
A. PURPOSE.....	6
B. GENERAL.....	6
C. NON-CONFORMING STRUCTURES.....	6
D. NON-CONFORMING USES	8

E. NON-CONFORMING LOTS.....	9
Section 13 – Establishment of Districts	9
A. RESOURCE PROTECTION DISTRICT	9
B. LIMITED RESIDENTIAL DISTRICT	10
C. STREAM PROTECTION DISTRICT	10
D. LIMITED COMMERCIAL DISTRICT.....	10
Section 14 – Table of Land Uses	11
Section 15 – Land Use Standards	15
A. SPACE STANDARD.....	15
B. PRINCIPAL AND ACCESSORY STRUCTURES	16
C. PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH WATER LINE OF A WATER BODY OR WITHIN A	17
D. CAMPGROUNDS	18
E. INDIVIDUAL PRIVATE CAMPSITES.....	18
F. PARKING AREAS.....	19
G. ROADS AND DRIVEWAYS.....	19
H. SIGNS	21
I. STORM WATER RUNOFF.....	21
J. SEPTIC WASTE DISPOSAL.....	21
K. ESSENTIAL SERVICES.....	22
L. MINERAL EXPLORATION AND EXTRACTION	22
M. AGRICULTURE	23
N. TIMBER HARVESTING	24
O. CLEARING OF VEGETATION FOR DEVELOPMENT	25
P. EROSION AND SEDIMENTATION CONTROL.....	28
Q. SOILS	28
R. WATER QUALITY	29
S. ARCHAEOLOGICAL SITES.....	29
T. MARINE REFUELING FACILITIES.....	29
U. TEMPORARY STRUCTURES	29
V. COMMERCIAL & INDUSTRIAL USES PROHIBITED	30
Section 16 – Administration	30

A. ADMINISTERING BODIES AND AGENTS 30

B. PERMITS REQUIRED 31

C. PERMIT APPLICATION 31

D. PROCEDURE FOR ADMINISTERING PERMITS..... 31

E. SPECIAL EXCEPTIONS FOR SINGLE FAMILY CONSTRUCTION IN THE RESOURCE PROTECTION DISTRICT.... 32

F. EXPIRATION OF PERMIT 33

G. INSTALLATION OF PUBLIC UTILITY SERVICE..... 33

H. APPEALS..... 33

I. ENFORCEMENT..... 37

Section 17 – Definitions..... 38

SECTION 1 – PURPOSES

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

SECTION 2 – AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

SECTION 3 – APPLICABILITY

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream; and to all land areas within non-forested freshwater wetlands, as defined herein.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

SECTION 4 – EFFECTIVE DATE

- A. This Ordinance, which was passed by the Town Council on July 7, 2009 shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance within forty-five (45) days of his receipt of the Ordinance, it shall be deemed approved. Upon approval, the shoreland zoning ordinance previously adopted, and as amended from time to time, is repealed retroactively to the date otherwise applicable under the Town Charter; provided, notwithstanding any provisions of Maine law to the contrary, including but not limited to 1 M.R.S.A. Section 302, any application for a shoreland zoning permit submitted to the Town or any of its officers, boards or employees after August 7, 2009 shall be governed the terms hereof if the ordinance secures such approval by the Commissioner.
- B. Repeal of Timber Harvesting Regulation. The regulation of timber harvesting activities in this ordinance is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation’s Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-A(5), the following provisions of this Ordinance are repealed:
- C. Section 14 Table of Land Uses, Row 3 (Forest management activities except for timber harvesting) and Row 4 (Timber harvesting);
- D. Section 15 N in its entirety; and
- E. Section 17 Definitions, the definitions of “forest management activities” and “residual basal area”.

SECTION 5 – AVAILABILITY

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

SECTION 6 – SEVERABILITY

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

SECTION 7 – CONFLICTS WITH OTHER ORDINANCES

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

SECTION 8 – AMENDMENTS

This Ordinance may be amended by majority vote of the Town Council. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Department of Environmental Protection following adoption by the Town Council and shall not be effective unless approved by the Department of Environmental Protection. If the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the Department's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the town within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Department of Environmental Protection.

SECTION 9 – DISTRICTS AND ZONING MAP

A. OFFICIAL SHORELAND ZONING MAP

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map which is made a part of this Ordinance:

1. Resource Protection
2. Limited Residential
3. Stream Protection
4. Limited Commercial

B. SCALE OF MAP

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. CERTIFICATION OF OFFICIAL SHORELAND ZONING MAP

The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the town office.

D. CHANGES TO THE OFFICIAL SHORELAND ZONING MAP

If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Department of Environmental Protection.

SECTION 10 – INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

SECTION 11 – LAND USE REQUIREMENTS

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

SECTION 12 – NON-CONFORMANCE

A. PURPOSE

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. GENERAL

1. Transfer of Ownership: Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. Repair and Maintenance: This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

C. NON-CONFORMING STRUCTURES

1. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure.

Further Limitations:

- a. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

- b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
 - c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.
2. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Code Enforcement Officer, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Code Enforcement Officer shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other onsite soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

3. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Code Enforcement Officer in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the Code Enforcement Officer within one year of such damage, destruction, or removal.

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

4. Change of Use of a Non-conforming Structure
The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body, tributary stream or wetland or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. NON-CONFORMING USES

1. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Code Enforcement Officer, be expanded

within existing residential structures or within expansions of such structures as permitted in Section 12(C)(1)(a) above.

2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C) (4) above.

E. NON-CONFORMING LOTS

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
2. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and Subsurface Wastewater Disposal Rules are complied with.

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

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

SECTION 13 – ESTABLISHMENT OF DISTRICTS

A. RESOURCE PROTECTION DISTRICT

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the

Stream Protection District except that areas which are currently developed and areas which meet the criteria for the Limited Commercial District need not be included within the Resource Protection District.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.
2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during normal spring high water.
5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.
6. All land areas within non-forested freshwater wetlands, as defined herein.

B. LIMITED RESIDENTIAL DISTRICT

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District or Stream Protection District.

C. STREAM PROTECTION DISTRICT

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, river or saltwater body, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

D. LIMITED COMMERCIAL DISTRICT

Limited Commercial District. The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

SECTION 14 – TABLE OF LAND USES

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1	
Yes	Allowed (no permit required but the use must comply with all applicable land use standards.)
No	Prohibited
PB	Requires permit issued by the Planning Board
CEO	Requires permit issued by the Code Enforcement Officer
LPI	Requires permit issued by the Local Plumbing Inspector
Abbreviations	
RP	Resource Protection
LR	Limited Residential
SP	Stream Protection
LC	Limited Commercial

LAND USES	SP	RP	LR	LC
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes
4. Timber harvesting	yes	CEO	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	CEO	yes
6. Fire prevention activities	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes
9. Mineral exploration	no	yes ²	yes ²	yes ²
10. Mineral extraction including sand and gravel extraction	no	PB ³	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes
14. Aquaculture	PB	PB	PB	yes
15. Principal structures and uses				
A. One and two family residential, including driveways	PB ⁴	PB ⁵	CEO	CEO
B. Multi-unit residential	no	no	no	PB
C. Commercial	no	no ⁶	no ⁶	PB
D. Industrial	no	no	no	no
E. Governmental and institutional	no	no	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO

LAND USES	SP	RP	LR	LC
16. Structures accessory to allowed uses	PB ⁴	PB	CEO	CEO
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland				
a. Temporary				
b. Permanent	CEO ⁷ PB	CEO ⁷ PB	CEO ⁷ PB	CEO ⁷ PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI
19. Home occupations	PB	PB	PB	CEO
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI
21. Essential services ⁶				
A. Roadside distribution lines (34.5kV and lower)	CEO	CEO	yes ⁸	yes ⁸
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB	PB	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB	PB	PB	PB
D. Other essential services	PB	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO
25. Campgrounds	no	no ⁹	PB	PB
26. Road construction	PB	no ¹⁰	PB	PB
27. Land management roads	yes	PB	yes	yes
28. Parking facilities	no	no ⁹	PB	PB
29. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes

30. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO
LAND USES	SP	RP	LR	LC
31. Signs	CEO	CEO	CEO	CEO
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit	PB	PB	PB	PB
35. Farm stand	no	no	CEO*	CEO*
36. Mobile vendor	no	no	CEO+	CEO+
37. Marine refueling stations	no	no	PB	no
38. Temporary structures	CEO	CEO	CEO	CEO
39. Retail marijuana establishments as principal or accessory use ¹¹	no	no	no	no
40. Retail marijuana social clubs as principal or accessory use ¹¹	no	no	no	no
41. Medical Marijuana Cultivation Facilities ¹²	no	no	no	no
42. Medical Marijuana Dispensary ¹²	no	no	no	no

¹ In RP, not permitted within 75 feet horizontal distance of the normal high-water line of great ponds, except to remove safety hazards.

² Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³ In RP not permitted in areas so designated because of wildlife value.

⁴ Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵ Single family residential structures may be allowed by special exception only according to the provisions of Section 16 E, Special Exceptions. Two-family residences are prohibited.

⁶ Except for commercial uses otherwise listed in this Table, such as campgrounds, that are allowed in the respective district.

⁷ Excluding bridges and other crossings not involving earthwork, in which cases no permits are required.

⁸ Permit not required but must file a written “notice of intent to construct” with CEO.

⁹ Except when area is zoned for resource protection due to flood plain criteria in which case a permit is required from the PB.

¹⁰ Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB.

* Subject to the provisions of Article 7, Section 402.7.15 of the Zoning Ordinance.

+ Subject to the provisions of Chapter 212.

¹¹ This shall be construed to limit the use, possession, transport, cultivation, transfer or

purchase of Retail Marijuana to the greatest extent permitted by the Marijuana Legalization Act

(7 M.R.S.A. §§ 2441 – 2454, as may be amended from time to time). Further, this shall be deemed to prohibit, and does hereby prohibit, attempts to circumvent the prohibition on

selling retail marijuana under this Ordinance by persons or firms giving it away, nominally without charge, in connection in any way with any lawful transaction under the guise of being a gift or an enhanced consideration for same.

¹² This shall be construed to prohibit Medical Marijuana Cultivation Facilities and Medical Marijuana Dispensaries in the Shoreland Zone, but shall not be construed to prohibit any other lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act (22 M.R.S.A. 2421 – 2430-B, as may be amended from time to time).

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to Title 38 M.R.S.A., Section 480 C, if the activity occurs in, on, over or adjacent to any freshwater wetlands, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand vegetation or other materials.
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

SECTION 15 – LAND USE STANDARDS

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. SPACE STANDARDS

- 1. Minimum Lot Size: 80,000 sq. ft.
- 2. Minimum Land Area Per Dwelling Unit: 80,000 sq. ft.
- 3. Minimum Shore Frontage: 200 ft.
- 4. Minimum Road Frontage: 200 ft.
- 5. Maximum Building Height: 35 ft.
- 6. Minimum Setbacks:
 - a. Waterbodies
 - b. 100 ft. horizontal distance from normal high water line great ponds & rivers
 - c. 75 ft. horizontal distance from normal high water line streams, upland edge of wetlands, & other water bodies
 - d. Front Property Line: 25 ft. (from edge of road way on property)
 - e. Side Property Line: 10 ft.
 - f. Rear Property Line: 10 ft.
- 7. Maximum Lot Coverage with Impervious Surface: 20%

8. Land below the normal high water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
9. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
10. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
11. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. PRINCIPAL AND ACCESSORY STRUCTURES

1. All new principal and accessory structures shall be set back at least one hundred (100) feet horizontal distance from the normal high-water line of great ponds classified GPA and rivers, and seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In addition, all new principal and accessory structures shall be setback at least ten (10) feet from each side property, (10) feet from the rear property line and except as otherwise required by this ordinance, at least twenty-five (25) feet from the front property line or from the edge of a road travel way that crosses the property. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.
 - a. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water dependent uses.
 - b. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, and Stream Protection Districts, shall not exceed thirty five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
3. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

Accessory structures may be placed in accordance with the standards of the Floodplain Management Ordinance and need not meet the elevation requirements of this paragraph.

4. The total area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed.
5. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480 C); and that the applicant demonstrates that no reasonable access alternative exists on the property. This shall not constitute a grandfathered setback.
6. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - a. The site has been previously altered and an effective vegetated buffer does not exist;
 - b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - d. The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - f. The area behind the wall is re-vegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer

C. PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH WATER LINE OF A WATER BODY OR WITHIN A WETLAND.

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.

4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area. A temporary pier, dock or wharf shall not be wider than six (6) feet for non-commercial uses.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
7. New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
8. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C.

D. CAMPGROUNDS

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. INDIVIDUAL PRIVATE CAMPSITES

Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

3. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle. Only a single recreational vehicle shall be permitted on an individual private campsite.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. **PARKING AREAS**

1. Parking areas shall meet the setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities may be reduced to no less than fifty (50) feet horizontal distance from the normal high-water line of the shore or tributary stream or from the upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists further from the shoreline, wetland or tributary stream.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, and where feasible, to retain all
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - b. Internal travel aisles: Approximately twenty (20) feet wide.

G. **ROADS AND DRIVEWAYS**

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

1. Roads and driveways shall be set back at least one-hundred (100) feet from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Code Enforcement Officer. If no other reasonable alternative exists, the Code Enforcement Officer may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this sub-section except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
3. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection P.
5. Road and driveway grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
6. In order to prevent road and driveway surface drainage from directly entering water bodies, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
 - c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

H. SIGNS

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection and Limited Residential Districts:

1. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed one (1) sign per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.
2. Name signs shall be permitted, provided such signs shall not exceed one (1) sign per premise.
3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
5. Signs relating to public safety shall be permitted without restriction.
6. No sign shall extend higher than eight (8) feet above the ground to the highest point of the sign.
7. Signs may be illuminated only by shielded, non-flashing lights.

I. STORM WATER RUNOFF

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

J. SEPTIC WASTE DISPOSAL

1. All new and replacement subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (Rules) and the following:
 - a. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and

b. A holding tank is not allowed for a first-time residential use in the shoreland zone.

K. ESSENTIAL SERVICES

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services is not permitted in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

L. MINERAL EXPLORATION AND EXTRACTION

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of paragraph 4 below.
2. Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A, Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - b. The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from offsite sources if necessary to complete the stabilization project.

4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

M. AGRICULTURE

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
2. Manure shall not be stored or stockpiled in an unprotected manner so as to produce runoff within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river or stream flowing to a great pond, classified GPA, or within seventy five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands, except not more than sixty (60) cubic feet of manure may be temporarily stored or stockpiled for a period not to exceed sixty (60) consecutive days. Within five (5) years of the effective date of this ordinance all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Once such a plan has been recorded, such plan may be transferred to a new owner provided such agricultural activity continues to be in conformance with the Plan. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained but shall require a Soil and Water Conservation plan to be filed with the Planning Board. Once a Soil and Water Conservation Plan for the tilling of soil has been recorded with the Planning Board, the rights and privileges of such plan may be transferred to a new owner provided the tilling practice continues to be in conformance with the plan.
5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan. Once a Soil and Water Conservation Plan for livestock grazing has been recorded with the Planning Board, the rights and privileges of

such plan may be transferred to a new owner provided the livestock grazing practices continues to be in conformance with the plan.

N. **TIMBER HARVESTING**

1. In a shoreland area zoned for the resource protection abutting a great pond, timber harvesting shall be limited to the following:
 - a. Within the strip of land extending seventy five (75) feet horizontal distance inland from the normal high-water line timber harvesting may be conducted when the following conditions are met:
 - (i) The ground is frozen;
 - (ii) There is no resultant soil disturbance;
 - (iii) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
 - (iv) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - (v) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
 - b. Beyond the seventy five (75) foot buffer strip referred to in paragraph a. above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over four (4) inches in diameter measured at four and one half (4 1/2) feet above ground level be reduced to less than thirty (30) square feet per acre.
2. Except in areas as described in Paragraph 1 above, timber harvesting shall conform with the following provisions:
 - a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of

total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

- b. Timber harvesting operations exceeding the 40% limitation in sub-section a. above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
- c. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
- d. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
- e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.
- g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

O. CLEARING OF VEGETATION FOR DEVELOPMENT

1. Within a shoreland area zoned for Resource Protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Paragraph 1, above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance,

inland from the normal high-water line of a great pond classified GPA or a river, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
- b. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2-4 in.	1
>4-12 in.	2
>12 in.	4

Adjacent to other water bodies, tributary streams, and wetlands, a "well distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 8 per 25 foot square area.

Note: As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is: $(3 \times 1) + (3 \times 2) + (3 \times 4) = 21$ points

Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points ($21 - 12 = 9$) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

The 25-foot by 25-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

- (i) Each successive plot must be adjacent to, but not overlap a previous plot;
- (ii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

- (iii) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (iv) Where conditions permit, no more than 50% of the points on any 25-foot by 25-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this sub-section, “other natural vegetation” that must be retained in addition to trees meeting the point system requirements is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least three (3) saplings less than two (2) inches in diameter at four and one-half (4 ½) feet above ground level for each 25-foot by 25-foot rectangular area. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered or removed, except to provide for a footpath or other permitted uses as described in Section 15 O. paragraphs 2 and 2a. above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

- 3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed.

- 4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.

5. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

P. EROSION AND SEDIMENTATION CONTROL

1. All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Code Enforcement Officer for approval and shall include, where applicable, provisions for:
 - a. Mulching and re-vegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

Q. SOILS

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage

conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

R. WATER QUALITY

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body.

S. ARCHAEOLOGICAL SITES

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the Planning Board shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the Planning Board. The Planning Board shall consider comments received from the Commission prior to rendering a decision on the application.

T. MARINE REFUELING FACILITIES

Marine Refueling facilities shall be allowed in the Limited Residential District for boats and other water related craft primarily operated on the surface of the water. Refueling for seaplanes is not allowed.

Marine Refueling facilities shall comply with the following performance standards:

1. Space Standards – In addition to the space standards of the Shoreland Zoning Ordinance, marine refueling facilities shall comply with the following standards:
 - a. A minimum of three hundred feet (300') of lake frontage;
 - b. A setback of one hundred feet (100') from all property lines for the product delivery line;
 - c. All applicable space standards of the State Fire Marshall's Office.
2. State and Federal regulations -- In addition to the regulations of the Shoreland Zoning Ordinance, refueling facilities shall comply with all applicable standards of the following:
 - a. The Maine Department of Environmental Protection;
 - b. The Maine Forestry Service;
 - c. The Maine Department of Wildlife and Inland Fisheries;
 - d. The State Fire Marshall's Office and the Town of Gray Fire Department;
 - e. Federal Spill Prevention Containment Control;
 - f. The Natural Resources Protection Act;
 - g. All other applicable Local, State and Federal regulations.
3. A copy of all Certificates of Inspections shall be filed with the Town of Gray Code Enforcement Officer.
4. Period of operation, noise control, lighting standards, and sureties shall be as determined by the Planning Board.

U. TEMPORARY STRUCTURES

1. Temporary structures including temporary living quarters used in conjunction with disasters such as fire, flood, lightning, hurricanes, and ice or snowstorms and other forces of nature shall be permitted only during the period that restoration work is in progress.
2. Restoration work includes the repairing, rebuilding, and altering of a premise, land, or structure to a former, normal, or unimpaired state or condition including but not limited to the cleaning and removal of debris, trash, and waste.
3. Temporary structures shall not encroach any further upon the setback requirements of the structure destroyed. Any deviation from those setbacks must be approved by the Code Enforcement Officer.
4. Temporary living quarters shall be connected to the existing septic system or to an alternate system which, in either case, must comply with the Plumbing Code and be approved by the Code Enforcement Officer.
5. Permits for temporary structures shall be issued for a six- (6) month period and may be renewed by the Code Enforcement Officer for a maximum of one extension provided a duly authorized building and plumbing permit has been issued for a permanent structure.

V. **COMMERCIAL & INDUSTRIAL USES PROHIBITED**

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

1. Auto washing facilities
2. Auto or other vehicle service and/or repair operations, including body shops
3. Chemical and bacteriological laboratories
4. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
5. Commercial painting, wood preserving, and furniture stripping
6. Dry cleaning establishments
7. Electronic circuit assembly
8. Laundromats, unless connected to a sanitary sewer
9. Metal plating, finishing, or polishing
10. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
11. Photographic processing
12. Printing

SECTION 16 – ADMINISTRATION

A. **ADMINISTERING BODIES AND AGENTS**

1. Code Enforcement Officer - A Code Enforcement Officer shall be appointed by the Town.
2. Board of Appeals - A Board of Appeals shall be created in accordance with the provisions of Title 30 A Section 2691.

3. Planning Board - A Planning Board shall be created in accordance with the provisions of State law.

B. PERMITS REQUIRED

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. In addition, no permit shall be issued under this ordinance unless the application complies with the requirements of Section 601.19 of the Town's Administrative Code Ordinance.

1. A permit is not required for the replacement of an existing road culvert as long as:
 - a. The replacement culvert is not more than 25% longer than the culvert being replaced;
 - b. The replacement culvert is no longer than 75 feet; and
 - c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. PERMIT APPLICATION

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
2. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

D. PROCEDURE FOR ADMINISTERING PERMITS

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on

the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance and that the accuracy, measurements and documentation are in accordance with the requirements of this ordinance.

After the submission of a complete application, the Planning Board or Code Enforcement Officer, as appropriate, the appropriate reviewing authority shall approve an application or approve it with conditions if the appropriate reviewing authority makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with flood plain development and use; and
8. Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing.

E. SPECIAL EXCEPTIONS FOR SINGLE FAMILY CONSTRUCTION IN THE RESOURCE PROTECTION DISTRICT

In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
3. All proposed buildings, sewage disposal systems and other improvements are:
 - a. Located on natural ground slopes of less than 20%; and

- b. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

4. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

F. EXPIRATION OF PERMIT

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void.

G. INSTALLATION OF PUBLIC UTILITY SERVICE

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

H. APPEALS

1. Powers and Duties of the Board of Appeals - The Board of Appeals shall have the following powers:
 - a. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application or potential ordinance violation under this Ordinance.
 - b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals

Except as provided in subsection 2-A, Variances may be permitted only under the following conditions:

- a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (ii) The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean:

- (01) That the land in question cannot yield a reasonable return unless a variance is granted;
- (02) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood
- (03) That the granting of a variance will not alter the essential character of the locality; and
- (04) That the hardship is not the result of action taken by the applicant or a prior owner.

d. Set-back variance for single family dwelling:

The Board may grant a variance from a set-back requirement for a single family dwelling under this section only when the strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- (i) The need for the variance is due to the unique circumstances of the property and not the general conditions of the neighborhood;
- (ii) The granting of the variance will not alter the essential character of the locality;
- (iii) The hardship is not the result of action taken by the applicant or prior owner;
- (iv) The granting of the variance will not substantially reduce or impair the use of abutting property; and
- (v) That the granting of the variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

This ordinance provision is strictly limited to permitting a variance from a set-back requirement for a single-family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed 20% of a set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. For lots lawfully existing non-conforming lots of record recorded at the Registry of Deeds prior to January 1, 1989, a variance under this subsection may exceed 20% of the setback requirement, except for minimum setbacks from a wetland or

water body required within shoreland zones by rules adopted pursuant to Title 38, chapter 3, subchapter I, article 2-B, if the petitioner meets all of the above standards and the relief requested is the least necessary to relieve the hardship.

- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- f. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

3. Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

4. Disability Variance Appeals

a. Dwelling Accessibility

The Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

b. Vehicle Storage

- (i) The Board may grant a variance to an owner-occupant who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial

vehicle owned by that person and for no other purpose. The width and length of the structure may not be larger than 2 times the width and length of the noncommercial vehicle. The owner shall submit proposed plans for the structure with the request for the variance pursuant to this paragraph to the Board.

- (ii) The person with the permanent disability shall prove such status.
- (iii) For purposes of this paragraph, "noncommercial vehicle" means a motor vehicle as defined in Title 29-A, Maine Revised Statutes, section 101, subsection 42 with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate (or placard) issued pursuant to Title 29-A, section 521 and owned by the person with the disability.
- (iv) The Board may impose conditions on the variance granted pursuant to this subsection.
- (v) For the purposes of this subsection, "disability" has the same meaning as a physical or mental disability under Title 5, section 4553-A.

5. Appeal Procedure

a. Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - (01) A concise written statement indicating what relief is requested and why it should be granted.
 - (02) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

b. Decision by Board of Appeals

- (i) A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- (ii) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board

only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

- (iii) The person filing the appeal shall have the burden of proof.
- (iv) The Board shall decide all appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (v) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

6. Appeal to Superior Court

Any party may take an appeal, within forty five (45) days of the date of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before Superior Court must be without a jury.

7. Reconsideration

In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

I. ENFORCEMENT

1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

2. Code Enforcement Officer

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- b. The Code Enforcement Officer shall conduct onsite inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

- c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an biennial basis, beginning in 1992, a summary of this record shall be submitted by March 1 to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30 A, Maine Revised Statutes Annotated, Subsection 4452.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues.

SECTION 17 - DEFINITIONS

Accessory structure or use – a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure, but shall not include the use of any portion of a lot for purposes related to Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Retail Marijuana Establishments, or Retail Marijuana Social Clubs.

Agriculture – the production, keeping or maintenance for use, sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products, including the growing and harvesting of Christmas trees. Such agricultural use will remain in existence until such time as its land use changes to another land use as allowed by the Town Zoning Ordinance. Agriculture does not include forest management and timber harvesting activities, or cultivation of Marijuana for Medical Use or Recreational Use.

Aggrieved party – an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit

or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Alteration – Any change, addition, or modification in construction, other than cosmetic or decorative, or any change in the structural members of buildings such as bearing walls, columns, beams, or girders.

Aquaculture – the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area – the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement – any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Boat Launching Facility – a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Campground – any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Commercial use – the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements – numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability – any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Driveway – a vehicular access-way less than five hundred (500) feet in length serving two lots or less.

Emergency operations – operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services – the construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure – an increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

Expansion of use – the addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family – one or more persons occupying a premise and living as a single housekeeping unit.

Floodway – the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor area – the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest management activities – timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland – a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation the supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

Freshwater wetland – freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Frontage, Road – the road frontage shall be on the lot line that lies between the two sidelines and abuts a road. For any lot bounded on more than one property line by a road, only one road shall be used for the purpose of road frontage. Frontage on a cul-de-sac shall be measured at the building setback line. Except as determined by the horizontal distance, between side lot lines, nearest to and roughly parallel to the closest road or street.

Frontage, Shore – the horizontal distance, measured as a straight line, between the intersections of the side lot lines with the shoreline at the normal high water mark elevation.

Functionally water – dependent uses those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port

facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

Great pond – any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great pond classified GPA – any great pond classified GPA, pursuant to Title 38 Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Height of a structure the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Home occupation – an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home. . Home Occupations shall not include Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Retail Marijuana Establishments, or Retail Marijuana Social Clubs.

Increase in nonconformity of a structure – any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite – an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

Industrial – the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals. Industrial uses shall not include Medical Marijuana, Cultivation Facilities, Medical Marijuana Dispensaries, or Retail Marijuana Establishments.

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Lot area – the area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marijuana – the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not.

Marijuana concentrate – the resin extracted from any part of the plant genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including hashish. In determining the weight of marijuana concentrate, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

Marijuana paraphernalia –Equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, smoking or otherwise introducing into the human body marijuana for medical use or recreational use as defined in this Chapter, including, without limitation, water pipes, hashish pipes, glass pipes, bongs, vaporizers, scales rolling papers, hydroponic equipment and grow lights and general tobacco products in so-called smoke shops.

Marijuana product – concentrated marijuana or a product composed of marijuana and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture.

Marina – a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

Market value – the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Medical Marijuana – Medical Marijuana means marijuana used for “medical use,” as that term is defined herein.

Medical Marijuana Cultivation Facility – Medical Marijuana Cultivation Facility means a not-for-profit entity registered pursuant to the laws of the State of Maine and Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter122), as may be amended from time to time, that is a Medical Marijuana Dispensary’s permitted additional location for the cultivation of marijuana. Any facility providing space for three or more marijuana growers/cultivators or an excess of 60 plants is also a Medical Marijuana Cultivation Facility for purposes of this Ordinance. A Medical Marijuana Cultivation Facility shall not include a Retail Marijuana Establishment.

Medical Marijuana Dispensary – A Medical Marijuana Dispensary is a not-for-profit entity registered by the State of Maine that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses Medical Marijuana or related supplies and educational materials to qualifying patients and primary caregivers of those patients and may also be referred to as a Medical Marijuana Dispensary means a “registered dispensary” as that term is defined in 22 M.R.S.A. § 2422(6), as may be amended from time to time. A Medical Marijuana Dispensary shall not include a Retail Marijuana Establishment.

Medical Use of Marijuana – “Medical use” means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered patient's debilitating medical condition or symptoms associated with the registered patient’s debilitating medical condition.

Minimum lot width – the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Mineral exploration – hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction – any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Multi-unit residential – a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot – a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure – a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use – use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-forested wetland – a freshwater wetland dominated by non-woody vegetation and/or woody vegetation that is less than six (6) meters tall.

Normal high-water line – that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Person – an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland –

1. Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

2. **Permanent:** Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure – a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use – a use other than one which is wholly incidental or accessory to another use on the same premises.

Public facility – any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent flood plain soils – the following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility – a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational Use of Marijuana – Recreational use of marijuana means personal use of marijuana as permitted in 7 M.R.S.A. § 2452, as may be amended from time to time.

Recreational vehicle – a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system – a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Retail marijuana – marijuana or marijuana concentrate that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment or retail marijuana social club.

Retail marijuana cultivation facility – an entity licensed to cultivate, prepare and package retail marijuana and sell retail marijuana to retail marijuana establishments and retail marijuana social clubs.

Retail marijuana establishment – a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturing facility or a retail marijuana testing facility.

Retail marijuana product – a marijuana product that is manufactured, processed, distributed or sold by a licensed retail marijuana establishment or a retail marijuana social club.

Retail marijuana products manufacturing facility - an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs.

Retail marijuana social club – an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises.

Retail marijuana store – an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers.

Retail marijuana testing facility – an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products.

Residential dwelling unit – a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual Basal Area – the sum of the basal area of trees remaining on a harvested site.

Riprap – rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River – a free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

Road – a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Service drop – any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right of way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback – the nearest horizontal distance from the normal high-water line of a water body, tributary stream, or upland edge of a wetland to the nearest part of a structure, road, parking space or other regulated object or area.

Shoreland zone – the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet , horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater wetland.

Significant River Segments – See Title 38 MRSA Sec. 437.

Skid trail – a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash – the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Stream – a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland area.

Structure – anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

Substantial start – completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

Sustained slope – a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber harvesting – the cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 O, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

Tributary stream – a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

Upland edge – the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland

vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Vegetation – all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 above ground level.

Volume of a structure – the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body – any great pond, river, stream or tidal area.

Water Crossing – any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland – a freshwater wetland.

Wetlands associated with great ponds and rivers – wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than one hundred (100) feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

Woody Vegetation – live trees or woody, non-herbaceous shrubs.

**CHAPTER 406 SIGN ORDINANCE
TOWN OF GRAY MAINE**

Adopted August 19, 1982

Amended January 20, 1989

Amended October 3, 2002

Replacement Adopted January 15 2013

Amended August 4, 2015 / Effective September 4, 2015

CONTENTS

ARTICLE 1 – TITLE AND PURPOSE.....2
 406.1.1 Title2
 406.1.2 Purpose2
ARTICLE 2 – DEFINITIONS2
 406.2.1 Definitions2
ARTICLE 3 – DISTRICTS ESTABLISHED.....5
 406.3.1 Districts Established.....5
ARTICLE 4 – PERMITS AND CONFORMANCE.....9
 406.4.1 Sign Permits9
 406.4.2 Maintenance and Conformance of Signs9
ARTICLE 5 – TEMPORARY SIGNS.....11
 406.5.1 Temporary Signs11
ARTICLE 6 – REGULATIONS ALL DISTRICTS12
 406.6.1 Regulations Applicable to Signs in all Districts.....12
ARTICLE 7 – SPECIFIC STANDARDS.....13
 406.7.1 Specific Standards13
ARTICLE 8 – COMPUTATIONS.....17
 406.8.1 Computations17
ARTICLE 9 – PERMIT FEES, ADMINISTRATION, CONFLICTS.....18
 406.9.1 Permit Fees18
 406.9.2 Administration, Enforcement, Penalty and Appeals18
 406.9.3 Conflict with Other Ordinances19
ARTICLE 10 – DIAGRAMS.....19

ARTICLE 1 – TITLE AND PURPOSE

406.1.1 TITLE

This Ordinance shall be known and may be cited as the Sign Ordinance of the Town of Gray, Maine.

406.1.2 PURPOSE

The purpose of regulating signs is to promote and protect the public health, safety and welfare by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types; to protect property values; enhance and protect the physical appearance of the community; preserve the scenic and natural beauty and provide a more enjoyable and pleasing community; to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents; reduce hazards that may be caused by signs overhanging or projecting over public right of way; provide more open space, and curb the deterioration of natural beauty and community environment.

ARTICLE 2 – DEFINITIONS

406.2.1 DEFINITIONS

1. **Abandoned Sign:** Any sign remaining or portion thereof, derelict at a location where the advertised goods or services are no longer being provided.
2. **A-Frame:** A temporary sign containing two (2) sign faces and whose framing is hinged at the apex at an angle less than forty-five (45) degrees.
3. **Animated Sign:** A sign employing actual motion or the illusion of motion.
4. **Awning/Awning Sign:** An awning which includes words, letters, figures, designs, symbols, graphics or pictorial art shall not be counted toward calculating the maximum number of signs allowed on a property, but shall constitute a wall sign for all other purposes, including the calculation of maximum aggregate sign area.
5. **Billboard:** An advertising sign not located at the premises that it is promoting. A billboard is deemed not to be a sign as otherwise defined herein.
6. **Business, Establishment or Religious Institutions:** A business or establishment occupying an entire building or a part of a building.
7. **Canopy or Marquee Sign:** A sign which is on or attached to a permanent overhang projecting from the face of the building and supported entirely or partially by the building.
8. **Community Events Banner:** A temporary sign erected between poles at a location(s) as permitted by the Town of Gray's Banner Policy.
9. **Directory Sign:** A freestanding or wall affixed sign which identifies the businesses in an integrated center such as an office campus or industrial park, in whole or in part, usually with a listing or a graphic representation of some or all of the tenants in the center.
10. **Electronic Message Display Board:** A permanent message board in which one or more illuminated characters in a display may be changed by electronic means.
11. **Entrance Sign:** A sign designed to identify the entrance to a residential subdivision of commercial office or industrial park

12. **Farm Stand:** A roadside stand selling only farm, garden, greenhouse, nursery, or Farm Food Products. The individual or business entity operating the Farm Stand must participate in the harvesting and/or production of the majority of food/products offered for sale.
13. **Farm Food Products:** Food products of the soil not subject to State Tax including fruits, vegetables, grain and grain products, honey, nuts, and maple products. If produced on the same premises as the Farm Stand where sold, eggs, dairy products, meat and meat products (including poultry) shall be considered Farm Food Products.
14. **Freestanding Sign:** A sign supported by one or more uprights or braces, permanently affixed into the ground. It shall not be erected in or project over the public right-of-way.
15. **Frontage, Street:** As defined in the Town's Zoning Ordinance.
16. **Ground Sign:** A free-standing sign, generally having a low profile where the base of the sign structure is on the ground or a maximum of twelve inches (12) above the lowest point of the ground adjacent to the sign such that the sign has the appearance of a solid base and contains information on activities or businesses. It shall not be erected in or project over the public right-of-way.
17. **Home Occupation:** As defined in the Town's Zoning Ordinance.
18. **Identification Sign:** A sign indicating the location of, or direction to, a separate function performed within one portion of that building. Examples of identification signs are: "entrance", "exit", "auditorium", etc. Identification signs do not name or advertise the activity conducted within or outside of the premises.
19. **Illuminated Sign:** A sign characterized by the use of artificial light.
20. **Internally Illuminated:** Illumination in a manner in which artificial light is projected through the signs surface. This does not include individually pin-mounted reverse illuminated solid-faced channel letters signs, often referred to as "halo-lit signs".
21. **Externally Illuminated:** Illumination of a sign by reflecting artificial light off its surface.
22. **Industrial Park:** A parcel of land classified by the Town Planner as an Industrial Park at the time of site location approval.
23. **Municipal Signage:** Signs erected by the Town, on municipal property, and Municipal Banners erected promoting the Town.
24. **Murals:** A painting or pictorial representation applied to or incorporated into a structure or wall, that can be viewed from public places, alleys, or rights-of-way.
25. **Occupant:** Business(es) located in a specific definable space that may be owned, rented, or leased as a unit whether a stand-alone building or portion thereof separated from other business locations by fixed walls without interior access. Multiple businesses practically functioning from the same fixed owned/ rented/ leased unit shall be considered one "occupant" for the purposes of this Ordinance specifically including Table 1.3.
26. **Office Building:** A single building of no less than 5,000 sq. ft. floor area net. As defined in the Town's Zoning Ordinance.
27. **Office, Business or Professional:** The place within and from which a person or persons conducts a business providing, by way of example, but not limited to, a trade, professional

or service to clients or customers. Business and professional offices may include, but are not limited to, offices for plumbing, electrical, and other construction trades, firms or contractors; and for lawn care and building cleaning companies; and for lawyers, doctors, accountants, engineers and other professional consultants. Personal services, as defined in the Town's Zoning Ordinance, are not included in this definition.

28. **Office Campus:** A group of three (3) or more Business or Professional Office Buildings in a designated area served by a single main entrance.
29. **Official Business Directional Sign (OBDS):** Refer to the Town of Gray's Official Business Directional Sign Ordinance
30. **Off-Premises Sign:** Directs attention to a business, industry, profession or service not conducted on the premises where the sign is displayed.
31. **On-Premises Sign:** Directs attention to a business, industry, profession or service conducted on the premises where the sign is displayed.
32. **Open Flag:** Standard flag indicating that an establishment is "open for business."
33. **Permanent Sign:** A non-temporary sign designated and intended for long-term use.
34. **Person:** Includes a firm, association, organization, partnership, trust company, or corporation as well as an individual, but does not include a governmental unit.
35. **Portable Sign:** A temporary sign which is not designed to be permanently affixed into the ground or to a structure.
36. **Premises:** One or more lots, tracts, plots, or parcels of land together with the building(s) and structure(s) thereon which are in the same ownership and are contiguous.
37. **Property Identification Sign:** A sign designed for the purpose of identifying a residential or commercial property by street address, primarily in the interest of public safety
38. **Projecting Sign:** A sign that is wall-mounted, perpendicular to the building surface. In no event shall a projecting sign be higher than the roof of the building to which it is attached.
39. **Public Notice Sign:** A sign the primary purpose of which is to display information of a civic, social, or religious nature. Such a sign may have a surface which allows the use of removable letters.
40. **Retail Trade:** As defined in the Town's Zoning Ordinance.
41. **Roof Sign:** A sign installed on top of, or over, the roof of a building with the principal support on the roof structure.
42. **Shopping Center:** A group of retail stores and/or office having a minimum of 25,000 sq. ft. of floor area net as defined in the Town's Zoning Ordinance.
43. **Sign:** Any object, device, display, or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. For the purpose of this Ordinance any logo, and/or lettering painted on or adhered to the exterior sheathing, wall or roof of a building shall be considered a sign. Graphics and pictorial art

work are allowed on signs and shall be considered a part of the sign and shall constitute sign area.

44. **Sign Area:** The area of a sign (which is also the area of a wall sign or other sign with only one (1) face). Sign area shall be computed by using the smallest square, rectangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning Ordinance regulations and is clearly incidental to the display itself (refer to Diagrams 1 and 2).
45. **Subdivision:** The term shall be defined as in Title 30-A M.R.S.A. § 4401, sub-§4, as amended.
46. **Temporary Sign:** A sign or advertising display designed to be displayed for a limited amount of time as defined in Article 5.
47. **Town:** means the Town of Gray, Maine.
48. **Wall Sign:** Any sign mounted parallel to or painted on the wall of a building extending not more than six (6) inches from that surface.

ARTICLE 3 – DISTRICTS ESTABLISHED

406.3.1 DISTRICTS ESTABLISHED

For the purposes of this Ordinance, the Town of Gray's Shoreland Zoning, Zoning and Overlay District(s) have been classified into three (3) Signage Districts:

1. **Residential:** This district is comprised of the Rural Residential & Agriculture District (RRA), the Lake District (LD), the Medium Density District (MD), and the Mobile Home Park Overlay District (MHP). This district also includes the following Shoreland Zoned Districts: Limited Residential (LD), Stream Protection (SP) and Resource Protection (RP).
2. **Business:** This district incorporates the Business Development District (BD), the Commercial District (C), and the Wellhead Protection Districts 1 and 2 (WH1 and WH2). This district includes the Limited Commercial (LC) Shoreland District.
3. **Village:** This district includes both the Village Center District (VC) and the Village Center Proper District (VCP).

This table defines the allowable sign types and sizes by District. ‘P’ designates a permitted sign within a specific district. ‘N’ designates signs that are not permitted.

Table 1.1 Sign Type and Zoning

Sign Type	Residential	Business	Village
A-Frame	P	P	P
Animated	N	N	N
Billboard	N	N	N
Canopy or Marquee	P	P	P
Directory	P	P	P
Electronic Message Display Board*	N	P	N
Entrance	P	P	P
Externally Illuminated	P	P	P
Freestanding	P	P	P
Ground Sign	P	P	P
Home Occupation	P	P	P
Internally Illuminated	N	P	N
Mural	P	P	P
Off-Premises	N	N	N
On-Premises	P	P	P
Portable	P	P	N
Projecting	P	P	P
Property Identification	P	P	P
Roof	N	P	P
Wall	P	P	P

* Municipality owned signage is exempt from district requirements.

All other sign types are prohibited.

Table 1.2 Maximum aggregate sign area by district.

	Residential District	Business District	Village District
Maximum Aggregate Sign Area	48 sq ft	150 sq ft	56 sq ft

* Aggregate sign area is the total sign area of all signs permitted per business or establishment, including temporary signs, with the exception of Directory signs that conform to standards in this Ordinance including but not limited to Table 1.3 below.

This table defines the number of signs and maximum square footage of each sign type per district.

Table 1.3 Sign requirements by district.

	Residential District	Business District	Village District
Free Standing Signs			
Number Permitted Per Establishment	1 per Frontage	1 per Frontage or 1 per each 250 ft Frontage	1 per establishment
Maximum Sign Area (Square Feet)	36 sq ft per Sign Maximum total combined 36 s.f.	60 sq ft per Sign	24 sq ft per Sign Maximum total combined 24 sq ft
Maximum Height (feet)	12 ft	25 ft	12 ft
Ground Signs			
Number Permitted Per Establishment	1 per Frontage	1 per Frontage or 1 per each 250 ft Frontage	1 per Frontage
Maximum Sign Area (Square Feet)	36 sq ft per Sign	60 sq ft per Sign	24 sq ft per Sign
Maximum Height (feet)	8 ft	8 ft	8 ft
Wall Signs			
Number Permitted Per Establishment	1 per Occupant	1 per Occupant	2 per Occupant
Maximum Sign Area (Square Feet)	36 sq ft per Occupant	75 sq ft per Occupant	24 sq ft per Occupant

Maximum Height (feet)	N/A	N/A	Subject to max height of 16 ft from grade
Projecting Signs			
Number Permitted Per Establishment	36 sq ft per Occupant	1 per Occupant	1 per Occupant
Maximum Sign Area (Square Feet)	36 sq ft per Occupant	75 sq ft per Occupant	24 sq ft per Occupant
Roof Signs			
Number Permitted Per Establishment	1 per Occupant	1 per Occupant	1 per Occupant
Maximum Sign Area (Square Feet)	36 sq ft per Occupant	75 sq ft per Occupant	24 sq ft per Occupant
Maximum Height (feet)	Maximum height shall be 7 ft above the lowest eave.	Maximum height shall be 7 ft above the lowest eave.	Maximum height shall be 7 ft above the lowest eave. Subject to max height of 16 ft from grade
Temporary Public Notice Sign			
Number Permitted Per Premises	1 Sign per street Frontage up to 2 total	1 Sign per street Frontage up to 2 total	1 Sign
Maximum Sign Area (Square Feet)	6 sq ft each Sign	24 sq ft total all Signs combined	12 sq ft total
Temporary Real Estate, Construction Signs			
Number Permitted Per Premises	1 Sign per street Frontage up to 2 total	1 Sign per street Frontage up to 2 total	1 Sign
Maximum Sign Area (Square Feet)	6 sq ft each Sign	24 sq ft total all Signs combined	12 sq ft total
Municipal Signs			
Number Permitted Per	Exempt	Exempt	Exempt

Premises			
Maximum Sign Area (Square Feet)	Exempt	Exempt	Exempt
Portable signs			
Number Permitted Per Premises	1 Sign	1 Sign	Not Permitted
Maximum Sign Area (Square Feet)	18 sq ft	18 sq ft	Not Permitted
Home Occupation Signs			
Number Permitted Per Premises	1 Sign per house	1 Sign per house	1 Sign per house
Maximum Sign Area (Square Feet)	6 sq ft	6 sq ft	6 sq ft
Directory Signs			
Number permitted Per Establishment	1 per Frontage	1 per Frontage	1 per Frontage
Maximum Sign Area (Square Feet)	3 sq ft per Occupant	3 sq ft per Occupant	3 sq ft per Occupant
Maximum Height (feet)	8 ft	8 ft	8 ft
Maximum Width (feet)	7 ft	7 ft	7 ft

ARTICLE 4 – PERMITS AND CONFORMANCE

406.4.1 SIGN PERMITS

Except as otherwise herein provided, no person shall erect, modify or move any signs visible from the public way without first applying for and obtaining a sign permit from the Codes Enforcement Officer (CEO). Applications shall be on forms prescribed and provided by the CEO setting forth such information as may be required by him/her for a complete understanding of the proposed work including applicable fees.

406.4.2 MAINTENANCE AND CONFORMANCE OF SIGNS

- 1) No sign shall be erected or altered except in conformity with the provisions herein. The sign must be kept clean, neatly painted or otherwise printed and free from all hazards such as, but not limited to, faulty wiring and loose fastenings, and must be maintained at all times in such safe

condition so as not to be detrimental to the public health or safety or detrimental to physical appearance or scenic or natural beauty of the community as otherwise provided herein, or constitute a distraction or obstruction that may contribute to traffic accidents.

- 2) Legally erected non-conforming signs installed prior to adoption of this Ordinance amendment may continue usage if:
 - a) Regular repairs and maintenance of nonconforming signs, such as repainting and electrical repairs, replacement of parts and light bulbs, are performed, provided that repainting shall not include a change of copy.
 - b) Replacement panels replicate or convey the same business or activity conducted or product sold as the original panels.
- 3) Legally erected non-conforming sign(s) installed prior to adoption of this Ordinance amendment may not continue usage if:
 - a) The sign no longer advertises a bona fide business or activity conducted on premises, product sold, or public notice or is an abandoned sign.
 - b) The sign becomes or is in disrepair. It shall be removed upon order of the CEO if not repaired within thirty (30) days after written notification from the CEO. Any new sign must conform to this Ordinance.
 - c) The sign requires changes to the display surface if the advertised business or activity conducted or product sold is changing from the original.
 - d) There is a change in ownership in the premises, resulting in a change in business name, since the adoption of the Ordinance.
 - e) The sign is moved for any reason for any distance or the sign is temporarily removed along with its supporting uprights or braces, in which event it shall be required to conform to this Ordinance when re-assembled.
- 4) In no case, may the replacement or repair of any sign existing prior to adoption of this Ordinance be less compliant than the original. Any replacement panels or repaired sign(s) are subject to the review of the CEO to insure compliance with the standards set forth in this Section 406.4.2.
- 5) Any sign deemed inconsistent with this Ordinance shall be taken down and removed by the owner, agent or person having the beneficial use of the building or premises upon which such sign may be found within ten (10) days after the activity has ceased, or if the removal has not occurred, within thirty (30) days after written notification from the CEO.
- 6) If there is a change of use on a property and there were one or more on-premise non-conforming signs which advertised the former business or use, any new signs used, and all new sign(s) faces for the new use or business must meet all sign requirements in this Ordinance.
- 7) No non-conforming sign shall continue to be used or allowed to remain following any activity that requires Site Plan Review approval as established in the Zoning Ordinance.

ARTICLE 5 – TEMPORARY SIGNS

406.5.1 TEMPORARY SIGNS

Temporary signs shall not require issuance of a permit by the CEO with exception of portable signs, which shall require CEO permits. The following temporary signs are permitted and shall conform to standards within municipal, state or federal Ordinances, statutes or regulations, including Tables 1.1, 1.2 and 1.3 of this Ordinance:

- 1) **Temporary Public Notice Sign:** Signs of a temporary nature, not including banners, that display advertisements of charitable functions, notices of meetings and other non-commercial signs of a similar nature, are permitted for a period not to exceed twenty-one (21) days in any one calendar year and shall be removed by the person(s) who posted the signs within forty-eight hours after fulfilling their function. Temporary signs specified in this section shall not be attached or painted to fences, trees, or other natural features, or utility poles and shall not be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.
- 2) **Temporary Political Signs:** Temporary political signs on public property or within public rights-of-way shall be permitted as provided by State law. Political signs are prohibited from all Town-owned properties except the public rights of way as otherwise provided by state law. Political signs are specifically prohibited on the grassy knoll located on State Route 26 just northeast of the intersection of Route 26A ("by-pass"). For the purposes of this Section 406.5.1.2, the grassy knoll shall be considered the portion of road frontage on the northeasterly side of the intersection of Routes 26 and 26A commencing at the fire hydrant ("2006" on casting, located fifty (50) feet southeasterly from CMP/ Utility pole # 280) extending southeasterly two-hundred and fifty (250) feet to CMP/ Utility pole #277 (Pole #277 is located fifty (50) feet from edge of pavement). Measurements are perpendicular to the road and extend the full width of the road right-of-way.
- 3) **Temporary Real Estate Signs:** a real estate sign advertises the lease or sale of land, space or structure. Unless prohibited by State Authorities, one off-premises Temporary Real Estate sign and/or one temporary Real Estate sign bearing the message "Open House" may be placed at the entrance to a dead-end or cul-de-sac street for the purpose of directing motorists to property for sale on that street. All other real estate signs must be physically located on the actual property for sale or lease, and only one sign may be located per street frontage. Real estate signs must be removed within ten (10) business days of the date of sale or lease of property. The Town's Public Works Department shall have the authority to remove signs that remain after the ten (10) day period, and violators will be charged for the cost of removal. If legal action is necessary to collect fines, violators must also reimburse the Town for associated legal and court costs. Additionally, the Town will not issue building permits or permit the erection of new signs for the property cited for a sign violation until all fines and costs have been paid.
- 4) **Portable Signs:** Portable signs on movable frames, whether or not the wheels have been removed, shall be prohibited in the Village zone. No person shall park any vehicle or trailer or truck trailer on a public right-of-way, public property or on private property visible from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the purpose of providing advertisement of products or directing people to a business or activity. This section is not intended to apply to standard advertising or identification practices where such signs or advertising devices are painted on or permanently attached to business or

commercial vehicles. Portable signs may be permitted for a period not to exceed twenty-one (21) days in any one calendar year and shall be removed by the person(s) who posted the signs.

- 5) **Temporary Grand Opening Signs:** One (1) Temporary Grand Opening sign may be installed on the premises of a newly opened business. Business establishments located on corner lots may install two (2) Temporary Grand Opening signs. Temporary Grand Opening signs may be in the form of a banner or window sign. A Temporary Grand Opening sign shall be displayed for no more than sixty (60) days and shall be removed by the person(s) who posted the sign. A Temporary Grand Opening sign shall conform to standards in this Ordinance.

ARTICLE 6 – REGULATIONS ALL DISTRICTS

406.6.1 REGULATIONS APPLICABLE TO SIGNS IN ALL DISTRICTS

The following provisions relating to signs are applicable in all districts.

- 1) One sign identifying the name, address and profession of a permitted home occupation or a lawfully existing nonconforming home occupation is allowed.
- 2) One (1) bulletin board or similar sign in connection with any church, museum, library, school or similar public structure, but not exceeding twelve (12) square feet is allowed.
- 3) No sign, except traditional barber poles for licensed barber shops, shall have visible moving parts, blinking, moving or glaring illumination, or any part consisting of banners, pennants, ribbons, streamers, spinners or other similar devices. In addition, “Open” flags are permitted only as described in Article 7 Section 406.7.1.5 of this Ordinance.
- 4) Any sign, or portion thereof, which no longer advertises a bona fide business conducted, product sold, activity being conducted, or public notice, shall be taken down and/or removed by the owner, agent or person having the beneficial use of the building or premises upon which such sign is located within ten (10) days after the activity has ceased, or if the removal has not occurred, within thirty (30) days after written notification from the CEO. Temporary signs shall be removed in accordance with Article 5 of this Ordinance.
- 5) District setback requirements as established in the Town’s Zoning Ordinance shall not apply to signs; however, no part of any sign shall project over or be within the public right-of-way if it is located in a zoning district which has a front setback building requirement. No ground or portable signs shall be permitted in the public right-of-way. Signs located in any business sign district, as established in Section 406.3.1 above, shall be set back a minimum of five (5) feet from the edge of the public right of way including any overhanging portions of the sign.
- 6) In addition to the maximum number and size of signs permitted, directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material, having a display area not exceeding five (5) square feet, and not extending higher than three (3) feet above ground level, are permitted with issuance of a CEO permit evidencing compliance with this Ordinance.
- 7) Non-conforming signs may continue only as referenced in Article 4 Section 406.4.2 of this Ordinance, but may not be rebuilt or relocated on the same premises; however, non-conforming signs located on land which is acquired for governmental purposes may be relocated on the same premises.

- 8) In addition to the maximum number and size of permitted signs, identification signs may be erected over or by the doorway or entrance to such portion of the building. The sign area shall not exceed ten percent (10%) of the area of such doorway or entrance to such portion of the building.
- 9) A sign with an identical double signboard or display area (two back-to-back sign faces) shall be construed to be one sign for the purpose of this Ordinance.
- 10) Lighter-than-air or gas-filled balloon or other similar devices used to advertise or define a fixed location shall be prohibited.
- 11) Any sign added or attached to a sign's upright or brace by any means shall be considered part of the sign area and will be included in calculating the permitted signs total area.
- 12) Murals are allowed in all districts, but may not contain any advertising, commercial messages, or logos. Such murals are still subject to all requirements of any zoning standards which may apply and are considered public art.
- 13) No sign shall obscure required vehicular sight lines from any driveway or roadway intersection or cause a safety hazard to pedestrians or motorists. The CEO or the Town's Public Works Department shall have the authority to remove any such sign.
- 14) No sign, whether new or existing, shall be permitted that causes a sight, traffic, health or welfare hazard or results in a nuisance, as specifically prohibited elsewhere in this Ordinance due to illumination, placement, display, or manner of construction.
- 15) For the purpose of this Ordinance, the term "sign" does not include signs erected and maintained for public safety and welfare or pursuant to and in discharge of any governmental function, or required by law, Ordinance or governmental regulation, nor to a "name sign" not exceeding one (1) square foot in area identifying the name(s) of the residents of the premises where such sign is located.
- 16) No lighted sign, including a non-conforming sign that is replaced or relocated shall be placed within eight (8) feet of the drip lines of any overhead utility wires and their appurtenances. This requirement is not subject to variance or waiver.

ARTICLE 7 – SPECIFIC STANDARDS

406.7.1 SPECIFIC STANDARDS

The standards of this Section 406.7.1 apply on a per building basis. In calculating allowable signage, each principal building together with its accessory buildings or structures, if any, shall count as one building.

1) Signs Excluded from this Section

- a) Temporary signs conforming to this Ordinance;
- b) Signs displayed within the interior of a window of a building if the sign or grouping of signs does not occupy more than one-third of the surface area of such window or 10% of the wall area upon which the window is placed, whichever is more restrictive;
- c) Directory signs conforming to this Ordinance;
- d) Identification signs as described in Article 6 Section 406.6.1.8 of this Ordinance.

2) Wall, Projecting, and Roof Signs

Unless otherwise provided, wall, projecting and roof signs shall not extend more than six (6) inches from the wall to which it is attached or party wall separating occupancies into the wall area of other premises. Wall, Projecting, or Roof Signs shall not exceed 25% of the wall area or roof on which they are located and/or attached.

3) Electronic message Display Board

Electronic message centers in all districts shall be equipped with an operational, automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions. The brightness level in all districts shall not increase by more than 0.3 foot candles (or 3.23 lumens per square meter or lux) (over ambient levels) as measured using a foot candle meter at a pre-set distance. The owners of such signs shall include a signed letter accompanying their permit application, certifying that they will comply with the prescribed brightness limitations set by this Ordinance.

Brightness measurement process for electronic message centers shall be as follows:

- a) At least 30 minutes past sunset, use a foot candle meter to record the ambient light reading for the area. This is done while the electronic message center is off or displaying all black copy.
- b) The reading shall be taken with the meter aimed directly at the electronic message center at the appropriate pre-set distance.
- c) Measurement distance criteria: 0-100 square foot signs to be measured 100 feet from source.
- d) Turn on the electronic message center to full white copy and take another reading.
- e) If the difference between the readings is 0.3 foot candles or less, the brightness is properly adjusted.
- f) Electronic Message Display Boards do constitute sign area and shall be maintained to conform to the following standards:
 - i) Except for the time and temperature information, changeable signs may change no more often than once per minute.
 - ii) Time/date/temperature information must be displayed for a minimum of 3 seconds each time it is shown.
 - iii) When changing messages, the message must change instantly and may not include any phasing, rolling, scrolling, flashing, or blending of messages.
 - iv) Streaming of information or video animation is not permitted.
 - v) While being displayed, the message shall remain fixed with no flashing, phasing, rolling, scrolling, or blending of information.

4) Illuminated Signs

- a) The light source, whether internal or external, shall be shielded from view and shall not create a hazardous glare for pedestrians or motor vehicles either in a public right of way or on any private premises.

- b) Sign illumination for externally illuminated signs shall utilize focused light fixtures that do not allow light or glare to shine above the horizontal plane of the top of the sign or onto any right of way or abutting property.

5) Open Flags

In addition to the maximum number, total square footage per lot and size of permitted signs, “Open” flags are permitted in all districts subject to the following conditions:

- a) Only one flag per business establishment shall be permitted.
 - b) The flag shall be flown only during open business hours.
 - c) The flag area is limited to a maximum of sixteen (16) square feet.
 - d) Flag design shall be limited to the standard “Open” type.
 - e) No logos, signage or advertising for the respective business(es) of any size or type is permitted.
- 6) **Fuel Dispensing Canopy Signs:** Signs on any canopy covering a fuel dispensing area shall not extend beyond the edges of the canopy and shall comply with one of the two following provisions:
- a) No sign shall exceed 15% of the square footage of the side of the canopy upon which it is located. No side shall contain more than one (1) sign.
 - b) The total area of signs on the canopy shall not exceed 9% of the total square footage of all sides of the canopy. No canopy shall have more than two (2) signs located on it.
- 7) **Canopy (non-Fuel Dispensing), Marquee, or Awning signs:** may be permitted provided that the sign area does not exceed 25% of the plane of the canopy, marquee, or awning on which the sign appears.
- 8) **Home Occupation Signs:** Unless prohibited by State authorities, one non-internally illuminated off-premises sign identifying the name, address, and profession of a permitted home occupation is allowed provided that such sign does not exceed six (6) square feet and may be placed (subject to necessary permission from property owner(s)) at the entrance to a dead-end or cul-de-sac for the purpose of directing motorists to the location of the Home Occupation.
- 9) **Menu Board signs:** A menu board installed at the point where customers place their orders at a drive-thru restaurant which does not exceed 32 square feet of gross display area and the location of which has been approved by the Planning Board under the Site Plan Review standards, shall not be counted as a sign in applying the dimensional requirements of this Ordinance.
- 10) **Motor Vehicle Signs:** Signs on, attached to, or affixed to motor vehicles are not subject to this Ordinance unless they have the effect of circumventing restrictions or limitations imposed herein. A sign on a motor vehicle will be presumed to have the effect of circumventing this Ordinance if the vehicle is parked or stored in a location visible from a public way and one or more of the following circumstances exist:
- a) the vehicle is not registered

- b) the vehicle is not inspected
- c) the sign is larger in any dimension than or extends beyond any surface of the vehicle to which it is placed, attached, or affixed
- d) the vehicle is parked or stored continuously in the same location
- e) the vehicle is parked or stored in an area not designed, designated, or commonly used for parking
- f) the vehicle is regularly parked or stored in the front yard or in the public right of way adjacent to the front yard
- g) the vehicle is regularly parked or stored in a location where a sign would not be permitted by this Ordinance

The presumption that a vehicle has the effect of circumventing this Ordinance may be rebutted by evidence that the vehicle is parked or stored in a particular location for reasonable business or personal purposes not related to advertising, identifying, displaying, directing, or attracting attention to an object, person, institution, organization, business, product, service, event, or location.

11) Farm Stands: To the extent permitted by State law (see Title 23 M.R.S.A., Part 1, Chapter 15, subchapters 1 & 2 and other relevant State Statutes), the operator of a Farm Stand, as defined herein and by State law, may install a maximum of five (5) sandwich-board style signs between June 1st and November 15th of each year for the purposes of directing motorists to the location where agricultural products are offered for sale provided that the standards in both this section and this Ordinance are met and maintained.

- a) A maximum of two (2) on-premises and three (3) off-premises signs shall be permitted.
- b) Each sign shall be thirty-six (36) inches or less in height and may not exceed six (6) square feet in Sign Area.
- c) Signs shall not be clustered together and "Burma Shave" style signs (sequential) are not permitted.
- d) All signs shall constitute Sign Area for the purposes of calculating Maximum Aggregate per Table 1.2 herein.
- e) All signs shall be chalkboard or whiteboard and no changeable copy is permitted.
- f) No add-ons such as balloons, flags, streamers, or lighting are permitted
- g) All signs shall be safely secured with, for example, weights but shall not be affixed to the ground if they are within a road right-of-way.
- h) No sign shall adversely affect motorist sight distance, pedestrian and/or bicycle traffic, nor infringe upon accessibility for handicapped individuals.
- i) Subject to State law requirements, maximum of two (2) "on-premises" signs may be located within fifteen (15) feet of the entrance or the property line and within the right-of-way, subject to "h" above, at the sign-owners risk and the issuance of an revocable license agreement and waiver of liability are executed and permission by the Town.

- j) Subject to State law requirements, maximum of three (3) "off-premises" signs must be located within one (1) mile of the Farm Stand, not within a road right-of-way, and only on private property with the consent of the property owner(s).
- k) The three (3) "off-premises" signs detailed above in this section 406.7.1.11 shall not require issuance of a permit by the CEO.

ARTICLE 8 – COMPUTATIONS

406.8.1 COMPUTATIONS

- 1) **Computation of area of individual signs.** The area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) shall be computed by means of the smallest square, rectangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning Ordinance regulations and is clearly incidental to the display itself. Refer to Diagram 1 for guides to computation methods.
- 2) **Computation of area of multi-faced signs.** The sign area for a sign with more than one (1) face shall be computed by adding together the sign area of all sign faces from any one (1) point. When two (2) identical sign faces are placed back to back, or at no greater than fifteen (15) degrees from one another, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the faces. Refer to Diagram 2 for guides to computation methods.
- 3) **Computation of height.** The height of a sign shall be computed as the distance from the base of the sign or sign structure at normal grade to the top of the highest attached component of the sign. In the case of Wall, Projecting or Roof signs, the height of a sign shall be computed as the distance from the normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of either (1) existing grade prior to construction; or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of the street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower. Refer to Diagram 3 for guides to computation methods.
- 4) **Multiple Signs:** Multiple signs placed immediately adjacent to one another shall be considered one sign for the purposes of this Ordinance. Examples include individual signs all attached to the same supporting structure (i.e. free-standing sign) or multiple Wall/ Projecting/ Roof signs placed in a row for the purposes of circumventing the maximum number and/ or size of allowed sign(s). In such and similar circumstances, the areas of all such signs shall be totaled and considered one sign for the purposes of this Ordinance.
- 5) **Painting/ Stripes:** The painting or application of stripes or banding of colors on a building purposefully intended to function collaboratively with proposed sign(s) shall be considered sign area for the purposes of this Ordinance.

ARTICLE 9 – PERMIT FEES, ADMINISTRATION, CONFLICTS

406.9.1 PERMIT FEES

Permit fees are specified in the Town's Municipal Fee Schedule.

406.9.2 ADMINISTRATION, ENFORCEMENT, PENALTY AND APPEALS

- 1) This Ordinance shall be enforced by the CEO.
- 2) The burden of proof for compliance with all standards in this Ordinance shall be borne by the applicant. The applicant is responsible for submitting all necessary information for the CEO to make a decision regarding compliance with this Ordinance.
- 3) If the CEO finds that any provision of this Ordinance is being violated, he shall notify by registered or certified mail the person determined to be responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it and a time limit for the correction.
- 4) When any violation of any provision of this Ordinance is found to exist, the CEO is hereby authorized and directed to institute any actions and proceedings that may be appropriate or necessary to enforce the provision of this Ordinance.
- 5) Any person who violates any provision of this Ordinance shall be guilty of a civil violation and shall be fined not more than \$100.00. Each day a violation is permitted to exist after notification constitutes a separate offense.
- 6) Any person aggrieved by a decision of the CEO may appeal to the Zoning Board of Appeals (ZBA) within thirty (30) days from the date of written decision. This applies to both administrative appeals and waiver appeals.
- 7) Administrative Appeal: Any person aggrieved by a decision of the CEO in the interpretation of standards in this Ordinance may file an administrative appeal to the ZBA within thirty (30) days from the date of written decision.

The actions of the CEO may be modified or reversed by the ZBA by a concurring vote as established in the Board's by-laws or as required for a land use administrative appeal in the Zoning Ordinance. Decisions of the CEO may be reversed only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.

- 8) Waiver Appeals: The ZBA has the authority to hear and decide upon a waiver appeal in specific cases to relax the dimensional standards contained in this Ordinance. For the purpose of a waiver appeal, the ZBA's authority for dimensional standards is limited to maximum sign area and maximum height.

A waiver appeal may only be granted upon a concurring vote as established in the Board's by-laws or as required for a land use variance appeal in the Town's Zoning Ordinance.

In deciding a waiver appeal, the ZBA shall consider the following:

- a) Shape and size of the lot;
- b) Number of businesses in a building or on a lot;

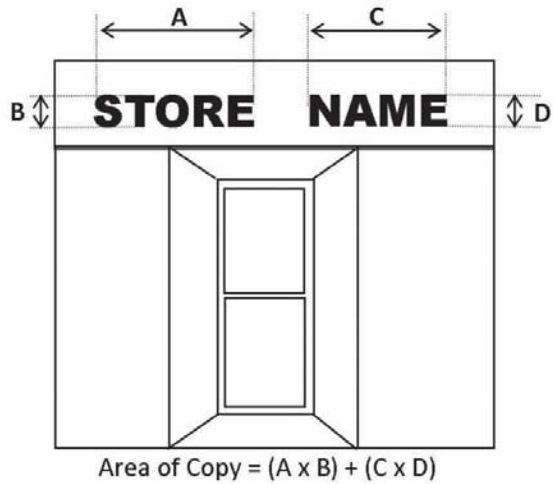
- c) Any unique feature(s) of the lot or building;
 - d) Compatibility with neighboring signage, lots and properties;
 - e) Determine that granting the waiver is not inconsistent with the general intent and purpose of this Ordinance; and
 - f) Is granted solely to prevent a hardship based on conditions not generally prevalent in the area where the premises are located.
- 9) When an appeal is made to the ZBA, the same notification requirements to abutters, as outlined in Article 9 Chapter 402 of the Zoning Ordinance, shall apply.
- 10) Any person aggrieved by the decision of the ZBA or by an order rendered by the ZBA to remove a sign may appeal said decisions to the Maine Superior Court. The appeal shall be filed within thirty (30) days after the decision of the ZBA.

406.9.3 CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rules, regulations, by-laws, permits or provision of law. Where this Ordinance imposes a greater restriction upon the location, size, or type of sign allowed, the provisions of this Ordinance shall control.

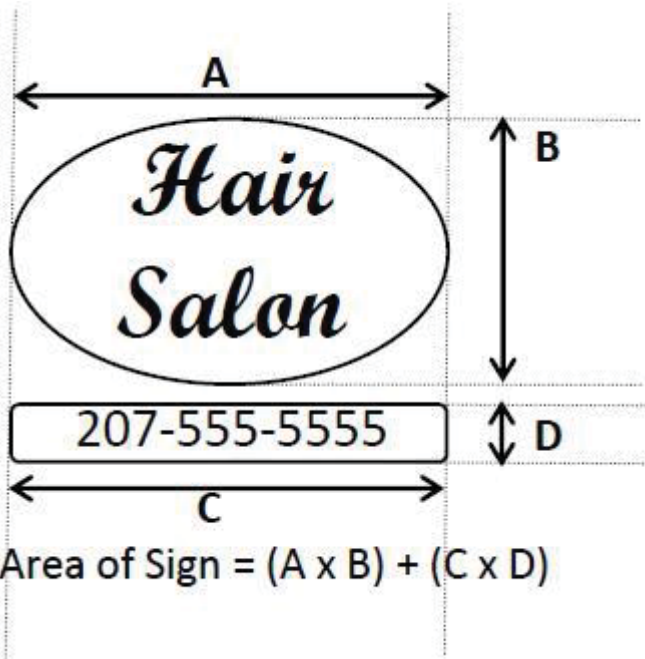
ARTICLE 10 – DIAGRAMS

DIAGRAM 1 Computation of Area of Individual Signs



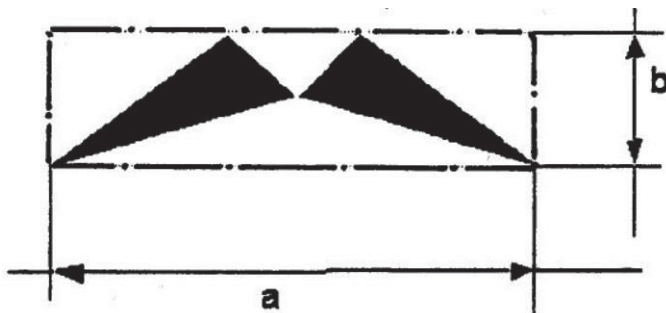
Area of copy

The entire area within a single continuous perimeter composed of squares or rectangles which encloses the extreme limits of the advertising message announcement or decoration on a fascia or wall sign.



Area of Sign

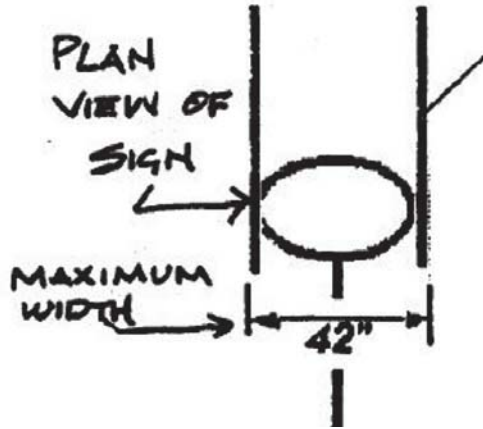
The area of the largest single face of the sign within a perimeter which forms the outside shape, including any frame, forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be calculated.



Sign Area = $A \times B$

DIAGRAM 2

Computation of Area of Multi-faced Signs



Sign Area Computed for one face

Total Sign Area = (AxB) + (Cx D)

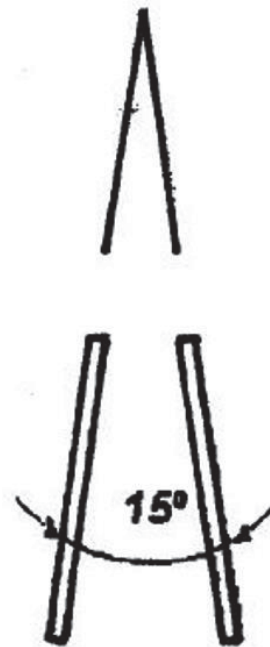
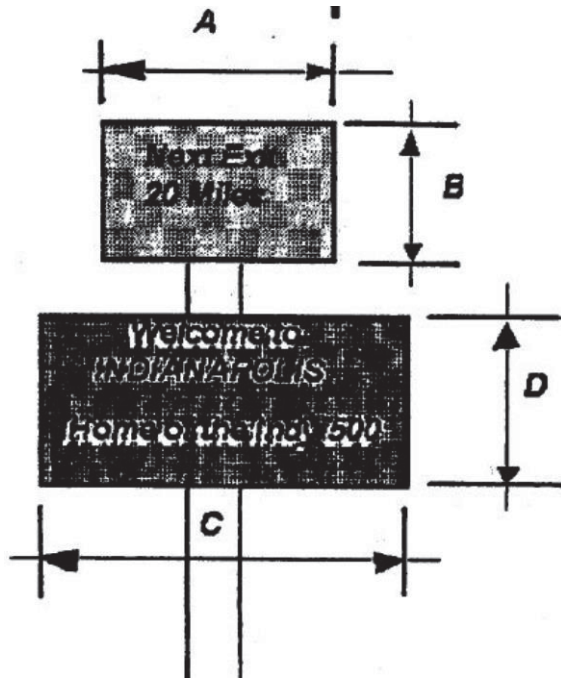
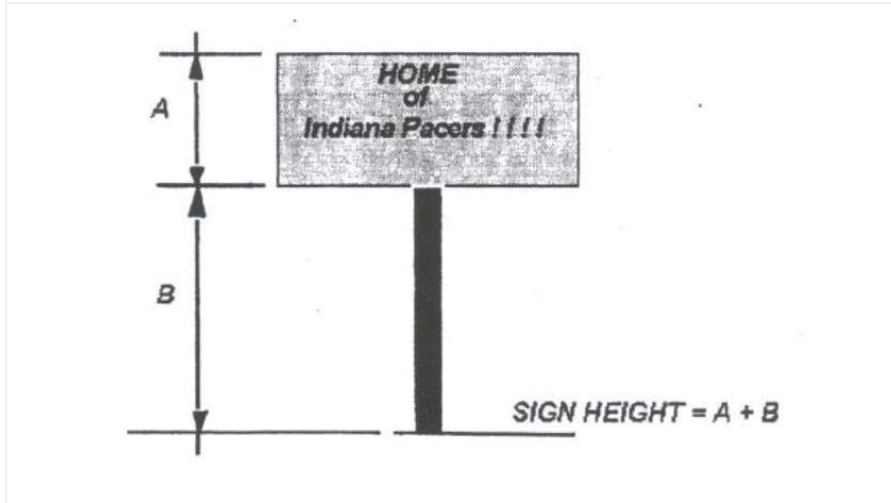
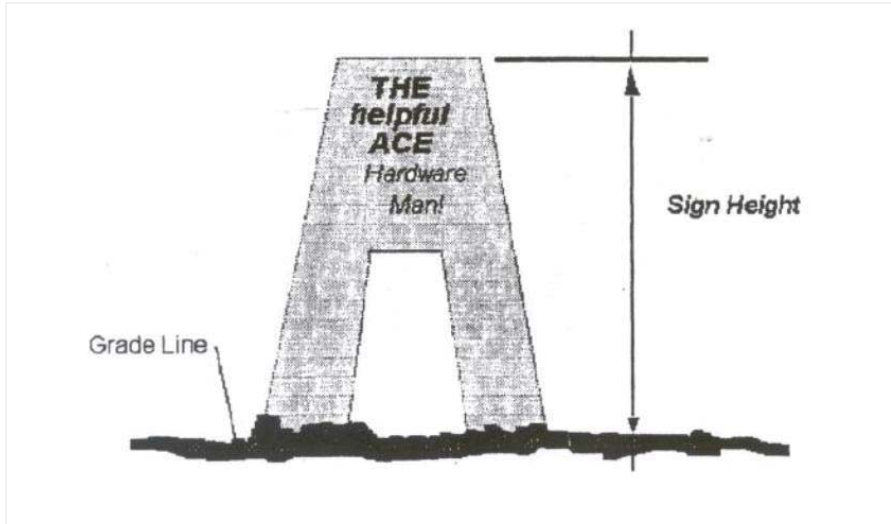
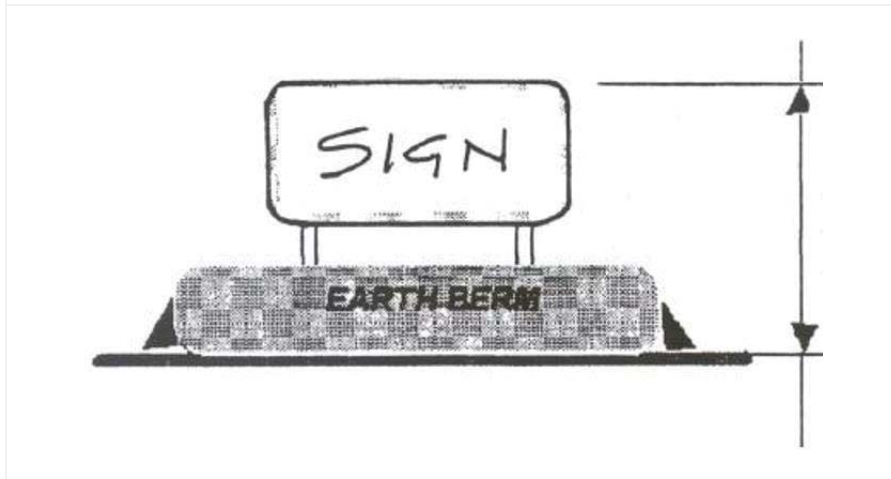


DIAGRAM 3
Computation of Height



Sign Height = A + B



Ground Mounding Height

Maximum sign height includes any berming

CHAPTER 504
SOLID WASTE, FLOW CONTROL & RECYCLING ORDINANCE
TOWN OF GRAY MAINE

Adopted March 3, 1992

Amended January 19, 1993

Amended August 7, 2012 – Effective September 6, 2012

SECTION I – SCOPE

This Ordinance applies to all generators of Solid Waste in the Town of Gray, including but not limited to residential, commercial, industrial and governmental generators of Solid Waste in the Town of Gray.

SECTION II – DEFINITIONS

As used in this Ordinance, the following terms shall have the following meanings:

Abandoned Vehicle: Any gasoline, diesel or electric powered equipment, or part thereof, originally designed for carrying persons or goods for commercial, business, private or recreational purposes, which is:

- A. No longer used for the purpose originally intended;
- B. Has not been converted to another commercial, business, private, or recreational vehicular use;
- C. Is not exempted or regulated under existing state or federal law; or
- D. Has been left out in the elements to deteriorate.
- E. It includes, but is not limited to, automobiles, trucks, buses, campers, trailers, boats, snowmobiles, jet skis and ATVs.

Acceptable Waste: Household Waste, Municipal Waste, Commercial Waste, Construction/Demolition Debris, White Goods, Brown Goods, Wood Waste, Yard Waste, Tree and Brush Waste, and Landscape Refuse, provided it is separated into categories as determined by the Transfer Station's Operations Manual and is delivered in quantities reasonably expected to be generated or collected by the delivering entity. It does not include Hazardous Waste, Special Waste, Biomedical Waste, Agricultural Waste, Land Clearing Debris or Industrial Waste.

Agricultural Waste: As defined in Maine Department of Environmental Protection ("DEP") regulations, 06-096 C.M.R. Ch. 400, Sec. 1(D) as may be amended from time to time, Solid Waste that results from "agricultural activities," as defined in 38 M.R.S.A. § 361-A(1-B), which are returned to the soil as fertilizers. It includes waste pesticides when generated by a farmer, provided that he/she triple rinses each emptied pesticide container in accordance with DEP regulations and disposes of the pesticide residues in a manner consistent with the disposal instructions on the pesticide label. It does not include any materials regulated as a residual under Chapter 419 of the Department's Regulations. This is also referred to as "waste resulting from agricultural activities" in 38 M.R.S.A. § 1303-C(45), as may be amended from time to time.

Ashes: Residue from burning wood, coal, coke, or other combustible material.

Biomedical Waste: Special Waste as defined in regulations promulgated by the DEP in 06-096 C.M.R. Ch. 900, as may be amended from time to time.

Brown Goods: Small household appliances including, but not limited to, radios, televisions, sound systems, and other small electric or electronic appliances or devices.

Commercial Waste Hauler: Any person, firm, partnership, association, corporation or other legal entity that collects, transports and disposes of Solid Waste for a fee as herein prescribed.

Commercial Waste: Solid Waste generated by stores, offices, restaurants, warehouses and other non-manufacturing, non-processing activities; but this does not include Household Waste, Industrial Waste or Special Waste.

Composting: The biological decomposition and stabilization of organic matter under controlled aerobic conditions of high temperature.

Construction/Demolition Debris: The debris resulting from construction, remodeling, repair, and demolition of structures, excluding asbestos, paints, and chemicals, regardless of their being a by-product of such activity.

Contractor: Any individual, company, or corporation hired to provide a service for a fee, including but not limited to: roofing, siding, window replacement, general carpentry and repair, landscaping or tree and brush removal.

Disposal: The discharge, deposit, dumping or placing of any Solid Waste into or on any land or body of water, or the incineration of any Solid Waste.

Disposal Facility: Any land or structure, or combination of land area and structures, including dumps, recycling centers, and transfer stations used for storing, salvaging, reducing, incinerating or disposing of Solid Wastes, including any transfer station or similar facility which may be constructed by the Town in connection with the use of any disposal facilities.

Ecomaine: A non-capital stock, non-profit corporation created pursuant to Title 30-A, Chapter 115 and Title 13-B, and Title 38, Section 1304-B(5) of the Maine Revised Statutes, or any successor thereto or assignee thereof, which accepts Solid Waste at its Disposal Facility pursuant to a Waste Handling Agreement entered into between the Town and Ecomaine.

Garbage: All table refuse, animal and vegetable matter, offal from meat, fish, and fowls, vegetables and fruits and parts thereof, and other articles and materials ordinarily used for food and which have become unfit for such use or composting, for which reasons they are discarded.

Hazardous Waste: Waste in any physical state, designated as hazardous by the Maine Board of Environmental Protection under 38 M.R.S.A. § 1319-O. It does not include Waste resulting from normal household or agricultural activities. The fact a hazardous waste or part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

Household Waste: Refuse that is generated by common domestic activities. It does not include Construction/Demolition Debris, masonry debris, Wood Waste, Landscape Refuse, household furniture, White Goods or Brown Goods.

Industrial Waste: Solid Waste generated by manufacturing or processing activities. It does not include Household Waste, Commercial Waste or Special Waste.

Inert Fill: A clean solid material, including rocks, bricks, and cured concrete, which is not mixed with other Solid Waste or liquid Waste, and which is not derived from an ore mining activity.

Land Clearing Debris: Solid Waste resulting from the clearing of land and consisting solely of brush, stumps, soil material and rocks.

Landscape Refuse: Grass, leaves, plant cuttings, garden waste, shrubs, branches, trees and wood, whether finished or unfinished. It does not include Construction/Demolition Debris, Land Clearing Debris, plastic bags or other plastic containers used to collect, store or transport Landscape Refuse.

Municipal Waste: Solid Waste generated by municipal activities, with insufficient liquid to be free flowing. It shall not include Unacceptable Waste or material required by this Ordinance to be either recycled or disposed of separately.

Owner: The actual owner of the land and/or buildings, whether an individual, partnership or corporation, or the agent of the owner, or other person having custody of the land or building or to whom the rent is paid.

Person: Any individual, partnership, association, firm, company, corporation, department, agency, group (including a city, town, county, state, federal or other government unit), or any other entity responsible in any way for an activity subject to this Ordinance.

Recyclable Waste: Solid Waste, which when properly segregated, can be recovered, reused, or recycled. It shall include newspapers, corrugated box material, plastic, glass and metal containers, scrap metal, waste oil, mixed paper, automotive batteries, White Goods, and other materials deemed recyclable by the Town.

Resident: Any person who lives in the Town, either on a permanent or seasonal basis.

Rubbish: All miscellaneous waste material, not otherwise included herein, resulting from the ordinary conduct of business or housekeeping.

Scrap Metal: Bicycles, metal shelving, tire rims, wood stoves, snow blowers, lawnmowers, and other metal Solid Waste. It shall not include junk cars, trucks, motor vehicles, or White Goods.

Secured: With respect to carrying Rubbish in open-bodied vehicles or vehicles with trailers, the use of a canvas, tarpaulin, strapping, or other covering of sufficient strength and size to adequately cover and/or contain the load being transported, being affixed to the vehicle in such a fashion as to prevent spillage.

Solid Waste: Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example and not by limitation: Rubbish, Garbage, refuse-derived fuel, Scrap Metal, junk, refuse, Inert Fill and Landscape Refuse. It shall not include sludge from air or water pollution control facilities, septic tank sludge or Agricultural Waste. The fact that Solid Waste, or any part of or constituent of the waste, may have value or other use, or may be recycled, sold or exchanged, does not exclude it from the definition of Solid Waste.

Solid Waste Director: The duly appointed Town official responsible for overseeing the operations at the Transfer Station and enforcing this Ordinance.

Special Waste: As defined in 38 M.R.S.A. § 1303-C(34), as may be amended from time to time, any non-Hazardous Waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, which may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. It includes, but is not limited to:

- A. Oil (except for used motor oil), coal, wood and multi-fuel boiler and incinerator ash;
- B. Industrial Waste and processed Industrial Waste;

- C. Wastewater treatment plant sludge, paper mill sludge and other sludge waste;
- D. Debris and residuals from non-hazardous chemical spills and cleanup of those spills;
- E. Contaminated soils and dredge spoils;
- F. Asbestos and asbestos-containing waste;
- G. Sand blast grit and non-liquid paint waste;
- H. Medical and other potentially infectious or pathogenic waste;
- I. High and low PH waste;
- J. Spent filter media residue;
- K. Shredder residue; and
- L. Other waste designated by the Town, through this Ordinance.

Town: The Town of Gray, Country of Cumberland, State of Maine.

Transfer Station: Facility in the Town constructed and managed for storage and placement of Acceptable Waste in large containers or vehicles for movement to another Disposal Facility.

Tree and Brush Waste: Trees or limbs that are 18 inches or less in diameter with a maximum length of 8 feet or less. Also included in this definition is brush from tree pruning or from woody plant growth. It shall not include tree stumps.

Unacceptable Waste: That portion of Solid Waste which is not Acceptable Waste and includes, but is not limited to, sewage and its derivatives, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and Hazardous Waste and Special Waste, or any other waste determined to be unacceptable by the Town or its authorized agents.

Waste: Items, materials or substances delivered to a Disposal Facility by the Town, its employees, agents or contractors.

White goods: Any appliance surrounded by metal, such as a refrigerator, stove, washing machine, dryer, or water heater.

Wood Waste: Lumber and wood furniture free of large metal attachments, roofing shingles, gypsum board or any other material reducing the acceptability as boiler fuel.

Any terms, phrases and words not defined herein shall have the generally accepted meaning or definition promulgated in WEBSTER'S NEW WORLD COLLEGE DICTIONARY, Third Edition, Copyright 1997, a copy of which is on file in the Town Clerk's office, or as defined in applicable State or federal statutes and regulations.

SECTION III – MANDATORY RECYCLING

It is the intent of the Town of Gray to recycle waste as the primary step in responsible waste management, before resorting to other disposal methods. Recycling is mandatory in the Town of Gray. All residents and businesses shall recycle waste to the greatest degree practical in order to reduce the disposal cost and environmental impact of Solid Waste. It shall be the responsibility of each household and commercial establishment to separate and prepare Recyclable Waste from all other types of waste, and to see that they are transported to the Transfer Station. Materials to be separated for recycling

include but are not limited to: non-soiled paper products, plastic, metals, glass/porcelain, and Construction/Demolition Debris.

SECTION IV – ADMINISTRATION

- A. The Town Council may establish by orders the rules and regulations governing the availability and use of the Transfer Station. The operation of the Transfer Station shall conform to all pertinent regulations and directives of all local, county, state or federal agencies that may have jurisdiction. It shall be the duty of the Solid Waste Director to enforce the provisions of this Ordinance.
- B. The Solid Waste Director shall report to the Town Manager and be given such authority as deemed necessary by the Town Manager and/or Town Council for the purpose of upholding state and federal solid waste management laws, rules and regulations, the provisions of this Ordinance, and any rules made in accordance with this Ordinance.
- C. The Solid Waste Director and/or the attendant(s) at the Transfer Station shall have the responsibility and authority to enforce established rules regarding disposal fees and other rules.
- D. The Town shall inform all persons of the location of the Transfer Station by adequate public notice in writing or in print. Furthermore, the Town shall inform all persons authorized to use the Transfer Station of the proper location for disposing of the various components of their Solid Waste including, but not limited to, Recyclable Waste, reusable materials, Household Waste, White Goods, Brown Goods, Landscape Refuse, Construction/Demolition Debris, tires, ashes, and all other Solid Waste.
- E. Any Solid Waste generated or deposited within the boundary of the Town shall become the property of the Town or Ecomaine pursuant to the terms of a “Waste Handling Agreement” entered into between Ecomaine and the Town, and amendments thereto. No Person shall salvage, remove or carry off any such deposited Solid Waste without prior approval of the Solid Waste Director or his/her designee.
- F. From and after the effective date of this Ordinance, it shall be unlawful for any Person to accumulate or permanently dispose of, within the corporate limits of the Town, Abandoned Vehicles, Garbage, refuse, Rubbish, combustible or incombustible refuse, White Goods, Brown Goods, Recyclable Waste, reusable material or other Solid Waste, excepting Inert Fill, compost and other material, for which specific permission has been granted by the Town. Failure to remove any existing accumulation of Garbage, refuse, Recyclable Waste, Rubbish, Abandoned Vehicles or other Solid Waste within thirty (30) days after the effective date of this Ordinance shall be deemed in violation of this section of the Ordinance.
- G. Nothing in this subsection shall prohibit any person from composting vegetable and plant materials generated on his/her property for non-commercial use.
- H. The owner of any lot, or any Person with the permission of the lot owner and the Code Enforcement Officer, may deposit or dump Inert Fill or similar material for fill purposes only, subject to state and/or local land use regulations.
- I. Certain materials may be excluded by Town Council regulation from Acceptable Waste, which may be deposited at the Transfer Station. These excluded materials may include White Goods, Brown Goods, tires, ashes, spent motor oil, Commercial Waste, Industrial Waste, Land Clearing Debris, Landscape Refuse, Construction/Demolition Debris, abandoned vehicles, bulky waste, or Special Waste which may require special processing prior to disposal.

- J. Except for licensed disposal of Hazardous Waste, Special Waste or Biomedical Waste, it shall be unlawful for any Person to burn or incinerate any Solid Waste within the Town other than Landscape Refuse, other than in an approved incinerator. Cross-Reference: 06-096 C.M.R. Ch. 102 (Maine Department of Environmental Protection regulations related to open burning); 12 M.R.S.A. §§ 9301, 9324 (statutory provisions enforceable by the Department of Conservation, Bureau of Forestry).

SECTION V: AUTHORIZED USE OF THE TRANSFER STATION

- A. The availability and use of the Transfer Station shall be limited to Residents and/or property owners of the Town, or their contractors, for the sole purpose of disposing of Solid Waste generated within the Town.
- B. All vehicles utilizing the Transfer Station must display a valid Transfer Station permit. Permits are issued annually, valid for the calendar year. Permits are available at the Municipal Office, the Transfer Station, and may, at the direction of the Town Manager, be made available elsewhere. Proof of residency is required in order to acquire a permit. Verification of residency shall be made by showing a valid vehicle registration, rental agreement, property tax bill, or driver's license.
- C. Arrangements may be made at the discretion of the Solid Waste Director, prior to arrival at the Transfer Station, to allow for the use of rented or borrowed vehicles.
- D. Non-resident contractors must provide a letter or contract from the Resident for whom the work is being done to include the name, address, telephone number and a description of the work being conducted in the Town of Gray prior to their being allowed to dispose of Acceptable Waste. This in no way removes the responsibility of any disposal fees due from the contractor.
- E. Waste generated in the course of commercial activity must be segregated into recyclable, reusable and non-recyclable categories prior to delivery to the Transfer Station.
- F. Federal agencies, state agencies, and non-profit organizations may bring Recyclable Waste to the Transfer Station.

SECTION VI – TRANSFER STATION USER CHARGES

Upon reviewing recommendations made by the Town Manager and Solid Waste Director, the Town Council may establish, by order, schedules of waste disposal charges, operating hours, delivery times and other operating regulations for the use of the Transfer Station, or any portion thereof located within the Town, which schedules may include different waste disposal charges, operating hours, delivery times and other operating regulations for property owners and Residents of the Town, businesses located within the Town and Commercial Haulers collecting Solid Waste within the Town and may include different schedules for disposal or disposal of different kinds of Solid Waste. All schedules shall be kept on file in the Town Clerk's office.

SECTION VII – RESTRICTIONS

- A. Hazardous Waste shall not be deposited at the Transfer Station. The Town shall not be responsible for any costs or liabilities incurred with the disposal of Hazardous Waste.
- B. Special Waste shall not be deposited at the Transfer Station. The Town shall not be responsible for any costs or liabilities incurred with the disposal of Special Waste.
- C. Biomedical Waste shall not be deposited at the Transfer Station. The Town shall not be responsible for any costs or liabilities incurred with the disposal of Biomedical Waste.

- D. Agricultural Waste shall not be deposited at the Transfer Station. The Town shall not be responsible for any costs or liabilities incurred with the disposal of Agricultural Waste.
- E. Land Clearing Debris shall not be deposited at the Transfer Station. The Town shall not be responsible for any costs or liabilities incurred with the collection, storage, transport, or disposal of Land Clearing Debris.
- F. Industrial Waste shall not be deposited at the Transfer Station. The Town shall not be responsible for any costs or liabilities incurred with the collection, storage, transport or disposal of Industrial Waste.
- G. It shall be unlawful for any Person to place, leave or deposit at the entrance of, or along the perimeter fence of the Transfer Station, any Garbage, refuse, Recyclable Waste, Rubbish, White Goods or other Solid Waste during, or outside of, the hours of the day and the days of the week that the Town Council has determined those facilities open for the disposal of Solid Waste Materials.
- H. It shall be unlawful for any Person to place, leave or deposit along any public right of way, on any public property, or any property on which it is deemed illegal by local ordinance any Garbage, refuse, Recyclable Waste, Rubbish, White Goods or other Solid Waste unless permission is granted from the governing authority.
- I. No more than ten (10) cubic yards of any Solid Waste or combination of materials may be deposited by a Person at the Transfer Station per day without prior approval of the Solid Waste Director.

SECTION VIII – DESIGNATION

In accordance with the provisions of 38 M.R.S.A. § 1304-B, the Town hereby designates the Ecomaine Disposal Facility in Portland, Maine and the Transfer Station as Disposal Facilities for the purposes cited in this Ordinance. The disposal by any Person, including any Person licensed as a Commercial Waste Hauler in accordance with this Ordinance, of any Household Waste, Municipal Waste, or processable portions of Commercial Waste or Industrial Waste, generated within the Town, at any place other than the Ecomaine Disposal Facility or the Transfer Station is prohibited. The Town shall not be responsible for any costs incurred with the disposal of non-segregated Household Waste or Commercial Waste hauled by or for the generator.

SECTION IX – REGULATION OF COMMERCIAL WASTE HAULERS

- A. It shall be unlawful for any person to haul, transport, collect, remove or dispose of Garbage, Recyclable Waste, Rubbish, White Goods, Brown Goods, or other Acceptable Waste generated within the Town for a fee without first securing a Commercial Waste Hauler’s license from the Town.
- B. The fee for a Commercial Waste Hauler’s license shall be established by Town Council Order and set forth in the Town’s fine and fee schedule. Any person desiring to secure such a license shall present a written application, accompanied by the fee, to the Town Clerk. Such license shall be issued after due and proper investigation and recommendation of the Solid Waste Director and after approval by the Town Council.
- C. Commercial Waste Haulers shall deposit all Household Waste, Commercial Waste and acceptable Industrial Waste generated within the boundaries of the Town at the Ecomaine Disposal Facility or any other licensed Disposal Facility as may be designated by the Town Council. The Town shall not

be responsible for the collection, transportation or disposal of any Household Waste, Commercial Waste, Industrial Waste, or Unacceptable Waste.

- D. Trucks or other vehicles used for the transportation of Garbage or other Solid Waste mixed with refuse shall be of the compactor type; water tight, with an enclosed cargo space. Collection of dry refuse, Rubbish, Recyclable Waste and other Solid Waste is permitted in open trucks, which shall be covered and Secured. No trucks or other vehicles shall be permitted to scatter any of the contents on the streets, highways, or roads of the Town. Trucks used to haul Garbage, refuse, Recyclable Waste, Rubbish or other Solid Waste over the streets of the Town must be maintained in a clean and sanitary condition and shall meet all the requirements of the Town or appropriate State agency where applicable. The trucks may be inspected at any time during normal collection hours by the Solid Waste Director or his/her designee. Any deficiencies must be corrected by the Commercial Waste Hauler prior to additional waste being collected. Trucks must be cleaned before handling Recyclable Waste.
- E. With prior notice and hearing, licenses and renewals of licenses may be denied and any license issued pursuant to the provisions of this Ordinance may be revoked by the Town Council, upon failure of the licensee to comply with any of the provisions of this Ordinance, or with any of the regulations of the DEP, relating to the collection and disposal of Garbage, refuse, Recyclable Waste, Rubbish, White Goods, or any other Solid Waste. License fees are nonrefundable. An aggrieved party may appeal a license denial or revocation to Superior Court, pursuant to Rule 80B of the Maine Rules of Civil Procedure, within 30 days of such denial or revocation.
- F. Any agreement for the collection, transportation and/or disposal of Solid Waste generated in the Town shall be by private contract between the Person and the Commercial Waste Hauler licensed for the purpose of collecting removing, hauling and/or disposing of such Solid Waste.
- G. Any agreements for the removal and collection of Recyclable Waste must provide that the materials will be received by the Town or its designee in marketable condition.

SECTION X – DISPOSAL OF CONSTRUCTION/DEMOLITION DEBRIS AND LANDSCAPE REFUSE

- A. Only residents of the Town and owners of property located within the Town may dispose of Construction/Demolition Debris and Landscape Refuse at the Transfer Station.
- B. Disposal of Construction/Demolition Debris and Landscape Refuse shall occur in accordance with regulations determined from time to time by vote of the Town Council and only in the presence of a Town employee or agent.
- C. Contaminated Construction/Demolition Debris, Land Clearing Debris and/or Landscape Refuse cannot be deposited at the Transfer Station. The Town shall not be responsible for any costs incurred with the disposal of contaminated Construction/Demolition Debris, Land Clearing Debris and Landscape Refuse.

SECTION XI – PENALTIES FOR VIOLATION

Any Person who shall violate or fail to comply with any of the provisions of this Ordinance shall:

- A. Be punished by a fine per violation plus costs; fines established by Town Council Order shall be recovered on complaint to the use of the Town. Each day upon which any continuing violation of any provision of this Ordinance shall occur shall constitute a separate violation; each incident of disposal of Solid Waste in violation of this Ordinance shall constitute a separate violation. In

addition, the Town may seek equitable relief, including, but not limited to, injunctive relief and indemnification of the Town's liquidated damages to Ecomaine, and attorney's fees and costs, to ensure compliance with the terms of this Ordinance.

- B. Pay the actual costs to remove and dispose of Solid Waste deposited in violation of this Ordinance.
- C. Pay for any damages to the Town's facilities or equipment caused by said violation.
- D. Be prohibited from using the Transfer Station for a period of six (6) months, after notice and hearing by the Town Manager and upon recommendation of the Solid Waste Director or his/her designee. An appeal of this prohibition may be made to the Town Council within fourteen (14) days from the notice upon request. Furthermore, an aggrieved party may appeal to Superior Court, pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- E. The fine for violation of this Ordinance is as set forth in the Town's fine and fee schedule.

SECTION XII – SEVERABILITY

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Town that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section, or part had not been included herein.

CHAPTER 207
SPECIAL AMUSEMENT ORDINANCE
TOWN OF GRAY MAINE

Adopted January 4, 1979
Amended September 15, 1992

SECTION 207.1 – TITLE

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Gray, Maine.

SECTION 207.2 – PURPOSE

The purpose of this Ordinance is to control the issuance of special permits as required by 28-A M.R.S.A. section 1054 as amended from time to time, for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor.

SECTION 207.3 – DEFINITIONS

- A. **Dancer:** For the purpose of this Ordinance, “dancer” means a person, other than a patron, under the licensee’s control and dancing for entertainment in facilities licensed by the State of Maine to sell liquor.
- B. **Entertainment:** For the purpose of this Ordinance, “entertainment” shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.
- C. **Exotic Dancing:** For the purposes of this Ordinance, “exotic dancing” means the appearance of a person or persons, under the licensee’s control, other than a patron, and on the licensee’s premises, in such a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva or genitals or any simulation thereof, or when any female appears on a licensee’s premises in such a manner or attire as to expose to view any portion of the breast referred to as the areola, nipple or simulation thereof. “Expose to view” shall be interpreted to prohibit, without limitation, clear, see-through or clothing which is otherwise non-opaque.
- D. **Licensee:** For the purpose of this Ordinance, “licensee” shall include any person, individual, partnership, firm, association, corporation, or other legal entity to whom a license of any kind is issued by the Maine State Liquor Commission.
- E. **Premises:** For the purpose of this Ordinance, “premises” means all parts of the contiguous real estate occupied by a licensee over which the licensee has direct or indirect control or interest, which the licensee uses in the operation of the licensed business and which have been approved by the Maine State Liquor Commission and/or the Town of Gray as proper places for the exercise of the license privilege.

SECTION 207.4 – SPECIAL AMUSEMENT PERMIT

A. Application

- 1. No licensee for the sale of liquor to be consumed on his premises shall permit on his premises any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the premises are situated a special amusement permit.

2. Applications for all special amusement permits shall be made in writing to the Town Council and shall state the name of the applicant; his business address; the nature of his business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be required by the Town Council prior to the issuance of said permit, including but not limited to a copy of the applicant's current liquor license.
3. No permit shall be issued for anything or act, or premises, if the premises and building to be used do not fully comply with all ordinances, codes and regulations of the said Town.
4. The fee for a special amusement permit shall be paid when application is made for said permit. If an application is withdrawn or denied, the Town shall refund the then-unexpended balance of the application fee, if any.
5. A licensee as defined in the Maine Revised Statutes who has been issued a special amusement permit may charge admission in designated areas approved in said permit.

B. Hearing

1. The Town Council shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing, at which hearing the testimony of the applicant and that of any interested members of the public shall be taken.
2. The Town Council shall grant a permit unless they find that issuance of the permit would be detrimental to the public health, safety or welfare, or would violate municipal ordinances, codes and/or regulations. The permit may be granted subject to such conditions and restrictions as the Council may deem necessary.
3. A permit shall be valid only for the license year of the applicant's existing liquor license.

C. Decision

Within fifteen (15) days of receiving the permit application, the Town Council shall give the applicant written notice of its decision.

1. If the Town Council denies a licensee a permit, it shall provide the licensee with the reasons for the denial in writing.
2. The licensee may not reapply for a permit within thirty (30) days after denial of an application for a permit.

D. Inspections

1. Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any municipal ordinance, code or regulation or State law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the said Town authorized to make the inspection at any reasonable time admission is requested.
2. In addition to any other penalty which may be provided, the Town Council may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official or employee while in the performance of his duty; provided, that no license or

special amusement permit shall be revoked unless written demand for the inspection is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

E. Suspension or Revocation

The Town Council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit which has been issued under this Ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare or violates any municipal ordinances or regulations.

F. Appeals

Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may within thirty (30) days of the denial, suspension or revocation, appeal the decision to the Superior Court.

SECTION 207.5 – RULES AND REGULATIONS

A. Exotic Dancing

1. No special amusement permit shall be issued to conduct the activity of exotic dancing on the applicant's premises.
2. It shall be unlawful and a violation of this Ordinance for a licensee holding a special amusement permit thereunder to permit exotic dancing on the premises.

B. Regulations for Permitted Dancing. The following regulations apply to any and all entertainment for which a special amusement permit is sought or issued where such entertainment includes a "dancer" or "dancers" as defined in this Ordinance.

1. No dancer shall dance in the premises except on a raised platform intended for that purpose which is raised at least two (2) feet from the floor.
2. No dancer shall dance closer than ten (10) feet to any patron.
3. There shall be no fondling, mingling or caressing on the premises between any patron and any dancer with the intent to sexually arouse or excite a patron's sexual desire.
4. No patron shall directly pay or give any gratuity to any dancer and no dancer shall solicit any pay or gratuity from any patron.
5. The licensee shall provide on the premises a separate dressing room and toilet facilities for use by dancers only.
6. Dancers on the premises who remove any outer garments shall not toss or throw those outer garments at or in the direction of patrons.
7. The licensee shall, at his own expense, post a licensed security guard or an individual authorized to act as a law enforcement officer (whether full-time or part-time and whether on-duty or off-duty) at each entrance and exit to the premises during each performance by dancers on the premises and for one hour after each such performance.
8. No one under twenty-one (21) years of age shall be permitted on the premises or portion of the premises where a performance by dancers is conducted during any such performance.

9. Any premises upon which entertainment including a dancer or dancers is proposed to be conducted shall be located at least five hundred (500) feet from any church; school; park; other facility holding a special amusement license under this Ordinance and which provides “dancers” as defined in this Ordinance; or any area for which residential uses are either a permitted use or a conditional use under the Zoning Ordinance of the Town of Gray, Maine (in each of the above instances, the distance shall be measured from property line to property line).
 10. An applicant for a special amusement permit for entertainment including a dancer or dancers must demonstrate that at the time of permit application and during the duration of the permit, the applicant will have available during the hours that such entertainment is provided one (1) parking space for each three (3) persons the premises is capable of accommodating plus two (2) parking spaces for each three (3) employees, including the dancer or dancers who are on the premises to provide such entertainment.
 11. An applicant for a special amusement permit for entertainment including a dancer or dancers shall pay an application fee of one thousand five hundred dollars (\$1500.) to defray the administrative costs of such a permit.
 12. There shall be no graphic evidence on the exterior of any facility licensed under this Ordinance of the dancers, either live or simulated, requiring the licensee, if necessary, to black out windows or install curtains to prevent viewing of the dancers from the outside; provided, nothing in this paragraph shall prohibit the establishment from advertising by words the nature of the entertainment.
- C. Regulations Generally Applicable. The following regulations apply to any and all music, dancing and entertainment for which a special amusement permit is sought or issued.
1. All music, dancing and/or entertainment subject to regulation under this Ordinance, on the premises, shall end no later than 12:00 midnight.
 2. The maximum permissible sound pressure level produced by any music, dancing and/or entertainment on the premises shall not exceed 50 dB, measured four (4) feet above ground at the property boundary; this measurement shall be made by a meter set on the A-weighted response scale, slow response and the meter shall meet the American National Standards Institute (ANSI S1.4-1961) “American Standard Specification for General Purpose Sound Level Meters.”
 3. The music, dancing and/or entertainment on the premises shall comply with all applicable law.
 4. Except for where a special amusement permit is sought for entertainment including a dancer or dancers, the application for a special amusement permit shall be five hundred dollars (\$500.)
 5. Must demonstrate that at the time of permit application and during the duration of the permit, the applicant will have available during the hours that such entertainment is provided one (1) parking space for each three (3) persons the premises is capable of accommodating plus two (2) parking spaces for each three (3) employees.
- D. The Town Council is hereby authorized, after public notice and hearing, to establish additional written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing, or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. The rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the

hours during which the permitted activities are permitted. Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

SECTION 207.6 – PENALTY

Anyone found guilty of violating any provision of this Ordinance shall be subject to a fine of not less than Five Hundred Dollars (\$500) nor more than twenty five hundred dollars (\$2500) in addition to such equitable relief as is necessary to insure compliance with the terms of this Ordinance. Each day such violation continues shall be deemed to be a new offense.

SECTION 207.7 – SEVERABILITY

If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such ruling shall not affect the remaining provisions which shall remain in full force and effect.

CHAPTER 400
STREET ORDINANCE
TOWN OF GRAY MAINE

Street Construction Ordinance Adopted June 3, 2003 / Effective Date July 3, 2003

Amended March 16, 2004 / Effective Date April 15, 2004

Street Ordinance Adopted May 17, 2011 / Effective June 16, 2011

Amended December 6, 2011 / Effective January 5, 2012

Amended October 15, 2013 / Effective November 14, 2013

Amended October 20, 2015 / Effective November 19, 2015

SECTION 1 – GENERAL ADMINISTRATION

SECTION 1.1 – PURPOSE

The Purposes of this ordinance are to promote public health, safety, and welfare for the residents of the Town of Gray by regulating activities that affect the Town's ability to maintain the roadway system, enhancing the easy and rapid location of and access to properties for the delivery of public safety and emergency services, and avoiding potentially life threatening situations that may be caused by unsafe road conditions and confusing or disorganized addressing.

SECTION 1.2 – EFFECTIVE DATE

The effective date of this revision of this Ordinance shall be June 17, 2011.

SECTION 1.3 – APPLICABILITY

The provisions of this ordinance shall apply to all streets and roads in the Town of Gray that are under public ownership by the Town or the State of Maine or that are under a public easement for winter maintenance. The ordinance shall also apply to any street or road shown on a subdivision plan approved by the Gray Planning Board and recorded in the Cumberland County Registry of Deeds.

SECTION 1.4 – APPEALS

- A. Decisions of the Code Enforcement Officer under this Ordinance shall be appealed to the Zoning Board of Appeals and from the Zoning Board of Appeals to the Superior Court in accordance with Rule 80 B of the Maine Civil Rules of Procedure.
- B. Decisions of the Public Works Director, Town Engineer, and Street Addressing Committee under this ordinance shall be appealed to the Town Council.

SECTION 1.5 – SEVERABILITY

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

SECTION 1.6 – CONFLICTS WITH OTHER ORDINANCES

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, permit, or provision of law. Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rules, regulations, Ordinances, deed restrictions, or covenants, the most restrictive shall govern.

SECTION 2 – ACCEPTANCE OF A PUBLIC STREET OR PUBLIC EASEMENT FOR WINTER MAINTENANCE

SECTION 2.1 – PURPOSES & INTENT

- A. Sub-collectors, Village Public Streets, and Rural Public Streets generally are designed for full public ownership and maintenance. Sub-collectors and Rural Public Streets carry high volumes of traffic and/or provide through connections between existing streets that improve traffic flows through the community.
- B. Rural Public Easement Streets are designed for public winter maintenance under the Town’s private road public easement policy. Minor Rural Streets are designed for full private ownership and maintenance under a maintenance agreement or homeowners’ association framework.
- C. All new public streets/easements shall not be isolated from existing public streets/easements by intervening private streets. New public streets/public easements must either intersect existing public streets/easements or there shall be a continuous path from new public street/easements through other new public streets to one or more existing public streets.
- D. All decisions to accept public ownership or public easements, however, are subject to the discretionary authority of the Town Council, and all proposed streets shall be covered by a private maintenance agreement or homeowners’ association framework until they are accepted by the Town. Upon receiving preliminary subdivision approval, applicants are required to seek indication of whether the Town Council is willing to accept public ownership of fee interests or public easements.

SECTION 2.2 – PUBLIC EASEMENT FOR WINTER MAINTENANCE

Roads proposed for winter maintenance under a public easement shall meet the following criteria:

- A. Requests for public easement road acceptance shall be made in writing to the Town Manager by the road association president.
- B. Each respective road or homeowners association shall be incorporated, unless all property owners sign an individual public road easement and a hold harmless release.
- C. Each respective road association and each individual property owner if required shall grant a recorded public easement.
- D. Each respective road association and each individual property owner if required shall sign a general release to the Town granting permission to enter upon the road and to perform maintenance.
- E. Each respective road association and each individual property owner if required shall agree and sign to hold the Town harmless for any damages that may be caused in the process of providing maintenance services.
- F. The traveled portion of the road shall be adequately maintained in good repair by the respective road association as determined by the Town’s Public Work’s Director.
- G. There shall be adequate vehicle and plow turnaround(s).
- H. All costs associated with each public easement road acceptance shall be borne by the respective road association and property owners. Said costs may include public easement recording fee, published notices and others costs deemed by the Town Council.

- I. Upon written application to the Town Council and demonstration of extraordinary circumstances the Town Council has sole authority to waive or modify requirement of the road adoption criteria.
- J. Accompanying each road association request for acceptance shall be separate, written recommendations by the Public Works Director and Town Engineer either supporting or not supporting public easement acceptance and their reasoning for the recommendation. A copy of the request and recommendations shall be forwarded to the Town Planner for notification purpose prior to public easement acceptance.
- K. In order to provide an efficient and workable relationship between the Town and the road associations, each respective road association president or designee shall be the liaison between the Town and road association. Each road association is responsible to inform the Town Manager, in writing, identifying their respective association president or designee, address and telephone number by September 1st of each respective year.
- L. Maintenance services covered under this policy shall consist only of snowplowing and road sanding. The provision of required materials: road sand and road salt is implied by this policy. All other maintenance aspects, materials and requirements of public easement roads accepted are the responsibility of the road association and its members, including road grading. The Town does not assume or accept liability for any defects in or lack of repair to public easements.
- M. If a public easement's traveled portion is paved, the public easement road association and abutting property owners agree the Town assumes no responsibility for damages or injury to the paved surface.
- N. For public easement road acceptance and road maintenance, each road association recognizes the Town of Gray responsibilities shall be limited to the scope of this policy and to hold the Town harmless regarding any liability for any negligent damage to property: including but not limited to: driveways, mail boxes, lawns, trees, curbing, shrubs or property markers. Each road association or individual benefiting agrees to hold the Town of Gray, its officers, agents and employees harmless. This clause does not mean or intend to hold harmless private contractors for their negligent acts.
- O. If the Public Works Director determines that an emergency exists on any public easement way due to heavy snowfall and/or narrowing of the travel ways due to snow banks, the Public Works Director and the Town Manager may take such additional snow plowing and/or removal action as he reasonably deems fit to abate the emergency. The Public Works Director shall keep accurate financial records of any such emergency work and report the same to the Town Manager at least monthly.

SECTION 2.3 – PUBLIC EASEMENT FOR WINTER MAINTENANCE STANDARDS FOR PRE-1998 ROADS

In addition to the requirements of Section 2.2 above, roads proposed for winter maintenance under a public easement that were constructed before October 1, 1998 shall meet the following standards:

- A. There shall be at least four (4) year around dwellings served on the road under consideration.
- B. An easement of at least twenty (20 ft) feet in width shall be provided.
- C. The traveled portion of the road must be at least ten (10 ft) feet in width with an overall clearance width of eighteen (18ft) feet.
- D. The traveled portion of the road shall have an adequate gravel base with a minimum depth of six (6 in) inches.
- E. The traveled portion of the road's overhead clearance shall be a minimum of thirteen and half (13½ ft) feet.

SECTION 2.4 – PUBLIC EASEMENT FOR WINTER MAINTENANCE STANDARDS FOR POST-1998 ROADS

In addition to the requirements of Section 2.2 above, roads proposed for winter maintenance under a public easement that were constructed after October 1, 1998 shall meet the following standards:

- A. The road must meet all standards of the Subdivision Ordinance for Rural Public Easement Streets or Rural Public Streets, including paving, except that roads built to the prior public street standard of three (3) inches of paving prior to enactment of this ordinance on May 17, 2011 may be accepted for public easements (*Amendment effective Jan 5, 2012*). Rural Public Streets will not be fully accepted under Section 2.5 below unless they provide public benefits indicated in Section 2.1 A above, but they will be eligible for winter maintenance public easements.
- B. No public easement may be submitted for acceptance unless at least seventy-five (75%) percent of the housing units on that street or within that subdivision phase have received their certificates of occupancy.
- C. Roads shown on final subdivisions plans which were duly approved, inspected, and “substantially started”, as defined in the Gray Zoning Ordinance, by May 17, 2011 may be eligible for winter maintenance of each phase provided that such roads are constructed to the prior “Public Street Construction Standards”, excluding paved shoulders, and that the minimum pavement thickness meets the requirements for a Rural Public Easement Street. (*Amendment effective Nov 14, 2013*).

SECTION 2.5 – REQUIREMENTS FOR FULL PUBLIC ACCEPTANCE OF STREETS

- A. The owner(s) shall give the Town a deed to the property within the boundaries of the street at the time of its acceptance by the Town and a separate deed to areas reserved for future development of streets.
- B. A plan of said street or way shall be recorded in the Cumberland County Registry of Deeds at the time of its acceptance.
- C. A petition for the acceptance of said street or way shall be submitted to the Town Council upon a form to be prescribed by the Town Attorney. Said petition shall be accompanied by an as-built plan, profile and cross section of said street or way as follows:
 - 1. A plan drawn to a scale of 50 feet to 1 inch, and to be on one or more sheets of paper not exceeding 24 inches by 36 inches in size or in digital format as prescribed by the Planning Board.
 - 2. A profile of said street or way drawn to a horizontal scale of 50 feet to 1 inch and a vertical scale of 5 feet to 1 inch.
 - 3. A typical cross section of said street or way, drawn to a horizontal scale of 5 ft. to 1 inch and a vertical scale of 5 ft. to 1 inch.
- D. Streets to be offered to the town for acceptance must have a written report of inspection prepared by the Town Engineer that affirms compliance with the standards of the Subdivision Ordinance for its road classification at the completion of construction. Final Certification by the Town Engineer shall be done only after the road has gone through one winter and spring season.
- E. No street or way shall be accepted by the Town Council until the Planning Board and the Town Engineer shall have made a careful investigation thereof, and shall have reported to the Town Council

their recommendations in writing. Such results shall include at a minimum one core sample for the road proposed. Additional core samples may be required upon recommendation of the Town Engineer.

- F. No street or way may be accepted unless at least seventy-five (75%) percent of the housing units on that street or within that subdivision phase must have received their certificates of occupancy before any acceptance by the Town Council.

PART 3 STREETS ASSOCIATED WITH SUBDIVISIONS [Repealed 12-7-2010 & moved to Subdivision Ordinance]

SECTION 3 – STREET NAMING AND NUMBERING

SECTION 3.1 – ADMINISTRATION

All streets and roads shall be named by a Street Addressing Committee consisting of a representative of Public Safety, Code Enforcement, Public Works, Assessing, and Planning. Road names and numbers shall be assigned to all properties, on both existing roads and new roads that are built after the effective date of this ordinance. The Street Addressing Committee shall be responsible for maintaining the following official records of this ordinance:

- A. Town of Gray street map for official use showing all road names and numbers. The map shall be updated annually as of each April 1st.
- B. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers. The list shall be updated as street names are authorized.
- C. An alphabetical list of all roads with property owners listed in order of their assigned numbers. The list shall be updated annually as of each April 1st.

Any situation pertaining to addressing not covered in this ordinance shall be settled by the Town Council.

SECTION 3.2 – NAMING SYSTEM

All roads/accessways in Gray that serve two or more addresses or principal structures shall be named regardless of whether the ownership is public or private. A road name assigned by the Town of Gray shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system:

- A. Similar names – no two roads shall be given the same or similar-sounding (e.g. Beech and Peach, Pine Road and Pine Lane) names.
- B. Each road shall have the name throughout its entire length.

SECTION 3.3 – NUMBERING SYSTEM

Numbers shall be assigned every one hundred (100 ft) feet along both sides of the road, with even numbers appearing on the right side of the road and odd numbers appearing on the left side of the road, determined by the number origin. The following criteria shall govern the numbering system:

- A. All number origins shall begin from the designated center of the Town of Gray or that end of the road closest to the designated center. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- B. The number assigned to each structure shall be that of the number interval falling closest to the front door or driveway of said structure.

- C. Every structure with more than one principal use or occupancy shall have a separate number for each use or occupancy (i.e. multi-dwelling units and apartments) will have one road number with an apartment letter, such as 235 Maple Street, Apt B. lettered from left to right from the street and beginning with the lowest separately occupied unit.
- D. Corner lots will be numbered on the street which the front door faces.
- E. Cul-de-sacs with buildable lots within the center of the cul-de-sac will be numbered continuously around the cul-de-sac on both sides in the direction of the traffic flow. Cul-de-sacs with no buildable lots in the center will be numbered as a straight street with odd numbers and even numbers meeting on the far side of the cul-de-sac.
- F. Number on the structure. Where the structure is within fifty (50) feet of the street, the assigned number shall be located on the front of the structure near the front door or entry.
- G. Number at street: Where the structure is over fifty (50) feet from the street, the displayed number shall be displayed on a post or mailbox at the street line next to the walk or drive accessing the structure, or where appropriate as determined by public safety officials. The displayed number shall be between four (4) and (6) six feet above the ground and visible from both directions.
- H. Size and color of number. Displayed numbers shall be between four (4) and six (6) inches in height and shall be horizontally oriented and of a contrasting color to any background. Either the number or the background shall be of a reflective nature for visibility at night.

SECTION 3.4 – NEW DEVELOPMENTS AND SUBDIVISIONS

All new developments and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

- A. New Developments. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from the Street Addressing Committee. This shall be done at the time of the issuance of the building permit.
- B. New Subdivisions.
 1. Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application preliminary subdivision plan submissions to the Planning Board. Approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision.
 2. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every one hundred (100 ft) feet so as to aid in assignment of numbers to structures subsequently constructed.
 3. Developers of subdivisions shall be required to erect signs naming streets within each approved subdivision at the onset of the construction phase. Street signs shall be approved by the Public Works Director and installed by the developer prior to the issuance of building permits for any of the subdivision lots.

SECTION 3.5 – ADDRESS REVISIONS

In the event a resident or residents wish to change an existing physical address, the following procedure will be adhered to:

- A. The resident(s) will request the change via a letter to the Addressing Committee, in care of the Fire Chief.
- B. At least two-thirds of the residents affected by the change must be in support of the change, and must have signed the letter. The Addressing Committee will review the requested change, and may request the residents to meet with them.
- C. In the event a resident who is affected by the proposed change does not support the change, they may address their concerns to the Addressing Committee at any time. In the case of an approval for change by the Addressing Committee, the Committee will have the authority to make the change.
- D. Should a resident wish to appeal the Committee's decision, said appeal will be made to the Town Council.

PART 4 PRIVATE STREETS Repealed May 17, 2010 & moved to Subdivision Ordinance]

SECTION 4 – EXCAVATIONS

SECTION 4.1 – PERMIT REQUIRED

No person including a utility shall dig up, excavate, tunnel, undermine or in any manner break up any street or make or cause to be made any excavation in or under the surface of any street for any purpose or place, deposit or leave upon any street any earth or other material obstructing or tending to interfere with the free use of the street, unless such person including a utility shall first have obtained a street opening permit from the Public Works Director as provided in Section 4.4.

SECTION 4.2 – COMMENCEMENT OF WORK

Excavation work must be started no later than thirty (30) days from the date of issue of the street opening permit. After the expiration of this thirty-day period, such permit shall become null and void.

SECTION 4.3 – RESTRICTED MONTHS

No person shall be granted a street opening permit from December first of each year to March thirty-first of the following year unless an emergency or special condition exists and written permission is obtained from the Public Works Director. A written explanation shall be submitted to the Public Works Director explaining the special situation or emergency prior to the issuing of the permit.

SECTION 4.4 – APPLICATION FOR PERMIT

- A. No street opening permit shall be issued unless a written application is submitted to the Public Works Director for review.
- B. The application shall state the name and address of the applicant and an emergency phone number that will be answered twenty-four (24) hours per day, the type of work to be done, signatures of approval from utilities, name of the place and street number and purpose of the excavation, the date of commencement and date of completion of excavation.
- C. The application shall be accompanied by a diagram of the planned excavation submitted on an eight-and-one-half-inch by eleven-inch sketch showing trench locations, widths, depths, location of all barricades, warning signs, detour signs and detour routes and such other information as may be reasonably required by the Public Works Director.
- D. If the applicant is other than a public utility and intends to excavate in the vicinity of a facility owned or operated by a public utility or oil pipeline owned by a person, the applicant shall provide the

information required by the town under this section to the utility or person owning such facility in addition to providing such information to the town.

- E. The application for permit shall be accompanied by payment of a permit fee established by the Town Council which is on file in the town clerk's office.
- F. A preconstruction meeting may be held, if felt to be warranted by the Public Works Director.
- G. The application shall be accompanied by proof of notice to the utilities as provided in 23 M.R.S.A. § 3360.

SECTION 4.5 – REASON FOR DENIAL OF A PERMIT

The Public Works Director may deny any street opening permit if the Director determines that such excavation would endanger the life or property of the citizens of the town or if such excavation would endanger the general public or interfere with snow removal. The denial may be appealed within thirty (30) days to the Town Council. All denials by the Public Works Director shall be made in writing to the applicant.

SECTION 4.6 – NOTICE OF COMMENCEMENT OF WORK

The excavator shall give notice to the Public Works Director not more than seventy-two (72) hours nor less than twenty-four (24) hours before excavation work begins.

SECTION 5 – DRIVEWAYS

SECTION 5.1 – APPLICABILITY

Section 5 of this ordinance shall apply to all private driveways within the Town of Gray. This Section 5 shall also apply to the addition of a new dwelling unit or additional principal structure that utilizes an existing driveway for access. All references to the term "private driveway" shall be deemed to apply to a new driveway access to a single family residence, a duplex, or a commercial or institutional entrance that is not subject to Site Plan Review.

The provisions contained in Section 5 shall only apply to the intersection of the driveway entrance with the street that it provides access to for a distance of thirty (30') feet from the travel way except for commercial drives as provided in Table 5.1.

SECTION 5.2 – PRIVATE DRIVEWAYS

All private driveways proposed to be constructed within the Town of Gray shall be required to meet the provisions of Part 5 of this Ordinance.

SECTION 5.3 – APPLICATION PROCEDURES

The procedure for application for proposed new private driveways shall be as follows:

- A. Prior to the construction of any private driveway, an application shall be submitted to the Code Enforcement Officer on forms prepared by the Town. The application shall include the following information:
 - 1. Names of applicants.
 - 2. Owners of land for the location of a proposed private driveway.
 - 3. A statement of any legal encumbrances on the land for the location of a proposed private driveway.

4. The anticipated starting date of construction.
- B. Drawings of the proposed private driveway entrance shall be submitted to the Code Enforcement Officer with the application. The drawings shall include the following information:
1. Date, scale, and magnetic or true North.
 2. Intersection of the proposed private driveway with an existing public or private street and their location and relationship with respect to any existing natural waterways in the vicinity of the proposed driveway.
 3. Turning radii at the intersection of the proposed private driveway with the existing street.
 4. Approximate centerline gradients of the proposed driveway within thirty (30') feet of the travel way of the existing street.
 5. Locations of existing overhead and underground utilities including, but not limited to, water, sewer, electricity, telephone, lighting, and cable television.
- C. The fee schedule for review of plans for a new private driveway or an alteration to an existing private driveway shall be established by the Town Council.
- D. Building permits that are associated with any new construction of private driveways shall not be issued until the Code Enforcement Officer has determined that the applicant's driveway construction application is complete in accordance with the following provisions.
1. All applications for driveway permits for access to streets owned and/or maintained by the Town of Gray shall be subject to review and approval by the Public Works Director. The Public Works Director shall also review driveways to be located on street turnarounds to ensure that snow plowing operations are not hindered.
 2. In the event that a proposed driveway is located such that the Code Officer and/or Public Works Director determine that the input of a professional engineer is needed to verify compliance with the driveway performance standards of the ordinance, a review by the Town Engineer may be requested by the Town Officials, and the costs of that review shall be paid by the applicant under the Town's peer review escrow system.
 3. A separate driveway permit shall not be required for driveways shown on an approved subdivision plan and built in conformance with the design specifications approved by the Planning Board. Changes to the design are allowed subject to the submittal of a driveway permit application with engineered drawings and approval by the Town Engineer.

SECTION 5.4 – PRIVATE DRIVEWAY LAYOUT AND CONSTRUCTION

- A. All new private driveways constructed after the date of adoption of this ordinance shall meet the driveway construction standards of Table 5.1.

Table 5.1 Private Driveway Required Construction Standards	
Maximum grade w/in 30 feet of street travel way surface residential	6 percent
Maximum grade w/in 60 feet of street travel way surface commercial	3 percent
Minimum angle of intersection with street	75 degrees

Maximum angle of intersection with street	105 degrees
Minimum diameter of culverts at intersection	15 inches

- B. All entrances shall be so located such that vehicles approaching or using the entrance will be able to obtain adequate sight distance in both directions along the street or to maneuver safely and without interference with traffic in accordance with the following provisions:
1. Measurements to determine sight distance shall be made in the proposed entrance at a point ten (10') feet from the edge of shoulder line with the height of eye three and one-half (3.5') feet above the pavement. The sight distance shall be computed from this point measuring along the roadway to a point where an approaching height of object four and one quarter (4.25') feet is first seen.
 2. Driveway placement shall be such that an existing vehicle has an unobstructed sight distance in both directions meeting the requirements of Table 5.2 unless a waiver is granted by the Town Engineer upon documentation provided by the applicant that safety conditions will be met with shorter sight distances (this review will be covered by the Town requirements for peer review escrows). Commercial driveway entrances and exits not requiring site plan review and serving traffic of over fifteen percent (15%) truck traffic shall meet the Mobility Sight Distance requirements of Table 5.2 (third column).

Posted Speed (MPH)	Sight Distance (Feet)	Mobility Sight Distance ¹
20	155	225
25	200	300
30	250	380
35	305	480
40	360	580
45	425	710
50	495	840

- C. Driveways accessing State Highways or State Aid Highways shall require an MDOT entrance permit as a precondition for an access permit from the Town.
- D. All private driveways shall have suitable drainage facilities to provide for adequate removal of storm water to prevent flooding and erosion:
1. Culverts shall be of adequate size and depth to convey ditch water flows and shall be shielded with stone rip rap at inlet and outlet to prevent washouts when the ditch flow capacity is exceeded in major storms.
 2. Surface drainage shall be provided so that all surface water on the areas adjacent to the road shall be carried away from the roadway. The entrance surface shall slope away from the road at a rate of not less than one quarter inch (.25"/ft.) per foot, nor more than one inch (1"/ft.) per foot for a

distance of not less than the prevailing width of the existing shoulder, but in no case less than four (4') feet from the edge of the travel way surface.

- E. Private driveways shall be located not less than fifty (50) feet from the tangent point of the travel way edge radius of any intersection of streets.
- F. When a corner lot is bounded by streets of two different classifications, private driveways to the corner lot shall gain access from the street of lower classification unless, in the opinion of the Town Engineer, there is good reason to do otherwise (e.g., on the higher classification road the driveway can be located more distant from the intersection or sight distances are improved).
- G. There shall be a minimum turning radius of ten (10 ft) feet at the intersection of a private driveway with the street. If necessary, the width of the travel way of the driveway shall be increased in the vicinity of the intersection to provide for this turning radius. Commercial driveway entrances and exits not requiring site plan review and serving traffic of over fifteen percent (15%) truck traffic shall be designed with adequate width to avoid a turning vehicle from tracking into the opposing travel lane.
- H. Private driveways shall be located so that the edge of the shoulder closest to a property line is at least ten (10) feet from that property line unless the following conditions are met for a driveway shared between abutting properties:
 - 1. The driveway shall have a minimum travel way width of fourteen (14') feet for the first twenty five (25') feet before dividing into separate driveways.
 - 2. Deeded rights to the driveway shall be issued for both lots serviced by the common driveway and a maintenance agreement specifying rights and responsibilities for its maintenance signed by the parties shall be filed with the driveway permit application.
- I. Unless specifically approved by the Gray Planning Board as an integral component of a duly approved application such as Site Plan Review, Conditional Use and or a Subdivision, only one (1) curb cut for non-residential purposes shall be permitted on any parcel.

SECTION 5.5 – SIDEWALK CROSSINGS

The following standards shall apply where proposed driveways will cross existing sidewalks:

- A. When sidewalk or curb exists at the proposed entrance the applicant shall remove and replace such materials at the applicant's expense.
- B. Where curb exists, curb tip-downs shall be provided at each side of a new entrance.
- C. Where sidewalk is removed to accommodate a new entrance a new walk surface of equal type construction is to be provided. The sidewalk area at all entrances is to meet handicap accessibility requirements and conform to the American with Disabilities Act guidelines. In general sidewalks shall meet the following:
 - 1. The maximum sidewalk longitudinal transition slope is not to exceed 1 vertical to 12 horizontal (1:12).
 - 2. The maximum sidewalk cross-slope is not to exceed 2%.
 - 3. No abrupt changes in grade are permitted and the maximum curb reveal crossing a walkway is ½ inch or less.

PART 6 PARKING [Repealed 1-19-2010 & moved to Zoning Ordinance]

SECTION 6 – MISCELLANEOUS ACTIVITIES WITHIN THE ROAD RIGHT OF WAY

SECTION 6.1 – ACTIVITIES WITHIN THE ROAD RIGHT OF WAY

Notwithstanding that the public way is intended for public travel and convenience; other uses are permissible when not in conflict with public interest. The following criteria shall apply to uses:

SECTION 6.2 – MAILBOXES

Mailboxes may be located in the public way when located so as not to obstruct visibility for safe vehicle operation and not to interfere with the maintenance of the public way. Mailboxes shall be placed as follows:

- A. The box will be a minimum of forty-two (42 in) inches above the edge of pavement;
- B. The reflectors will be located on the side facing oncoming traffic; and
- C. The standard or upright will be at least four (4 ft) feet from the edge of pavement.

SECTION 6.3 – PLANTINGS & FENCES

Lawns and other ground cover as well as fences may be located within the right-of-way so long as the landscape will not adversely affect visibility for safe vehicle operation nor impede storm drainage and snow and ice removal activities. No fences or ground cover (shrubs or trees) may be placed within four (4 ft) feet of the edge of pavement without written permission of the Public Works Director. The Public Works Director shall review the location and design to determine if curbing or drainage modifications are necessary.

SECTION 6.4 – DRIVEWAY & FOUNDATION DRAINAGE

No water other than the natural flow from a site may be discharged into the right-of way of a street without written permission from the Public Works Director. The director shall review the proposed location and design and consider the following before granting any permit:

- A. Adequacy of downstream drainage system;
- B. Impact upon the public way;
- C. Snow and ice removal and control.

CHAPTER 401
SUBDIVISION ORDINANCE
TOWN OF GRAY MAINE

Amended May 11, 2011

Amended October 20, 2015 / Effective November 19, 2015

Amended January 3, 2017 / Effective February 2, 2017

Amended May 16, 2017 / Effective June 15, 2017

Amended October 17, 2017 / Effective November 16, 2017

TABLE OF CONTENTS

ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA	4
401.1 – PURPOSES.....	4
401.2 – Statutory Review Criteria	4
ARTICLE 2 – AUTHORITY AND ADMINISTRATION	6
401.2.1 – Authority	6
401.2.2 – Administration	6
401.2.3 – Amendments	6
ARTICLE 3 – DEFINITIONS.....	6
Section 401.3 – Definitions.....	6
ARTICLE 4 - ADMINISTRATIVE PROCEDURE	10
Section 401.4 – Preparation of Agendas.....	10
ARTICLE 5 – SKETCH PLAN MEETING AND SITE INSPECTION	11
401.5.1 – Purpose.....	11
401.5.2 – Sketch Plan Meeting Procedure	11
401.5.3 – Sketch Plan Submissions	12
401.5.4 – On-Site Inspection	12
401.5.5 – Factors to Consider in Sketch Plan Review	12
401.5.6 – No Substantive Review or Vested	13
ARTICLE 6 – MINOR SUBDIVISIONS.....	13
401.6.1 – Minor Subdivision Plan Review and Approval Procedure.....	13
401.6.2 – Required Submissions for Minor Subdivision Plan.....	15
401.6.3 – Additional Information that may be Required by the Planning Board	16
401.6.4 – Approval and Filing of the Minor Subdivision Plan.....	17
401.6.5 – Amendments to a Previously Approved Minor Subdivision Plan	17
ARTICLE 7 – MAJOR SUBDIVISION PRELIMINARY PLAN APPLICATION.....	17
401.7.1 – Preliminary Plan Review and Approval Procedure	17
401.7.2 – Required Submissions for Preliminary Plan	19

401.7.3 – Additional Required Plans and Studies.....	22
401.7.4 – Required Submissions for which a Waiver May be Granted.....	22
401.7.5 – Additional Information that may be Required by the Planning Board	23
ARTICLE 8 - FINAL PLAN APPLICATION.....	23
401.8.1 – Procedure	23
401.8.2 – Negotiated Exactions	26
401.8.3 – Required Final Plan Submissions	30
401.8.4 – Final Subdivision Plan Approval and Filing.....	32
ARTICLE 9 - REVISIONS TO MAJOR SUBDIVISION PLANS	33
401.9.1 – Procedure	33
401.9.2 – Submissions	33
401.9.3 – Scope of Review	33
ARTICLE 10 - INSPECTIONS AND ENFORCEMENT.....	34
401.10.1 – Inspection of Required Improvements.....	34
401.10.2 – Violations and Enforcement	35
ARTICLE 11 - PERFORMANCE GUARANTEES	35
401.11.1 – Types of Guarantees	35
401.11.2 – Contents of Guarantees.....	36
401.11.3 – Cash Escrow Account.....	36
401.11.4 – Letter of Credit.....	36
401.11.5 – Phasing of Development.....	36
401.11.6 – Release of Guarantee	37
401.11.7 – Default.....	37
401.11.8 – Improvements to be Covered by Guarantees	37
ARTICLE 12 - WAIVERS.....	37
401.12.1 – Waivers of Certain Submission Requirements Authorized.	37
401.12.2 – Waivers of Certain Improvements Authorized.	37
401.12.3 – Waiver of Procedural Steps	38
401.12.4 – Conditions for Waivers.....	38
401.12.5 – Waivers to be shown on final plan.....	38
ARTICLE 13 - PERFORMANCE & DESIGN STANDARDS.....	38
401.13.1 – Basic Subdivision Layout	38
401.13.2 – Sufficient Water	40

401.13.3 – Erosion and Sedimentation and Impact on Water Bodies	41
401.13.4 – Sewage Disposal	41
401.13.5 – Solid Waste	42
401.13.6 – Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline	42
401.13.7 – Conformance with Zoning Ordinance and Other Land Use Ordinances	46
401.13.8 – Financial and Technical Capacity	46
401.13.9 – Impact on Ground Water Quality or Quantity	46
401.13.10 – Floodplain Management.	48
401.13.11 – Identification of Freshwater Wetlands, Rivers, Streams or Brooks.....	48
401.13.12 – Stormwater Management	48
401.13.13 – Residential Open Space Subdivisions.....	49
401.13.14 – Compliance with Timber Harvesting Rules.....	58
401.13.15 – Traffic Conditions and Streets	58
401.13.16 – Specific Access and Street Design Standards [Adopted Dec 7, 2010].....	60
401.13.17 – Driveway Design Standards [Adopted May 18, 2010].....	73
401.13.18 – Net Residential Area and Density.....	74
ARTICLE 14 - APPEALS	80
401.14.1 – Appeals to Superior Court	80
401.14.2 – Planning Board Reconsideration.....	80

ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA

401.1 – PURPOSES

The purposes of these regulations are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions;
- B. To assure new development in the Town of Gray meets the goals and conforms to the policies of the Comprehensive Plan;
- C. To assure the safety, health and welfare of the people of the Town of Gray;
- D. To protect the environment and conserve the natural and cultural resources identified in the Gray Comprehensive Plan as important to the community;
- E. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- F. To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- G. To promote the development of an economically sound and stable community.

401.2 – STATUTORY REVIEW CRITERIA

When reviewing any application for a subdivision, as defined by Article 3, the Planning Board shall find that the following criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of the Gray Zoning Ordinance and other sections of this Ordinance, before granting approval. For a subdivision to be approved under this Ordinance, a majority vote of the Planning Board members present shall be required to determine that the applicant has adequately proven compliance with each of the following ordinance criteria, with each criterion considered separately. For most of the criteria, compliance with the specific standards of this ordinance shall constitute prima facie evidence that the general criteria have been met. The Board may, however, require additional documentation when presented with factual evidence that a subdivision criterion is not met by the application as submitted:

- A. Pollution. Will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - 1. The elevation of the land above sea level and its relation to the flood plains;
 - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - 3. The slope of the land and its effect on effluents;
 - 4. The availability of streams for disposal of effluents; and
 - 5. The applicable State and local health and water resources rules and regulations;
- B. Sufficient Water. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Municipal Water Supply. Will not cause an unreasonable burden on an existing public water supply, if one is to be used;
- D. Erosion. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

- E. Traffic. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
- F. Sewage Disposal. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- G. Solid Waste. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized;
- H. Significant Aesthetic, Natural, or Cultural Areas. For natural and cultural resources identified in the Comprehensive Plan or other studies of the Town, State or Federal governments, will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, and historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- I. Conformity with Local Ordinances and Plans. Is in conformance with specific provisions of a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans;
- J. Financial and Technical Capacity. The developer has adequate financial and technical capacity to meet the standards of this section.
- K. Surface Waters. Whenever situated entirely or partially within the watershed of any regulated pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, sections 435 through 490, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- L. Ground Water. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- M. Flood Areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- N. Fresh Water Wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- O. River, Stream, or Brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

- P. Storm Water. The proposed subdivision will provide for adequate storm water management;
- Q. Spaghetti-lots Prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
- R. Lake Phosphorus Concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;
- S. Impact on Adjoining Municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
- T. Lands Subject to Liquidation Harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14.

ARTICLE 2 – AUTHORITY AND ADMINISTRATION

401.2.1 – AUTHORITY

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- B. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of Gray, Maine."

401.2.2 – ADMINISTRATION

- A. The Planning Board of the Town of Gray, hereinafter called the Board, shall administer these regulations.
- B. The provisions of these regulations shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Gray.

401.2.3 – AMENDMENTS

- A. These regulations may be only amended by the Town Council of the Town of Gray or by the voters of Gray under the provisions of the Town Charter, subject to any requirements of applicable State statutes.

ARTICLE 3 – DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. Any word or term defined in the Gray Zoning Ordinance shall have the definition contained in that ordinance, unless defined differently below. Other words and terms used herein are defined as follows:

SECTION 401.3 – DEFINITIONS

- Applicant: The person applying for subdivision approval under these regulations.
- Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

- Capital Improvements Program (CIP): The Town's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.
- Capital Investment Plan: The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.
- Cluster Development: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.
- Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.
- Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations unless waived, after the applicant's written request, by a vote by the Board. The Board shall issue a written statement to the applicant upon its determination that an application is complete.
- Complete Substantial Construction: The completion of a portion of the improvements which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.
- Comprehensive Plan: A document or interrelated documents adopted by the Town Council, containing the elements established under Title 30-A M.R.S.A. §4326 sub-§§ 1 to 4, including the strategies for an implementation program which are consistent with the State goals and guidelines established under Title 30-A M.R.S.A. §§4311 through 4350.
- Condominium: A form of property ownership based upon building occupancy and use rather than traditional lot boundaries as defined in the Maine Condominium Act, Chapter 31 of the Maine Revised Statutes as amended from time to time.
- Conservation Easement: A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.
- Density: The number of dwelling units per acre of land.
- Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond.
- Driveway: A vehicular accessway serving two lots or less.
- Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities;

includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

- Engineered Subsurface Waste Water Disposal System:** A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of two thousand (2,000) gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BOD5 and total suspended solids concentrations than domestic waste water.
- Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.
- Forested Wetland:** A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.
- Freshwater Wetland:** Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.
- Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty (30) acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.
- High Intensity Soil Survey:** A soil map prepared by a qualified professional showing soil types, composition, and limitations at a scale detailed enough to provide important information for the development of engineering, stormwater management, septic and other design components of the subdivision process.
- 100-Year Flood:** The highest level of flood that, on the average, has a one percent chance of occurring in any given year.
- Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, most recent edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.
- Multifamily Development:** A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.
- Net Residential Area:** The net area of a parcel or site that is generally suitable for development in its natural state. Net residential area shall be determined by subtracting unsuitable and marginal areas from the gross land area as calculated in Section 401.13.18 of this Chapter 401, the Gray Subdivision Ordinance.
- Net Residential Density:** Net residential density shall mean the number of lots or dwelling units allowed on a parcel or site after unsuitable land per Net Residential Area is deducted and the minimum area per lot (or dwelling unit in the case of multi-family) for the District is applied to the remaining suitable land area.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Planning Board: The Planning Board of the Town of Gray.

Preliminary Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Professional Engineer: A professional engineer, registered in the State of Maine.

Public Water System: A water supply system that provides water to at least fifteen (15) service connections or services water to at least twenty-five (25) individuals daily for at least 30 days a year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

Street: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

Street Classification:

- Arterial Street: A major thoroughfare which serves as a major traffic way for travel to other communities and through the Town. The following roadways shall be considered arterial streets:
 - West Gray Road (Route 202)
 - Shaker Road (Route 26)
 - Lewiston Road (Route 100)
 - Wildlife Park Way (Route 26A)
 - Portland Road (Route 100/26)
- Collector Street: A street with average daily traffic of between 500 and 5000 vehicles per, or streets which serve as feeders to arterial streets, and collect traffic from sub-collectors and minor streets.
- Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.
- Industrial or Commercial Street: Streets servicing industrial or commercial uses.
- Minor Residential Street: A street servicing only residential properties and which has an average daily traffic of less than 250 vehicles per day.

- Sub-collector Street: A street with average daily traffic of between 250 and 500 vehicles per, or streets which serve as feeders to arterial streets or collectors, and collect traffic from minor streets.

Subdivision: The term shall be defined as in Title 30-A M.R.S.A. §4401, sub-§4, as amended.

Generally, a legal subdivision is created when a lot or parcel of land is divided into three or more lots in a single, five-year period. State law, however, has numerous exemptions and qualifications that come into play in determining whether a subdivision of land requiring Planning Board approval has occurred.

Subdivision Classification:

- Major Subdivision: A subdivision of land into five (5) or more lots or that involves the construction of a new road and/or the extension of public water to serve the proposed lots.
- Minor Subdivision: A subdivision of land into four (4) or fewer lots and where there is no street construction or extension of public water to serve the lots.

Town Engineer: Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

Tract or Parcel of Land: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding ten (10%) percent.

ARTICLE 4 - ADMINISTRATIVE PROCEDURE

SECTION 401.4 – PREPARATION OF AGENDAS

- A. **Deadline for Submitting Applications** – In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Planning Office shall prepare a written agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least twenty-one (21) days in advance of a regularly scheduled meeting by submitting an application with all accompanying submissions and fees.
- B. **Notifications** – Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing. The Board shall also notify the Public Works Director, Fire Chief and Superintendent of Schools of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multifamily, commercial or industrial buildings. If the subdivision is located within the Wellhead zoning districts or will be serviced by the Gray Water District, the Director of the District shall also be notified. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision. The Board shall determine whether to hold a public hearing on the preliminary plan application.
- C. **Public Hearings** – If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining that it has received a complete application, and shall publish a notice of the date,

time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two (2) prominent places within the municipality at least seven (7) days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

- D. Joint Meetings with Abutting Municipalities - If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application for a revision or amendment to a subdivision that crosses municipal boundaries must be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the subdivision criteria. The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.
- E. Outstanding Subdivision Violation(s): Any person or entity that has one or more outstanding subdivision Notice(s) of Violation(s) at the time that they make application for any other subdivision project shall not be placed on a Planning Board agenda nor reviewed by the Planning Board until all subdivision violations have been corrected or resolved.

ARTICLE 5 – SKETCH PLAN MEETING AND SITE INSPECTION

401.5.1 – PURPOSE

Prior to the submittal of a subdivision application, the applicant shall request a pre-application conference with the Planning Board. The purpose of the sketch plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and to receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, wetland and vernal pool mapping, and engineering by the applicant.

401.5.2 – SKETCH PLAN MEETING PROCEDURE

- A. The applicant shall present the Preapplication Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, including studies that may be needed, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.
- C. The Board will indicate whether a proposed subdivision should be classified as a major or minor subdivision if that is in question.
- D. The Board will discuss an appropriate contour interval for developed and undeveloped portions of the project site based on input of the applicant and peer reviewers.
- E. The date of the on-site inspection will be selected.

401.5.3 – SKETCH PLAN SUBMISSIONS

Fourteen (14) copies of the sketch plan and all supporting materials must be submitted twenty-one (21) days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a freehand penciled sketch drawn to scale, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner.

The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how utilities, roads and drainage systems, and any common areas will be constructed, managed, and maintained. The sketch plan should be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The sketch plan shall be accompanied by:

- A. A sketch plan application form, and a sketch plan application fee as set forth in the Schedule of Fees adopted by the Town Council;
- B. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision; unless the proposed subdivision is less than 10 acres in size.
- C. A copy of that portion of the Cumberland County Soil Survey covering the proposed subdivision, showing the outline of the proposed subdivision development, and
- D. A written project narrative as described above.

401.5.4 – ON-SITE INSPECTION

Within thirty (30) days of the sketch plan meeting, the Board shall hold an on-site inspection of the property. The applicant shall place flagging at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. If the proposed project includes buildings, the approximate corners of building footprints shall be flagged.

The on-site inspection is intended for members of the board to become familiar with the site in a manner that cannot be matched by reading the project plans. During the on-site inspection the Board should walk over those portions of the property which are proposed for development. While on the inspection, the Board should pay close attention to drainage, slope, and indications of soils types; look at the sight distances at proposed intersections or driveways; and look for neighboring land uses or conditions which should be taken into account by the design of the subdivision. If there is deep snow on the ground, many of the features which members need to see will not be visible, particularly wetlands and minor drainage areas. Therefore on-site inspections should not be held when the ground is covered with snow.

On-site inspections are considered public meetings under 1 M.R.S.A. §§401-410, and notice shall be provided as required by law. The public shall be allowed to accompany the Board, but no public comment will be taken. The Board shall provide a written summary of its site walk observations at the first meeting where the formal application is heard.

401.5.5 – FACTORS TO CONSIDER IN SKETCH PLAN REVIEW

- A. General character and condition of the site;
- B. Forest cover and predominant vegetation types;

- C. Topography with respect to low flat areas prone to drainage problems and steep slope areas that pose challenges to road construction and are prone to erosion. Also gullies that need to be crossed;
- D. Streams and wetlands that will involve special environmental permitting;
- E. Wildlife habitats of rare, threatened or endangered species identified by State agencies;
- F. Historic land uses that may have involved contaminants;
- G. Historic buildings that may warrant special preservation efforts;
- H. Existing buildings and other man-made features that will be worked into the development or removed;
- I. Availability of public utilities or the need to depend on on-site water for household supplies and fire protection, and on septic systems;
- J. Traffic conditions on roads providing access to the site in terms of volume, speed, and sight distances of possible entrance points, as well as condition of the existing road(s) to safely carry additional traffic;
- K. Legal rights of access to the property for roads and utilities;
- L. Abutting uses that may warrant or require buffering of proposed buildings;
- M. Low lying areas that may be subject to periodic flooding or are located in mapped flood plains.
- N. Portions of the site ideally suited to development and those that should be avoided due to hazards or constraints.

401.5.6 – NO SUBSTANTIVE REVIEW OR VESTED

The sketch plan meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302. The Planning Board will not be engaging in a substantive review of a completed development approval application, and the applicant will not be exempt from any ordinance changes that may be in progress.

ARTICLE 6 – MINOR SUBDIVISIONS

401.6.1 – MINOR SUBDIVISION PLAN REVIEW AND APPROVAL PROCEDURE

- A. Time Frames for Submission of Minor Subdivision Plan - Within six (6 months) after Sketch Plan acceptance by the Board, the subdivider shall submit an application for the consideration of a Minor Subdivision Plan. Failure to do so shall require re-submission of the Sketch Plan to the Board for review. The Minor Subdivision Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board on design and/or documentation needed to verify compliance with the criteria and standards of this Ordinance.
- B. Fees and Review Escrows - All applications for preliminary plan shall be accompanied by reviews and peer review escrows as established by the fee schedule adopted by the Town Council. Escrow fees shall be deposited in a special escrow account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review planning, engineering, and other technical submissions associated with the application, and to ensure compliance with the Zoning Ordinance and Subdivision regulations. If the balance in this special account is drawn down by seventy-five (75%) percent, the Board shall notify the applicant, and require that the balance be

brought back up to the original deposit amount. The Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by seventy-five (75%) percent of the original deposit, but the applicant shall be responsible for all peer review costs incurred by the Town. Any balance in the escrow account remaining after a decision on the final plan application by the Board shall be returned to the applicant. The applicant can reduce peer review costs by ensuring that submissions are complete and carefully prepared.

- C. Attendance at Meetings Required - The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at a subsequent meeting.
- D. Receipt & Notification of Filing - Within seven (7) days of the receipt of the Preliminary Plan application, the Board, or its designee, shall:
 - 1. Issue a dated receipt to the applicant.
 - 2. Notify in writing by First Class Mail all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

If the proposed subdivision is located within a Wellhead Zoning District, notice shall also be sent to the Gray Water District at least ten (10) days prior to the hearing.

- 3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- E. Determination of Completed Application - Within thirty (30) days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- F. Public Hearing Notices - If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two (2) prominent places within the municipality at least seven (7) days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.
- G. Time Frame for Planning Board Decision - Within thirty (30) days from the public hearing or within sixty (60) days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny

the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

- H. Negotiated Exactions - All minor subdivisions shall be required to comply with the standards established in Section 401.8.2 of this Subdivision Ordinance.

401.6.2 – REQUIRED SUBMISSIONS FOR MINOR SUBDIVISION PLAN

- A. Deadline & Submittals – The following items shall be submitted as part of the Minor Subdivision Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12. Twelve (12) copies of all materials shall be delivered to the Town Office, at least twenty-one (21) days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board’s agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 for subdivisions are met.
- B. Minor Subdivision Plan Format & Content - The minor subdivision plan shall be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. Three (3) sets of plans shall be no larger than 24 by 36 inches in size. Nine (9) sets of 11 by 17 inch copies and one (1) universally accessible digital format e.g. PDF of all plans shall be submitted. The application materials for preliminary plan approval shall include the following information:
- C. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
- D. Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
- E. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five years, as required by Title 30-A M.R.S.A. section 4401. Any parcels that have been sold or transferred in the prior five years shall be so noted on the plan.
- F. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- G. A copy of any proposed deed restrictions intended to cover all or part of the lots, dwellings, or common land in the subdivision.
- H. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
- I. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by a public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision. (Note: If public

water lines must be extended from beyond the site location, a major subdivision application is required).

- J. The date the plan was prepared, north point, and graphic map scale.
- K. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
- L. Wetland areas shall be delineated on the survey, regardless of size.
- M. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
- N. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
- O. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- P. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
- Q. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
- R. The location, boundaries, area, and property line setbacks of every proposed lot. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and subdivision boundary line to be readily determined and be reproduced upon the ground. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
- S. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- T. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- U. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan or by the Maine Historic Preservation Commission as sensitive or likely to contain such sites.

401.6.3 – ADDITIONAL INFORMATION THAT MAY BE REQUIRED BY THE PLANNING BOARD

The Planning Board may require any additional information not listed above, when it is determined necessary by the Board based on factual information collected during the review process that such additional information is needed to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 for subdivisions have been met. In determining what additional information will be required to verify compliance with the statutory review criteria, the Board shall review the submission

and study requirements of Article 7 for preliminary major subdivision reviews and any applicable standards of Article 13.

401.6.4 – APPROVAL AND FILING OF THE MINOR SUBDIVISION PLAN

- A. Determination by the Planning Board - Upon determination by the Planning Board that the proposed subdivision has met the requirements in Article 5 for preapplication review, the requirements of Sections 401.6.1 through 401.6.3 for Minor Subdivision above, and the statutory review criteria of Section 401.2 for all subdivisions, minor subdivision approval shall be affirmatively voted on by the Board with findings, and the mylar copy shall be properly signed by a majority of the members of the Board, using black ink.
- B. Time Limit for Recording Approved Plan - After the Minor Subdivision Plan has had the mylar approval entered upon it, a copy of the plan shall be returned to the subdivider. One signed copy, including the sepia copy, shall be retained by the Town to be maintained in the Subdivision Plan File. The Plan shall be filed by the applicant with the Cumberland County Registry of Deeds. Any Subdivision Plan not so filed or recorded within ninety (90) days of the date upon which such Plan is approved, shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed one additional period of ninety (90) days. This 90-day period shall begin the day the plan is signed by the Planning Board. Any extension of this 90-day period must be requested of the Planning Board before the first 90-day period expires.
- C. Plan Recording & Receipt Before Building Permits –The applicant shall provide the Code Enforcement Officer (CEO) with a receipt from the Registry of Deeds within that time limit stating that the Plan has been filed and giving the Book and Page numbers. No building permits for an approved plan will be issued until the plan has been registered with the Registry of Deeds and a letter from the subdivider’s surveyor has been submitted to the Town stating that all permanent survey markers have been placed for each lot.

401.6.5 – AMENDMENTS TO A PREVIOUSLY APPROVED MINOR SUBDIVISION PLAN

Prior to making any change, erasure, modification or revision to a Minor Subdivision Plan which has been approved by the Board and endorsed in writing on the plan, the plan must be resubmitted to the Board for their review and approval of the proposed modifications. A public hearing may be held concerning a subdivision amendment as prescribed in Section 401.6.1 F above. All amended plans must be signed by the Board and recorded in the Registry of Deeds within ninety (90) days of the date of approval. Any amended plan not so filed or recorded within ninety (90) days of the date upon which such plan is approved shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed one additional period of ninety (90) days. The applicant shall provide the Code Enforcement Officer (CEO) with a receipt from the Registry of Deeds within that time limit stating that the plan has been filed and giving the book and page numbers as provided in Section 401.6.4 above.

ARTICLE 7 – MAJOR SUBDIVISION PRELIMINARY PLAN APPLICATION

401.7.1 – PRELIMINARY PLAN REVIEW AND APPROVAL PROCEDURE

- A. Time Frames for Submission of Preliminary Plan - Within six (6) months after the on-site inspection by the Board, the applicant shall submit an application for approval of a preliminary plan at least twenty-one (21) days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or by hand to the municipal offices. Failure to submit an application within six (6) months shall

require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

- B. Fees and Review Escrows - All applications for preliminary plan shall be accompanied by reviews and peer review escrows as established by the fee schedule adopted by the Town Council. Escrow fees shall be deposited in a special escrow account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review planning, engineering, and other technical submissions associated with the application, and to ensure compliance with the Zoning Ordinance and Subdivision Regulations. If the balance in this special account is drawn down by seventy-five (75%) percent, the Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by seventy-five (75%) percent of the original deposit, but the applicant shall be responsible for all peer review costs incurred by the Town. Any balance in the escrow account remaining after a decision on the final plan application by the Board shall be returned to the applicant. The applicant can reduce peer review costs by ensuring that submissions are complete and carefully prepared.
- C. Attendance at Meetings Required - The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.
- D. Receipt & Notification of Filing - Within seven (7) days of the receipt of the Preliminary Plan application, the Board, or its designee, shall:
 - 1. Issue a dated receipt to the applicant.
 - 2. Notify in writing by First Class Mail all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

If the proposed subdivision is located within a Wellhead Zoning District, notice shall also be sent to the Gray Water District at least ten (10) days prior to the hearing.
 - 3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- E. Determination of Completed Application - Within thirty (30) days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- F. Notifications of Completed Application - Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing. The Board shall also notify the Public Works Director, Fire Chief and Superintendent of Schools of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multifamily, commercial or industrial buildings. If the subdivision is located within the Wellhead zoning districts or will be serviced by the Gray Water District, the Director of

the District shall also be notified. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision. The Board shall determine whether to hold a public hearing on the preliminary plan application.

- G. Public Hearing Notices - If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two (2) prominent places within the municipality at least seven (7) days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.
- H. Time Frame for Planning Board Decision - Within thirty (30) days from the public hearing or within sixty (60) days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- I. Conditions of Preliminary Approval - When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 1. The specific changes which it will require in the final plan;
 - 2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
 - 3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.
- J. Relationship of Preliminary Approval to Final Plan - Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

401.7.2 – REQUIRED SUBMISSIONS FOR PRELIMINARY PLAN

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12 for waivers. Twelve (12) copies of all materials shall be delivered to the Town Office, at least twenty-one (21) days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda.

- A. Application Form - The application form and any accompanying information.
- B. Location Map - The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
1. Existing subdivisions in the proximity of the proposed subdivision.
 2. Locations and names of existing and proposed streets.
 3. Boundaries and designations of zoning districts.
 4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
- C. Preliminary Plan Format & Content - The preliminary plan shall be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. Three (3) sets of plans shall be no larger than 24 by 36 inches in size. Nine (9) sets of 11 by 17 inch copies and one (1) universally accessible digital format e.g. PDF of all plans shall be submitted. The application materials for preliminary plan approval shall include the following information:
1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
 2. Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five (5) years, as required by Title 30-A M.R.S.A. section 4401. Any parcels that have been sold or transferred in the prior five years shall be so noted on the plan.
 4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 5. A copy of any proposed deed restrictions intended to cover all or part of the lots, dwellings, or common land in the subdivision.
 6. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
 7. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by a public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
 8. The date the plan was prepared, north point, and graphic map scale.

9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
10. Wetland areas shall be delineated on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
14. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
15. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
16. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
17. The proposed lot lines with approximate dimensions and lot areas.
18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
19. The location of any open space to be preserved or common areas to be created, and a general description of proposed ownership, improvement and management.
20. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
21. The proposed driveway access to the area of each lot that will be developed as indicated in Subsection 20, and any drainage or topographic features that must be crossed to access the proposed home site. [Adopted May 18, 2004]
22. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
23. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
24. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the

comprehensive plan or by the Maine Historic Preservation Commission as sensitive or likely to contain such sites.

401.7.3 – ADDITIONAL REQUIRED PLANS AND STUDIES

The preliminary plan shall also include or be accompanied by the following information:

- A. Contour Lines – Prepared by an engineer or surveyor at the interval specified by the Planning Board, showing elevations in relation to mean sea level. Areas with sustained slopes greater than twenty-five (25%) percent covering more than one acre shall be delineated.
- B. Erosion & Sedimentation Control Plan - An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than five (5%) percent of the area of the subdivision.
- C. Stormwater Management Plan - A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of Stormwater Management for Maine: BMPS Technical Design Manual, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than five (5%) percent of the area of the subdivision.
- D. Phosphorus Management Plan - If any portion of the proposed subdivision is in the direct watershed of a great pond, has five (5) or more lots, and/or creates eight hundred (800) or more linear feet of street and/or driveway, the following shall be submitted or indicated on the plan:
 1. A phosphorus impact analysis and control plan conducted using the procedures set forth in DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.
 2. A long-term maintenance plan for all phosphorus control measures.

401.7.4 – REQUIRED SUBMISSIONS FOR WHICH A WAIVER MAY BE GRANTED

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12, Waivers:

- A. High-Intensity Soil Survey - Prepared by a registered soil scientist identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock

at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

- B. Hydrogeologic Assessment - A hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when:
 - 1. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or
 - 2. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.
- C. The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; and/or proposed use of shared or common subsurface wastewater disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 401.13.9.
- D. Traffic Generation and Safe Entrance Sight Distances - An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent available edition of the Trip Generation Manual, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions. If the Board waives the requirement of submission of trip generation rates, the applicant shall provide verification of the intersection sight distances for any existing or proposed streets and driveways that will serve the subdivision.
- E. Traffic Impact Analysis - For subdivisions involving twenty-eight (28) or more parking spaces in the case of commercial subdivisions or projected to generate more than one hundred and forty (140) vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

401.7.5 – ADDITIONAL INFORMATION THAT MAY BE REQUIRED BY THE PLANNING BOARD

The Planning Board may require any additional information not listed above, when it is determined necessary by the Board based on factual information collected during the review process that such additional information is needed to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 for subdivisions have been met.

ARTICLE 8 - FINAL PLAN APPLICATION

401.8.1 – PROCEDURE

- A. Time Frames for Submission of Final Plan - Within six months after the approval of the preliminary plan, the applicant shall submit fourteen (14) copies of an application for approval of the final plan with all supporting materials, at least twenty-one (21) days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or delivered by hand to the municipal offices. If the

application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall follow the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six (6) months, due to delays caused by other regulatory bodies or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

- B. Fees and Review Escrows - All applications for final plan approval for a major subdivision shall be accompanied by a review fee and peer review escrows as set in the Schedule of Fees adopted by the Town Council. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the application for final plan approval, along with any supporting materials, pursuant to the procedures of Section 401.7.1.B for review escrows.
- C. Outside Agency Approvals - Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:
 - 1. Maine Department of Environmental Protection, under the Site Location of Development Act.
 - 2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if an MEPDES wastewater discharge license is needed.
 - 3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
 - 4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized (2000 gallons per day capacity or greater).
 - 5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required (for wetland or vernal pool habitat alterations).
 - 6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit
 - 7. If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.
- D. Historic Preservation Review - If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, in accordance with Section 401.7.2.C.23, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation commission prior to submitting the final plan application.
- E. 911 Street Addressing Review - Written approval of any proposed street names from the Town of Gray E911 Addressing Officer.
- F. Attendance at Meetings Required - The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or

applicant's representative fail to attend, the Board shall reschedule review of the application at a subsequent meeting.

- G. Receipt & Notification of a Completed Application - Within seven (7) days of the receipt of the Final Plan application, the Board, or its designee, shall issue a dated receipt to the applicant. Within thirty (30) days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing.
- H. Notifications for Public Hearings - The Board shall determine whether to hold a public hearing on the final plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two (2) prominent places within the municipality at least seven (7) days prior to the hearing.
- I. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. For the purposes of this section, the owners of the property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.
- J. If the proposed subdivision is located within a Wellhead Zoning District, notice shall also be sent to the Gray Water District at least ten (10) days prior to the hearing.
- K. Performance Guarantee for Construction of Improvements - Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 11. The proposed amount and form of performance guarantee for infrastructure improvements shall be submitted to the Board along with a letter of commitment from a qualified lending institution indicating that the lender has reviewed the project details and is prepared to finance the project for the amount needed to complete the project if approval is given. Issuance of the actual performance guarantee shall be performed prior to release of the recording plan with Planning Board signatures.
- L. Time Frame & Basis for Planning Board Decision - Within thirty (30) days from the public hearing or within sixty (60) days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board majority finds that any of the individual statutory criteria or the standards of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

401.8.2 – NEGOTIATED EXACTIONS

A. Purpose: Negotiated Exactions are intended to serve the following purposes:

1. Ensure that publically owned facilities and infrastructure are not adversely affected by new residential and/or commercial development
2. Provide the administrative steps to establish a process to quantify the cumulative effects of a development proposal
3. Establish mechanisms to minimize and ideally eliminate the necessity to expend public funds to address implications of private development on public infrastructure
4. Ensure that new private development provided the same level of service available to existing development
5. Establish a fair process to ensure that adequate public facilities are available to serve new growth and development
6. Provide new growth and development that bears a proportional share of the cost new public facilities needed to serve them
7. Accommodate orderly growth and development in a safe and fair manner
8. Protect the public health, safety, and welfare of the citizens of Gray and those who utilize public infrastructure in the Town

B. Authority:

1. In accordance with 30-A, M.R.S.A. Section 4404 (Subdivision), 30-A, M.R.S.A. Sections 1911 to 1916 (Home Rule), and 30-A M.R.S.A. 4354 (Fees), the Town of Gray Planning Board shall have the authority to administer and require Negotiated Exactions as established in this Section 401.8.1 of the Town's Subdivision Ordinance.
2. The Planning Board shall have the authority to require the owner or applicant of a development proposal meeting one or more of the thresholds established in Section 401.8.1.D to complete one or more of the following as part and/or all of the Negotiated Exaction:
 - a. Roadway and/or intersection improvements to maintain existing capacity and/or retain the current level of service
 - b. In order to maintain existing capacity and/or retain the current level of service, make necessary improvements to public infrastructure or provide the necessary surety for such improvements to occur
 - c. Donate land to the Town of Gray and/or State of Maine as necessary to complete public infrastructure such as currently proposed and/or future road widening, intersection improvements, or similar improvements
 - d. Acquire and/or purchase land or easement rights to be transferred to the Town of Gray and/or State of Maine necessary to complete public infrastructure
 - e. Posting a bond, cash, or other financial sureties as established in this Section 401.8.1.
3. As established in Section 401.8.1.G.1, the fair value of any land area donated, acquired, or purchased shall be duly considered by the Planning Board, Town Council and the Town as an integral component in determining the Negotiated Exaction.

C. Administrative Procedure:

1. As an integral part of the Planning Board's review of a development proposal, prior to final approval, the Board shall have the authority to require the applicant to submit a written summary of the cumulative anticipated implications of the proposed development upon public infrastructure as established in this Section 401.8.1.D and F. The purpose of providing this summary for the Board's review is to ensure that the Planning Board has sufficient information upon which to make an informed decision to require a full assessment as detailed in Section 401.8.1.F below.
2. The Planning Board shall review the summary and determine if any aspects warrant obtaining further information and/or if elements need to be verified by a duly qualified independent third party chosen by the Board with input from Town Staff at the applicant's expense.
3. After the summary and necessary information is received, the Planning Board shall have the authority to determine if a full assessment will be required.
4. In the event that the Planning Board determines that a full assessment is warranted based on the standards in this Section 401.8.1, the applicant shall compile and submit this for the Board's consideration using the requirements detailed in Section 401.8.1.F below and in accordance with professionally accepted practices.
5. Once the Town Planner has determined that the assessment is sufficiently complete, the Planning Board shall review the assessment and determine if further information and/or if elements need to be verified by a duly qualified independent third party chosen by the Board with input from Town Staff at the applicant's expense.
6. With input as necessary from duly qualified professionals to quantify the implications of the proposed development, the Planning Board shall determine the cumulative responsibilities of the applicant/developer in accordance with the options established in Section 401.8.1.G below.
7. Upon establishing a negotiated exactions agreement for an infrastructure improvement project, the Planning Board shall describe an improvement benefit area(s) within which subsequent development is likely to benefit from the required improvements. The proposed benefit area(s) and the methodology to be used in assessing future allocation cost sharing and carrying cost reallocation shall then be referred to the Town Council for enactment. Benefit area(s) enacted by the Town Council shall be effective for the agreed upon period, not to exceed three (3) years from the date of enactment.
8. Within each negotiated exactions benefit area enacted by the Town Council, all subsequent development applications for site plan and/or subdivision approval shall be required to participate in cost sharing and/or carrying costs for the infrastructure improvement project unless the Planning Board determines that no benefit has been derived from the prior improvement project.
9. If the improvement is not completed within the agreed upon period, the fee, plus interest, must be returned to the applicant. If the improvement is made at a cost less than was anticipated, the remaining portion shall be returned to the applicant(s) at amounts equal to their fair share of the improvement.
10. The Town shall segregate the funds received from exaction agreements from the general revenue fund and shall expend those funds solely for the purpose that was intended.

11. Prior to final approval for the project, the Planning Board and/or Town Staff shall solicit input from the Town's Counsel to ensure that the necessary legal assurances have been established and formally executed to ensure the completion of the improvements, payments, etc. as finally determined by the Planning Board in accordance with this Section 401.8.1.
- D. Applicability: Except as specifically exempted in Section 401.8.1.E, development proposals that adversely effects existing public infrastructure by creating demand(s) upon, or the need for, public facilities causing one or more of the following, as determined by the Planning Board, are required to comply with this Section 401.8.1:
1. Project(s) that lower the level of service (LOS) nearby intersection(s) including but not limited to the following:
 - a. Adjusting signal timing and/or upgraded signals
 - b. Adding turn lane(s)
 - c. Widening portions of the intersection
 - d. Constructing roadway portions adjacent to intersections for proper alignment i.e. taper lanes, etc.
 - e. Adding length to existing turn lane(s)
 2. Project(s) that reduce the capacity of a roadway segment
 3. Project(s) that place additional demand upon publically owned stormwater facilities
 4. Project(s) that create additional stormwater that adversely affects publically owned land or facilities
 5. Project(s) that require extending, upgrading, or increasing the water main size of a public water supply
 6. Project(s) that add additional wastewater to a publically owned and/or operated treatment facility
 7. Project(s) that place special demands upon the Gray Public Safety Department such as a requirement for special equipment to serve the project
 8. Project(s) that increase the workload on the Gray Public Works Department excepting winter maintenance as established in the Gray Street Ordinance (Chapter 400)
 9. Project(s) that increase the demand for police or law enforcement
 10. Project(s) that place additional demands on publically owned recreational facilities
 11. Project(s) that place demands on publically owned bicycle and/or pedestrian infrastructure specifically including sidewalks and bicycle lanes
 12. Project(s) that involve a new use, change of use, or expansion of an existing use
- E. Exemptions: The following developments are specifically exempt from this Section 401.8.1:
1. Existing, proposed, or expanded public facility(ies) owned by the Town of Gray
 2. Reconstruction of a building or structure located on property which was damaged or destroyed by fire or other casualty or which was voluntarily demolished during the past year provided that all of the following are met:

- a. No additional dwelling unit(s) are created.
 - b. The use is not changed.
 - c. The use is not expanded.
3. Alteration, remodeling rehabilitation, and/or reconstruction of any existing legal nonresidential structure where none of the following are associated with the proposed development:
- a. No net increase in square footage of the structure
 - b. The use is not changed
 - c. There is not an expansion of an existing use
 - d. No new use(s) are proposed

F. Conducting the Assessment:

- 1. The Planning Board may require the applicant to participate in municipally or state-owned, off-site capital improvements. In accordance with 401.8.1.D where it appears that the proposed development will result in a negative impact or decline in the level of service of any existing off-site capital improvement, the Planning Board shall assess and establish the applicant's level of participation in the off-site capital improvement.
- 2. In conducting the assessment, the Planning Board shall consider the following:
 - a. The status of the system and service as a result of the analysis and any potential relationship to items noted and scheduled in the comprehensive plan and capital improvement program.
 - b. The net effect of the proposed development on the capacity of the capital improvement, indicating the percentage share caused by the development.
 - c. A cost estimate for this capital improvement so as to meet the increased demand, a breakdown of the applicant's share of that cost, and an estimate of the remaining capacity and post improvement capacity available to developments other than the applicant.

G. Improvement Responsibilities:

- 1. The fair value of any land area donated, acquired, or purchased by the owner/applicant shall be duly considered by the Planning Board, Town Council and the Town as an integral component in determining the Negotiated Exaction.
- 2. Once the applicant's share of capital improvement impact has been established by the Planning Board, the Board shall select the method in which the applicant must participate in the capital improvement. The following alternatives are available:
 - a. The applicant makes the improvement:
 - (i) The applicant must agree to make the necessary infrastructure improvements, providing all initial financial carrying costs, establish a construction schedule, and post a performance guarantee to cover all associated costs. The applicant may recover the improvement costs (including engineering and design, construction, and financing expenses) within ten (10) years after improvements are made and in accordance with a specified level of service range associated with the improvement.

- (ii) For the applicant to recover these costs, subsequent developments must realize a benefit by using the infrastructure improvements financed by the applicant. Cost reimbursement for the applicant shall be established as subsequent developments go through the subdivision or site plan review process.
 - (iii) Calculations shall include adjustments for time-price differentials using the coupon issue yield equivalent of 52-week United States Treasury Bills (1-year Treasury Rate) as an index. Payments shall be made prior to the release of the signed final plan for recording purposes or the building permit where no recording mylar is involved.
- b. Cost Sharing for Subsequent Development:
- (i) Allocation Cost Sharing for Subsequent Development(s). In arriving at the appropriate cost share for subsequent development, applicants shall use the same methodology as that utilized by the initial applicant. In applying the methodology, subsequent applicants shall establish their cost based on the percentage utilization of the improvements in terms of post-construction level of service.
 - (ii) Reallocation of Carrying Costs. At the request of the developer and at the discretion of the Planning Board, the Town may also require subsequent developments to share in the initial financial carrying costs of the necessary infrastructure improvements. If so determined, the carrying costs shall be shared between the initial and subsequent development(s) in direct proportion to their relative impact on the capital improvement. Once apportioned, the initial and subsequent development(s) are eligible for cost reimbursement from subsequent development(s) as described above.
- c. Town makes improvements: The Town may agree to complete the improvements. The applicant shall pay the required share of the cost to the Town prior to the release of the signed final plan or building permit, said payment to be held in a reserve fund until the improvement is completed. Subsequent developments that realize a benefit by using the infrastructure improvements financed by the Town shall also pay a fair share contribution.
- d. Cost Sharing agreement between Applicant and/or Town and/or MDOT to complete infrastructure improvements and/or partial contribution toward future Town infrastructure Improvement related to development application and/or land acquisition.

401.8.3 – REQUIRED FINAL PLAN SUBMISSIONS

- A. Format & Content - Format & Content- The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary details can easily be read. Plans shall be no larger than 24 by 36 inches in size. Space shall be reserved on the plan for endorsement by the Board. Three (3) full-sized (24 by 36 inches) paper copies and two (2) stable-based transparency e.g. mylar of the recording plan(s) to be recorded at the Registry of Deeds, three (3) full-sized sets of paper copies of all the final plan sheets, and any supporting documents shall be submitted. Nine (9) 11 by 17 inch copies and a one (1) universally accessible digital format e.g. PDF of all plans shall be submitted.
- B. Required Information on the Plans - The final plan shall include or be accompanied by the following mandatory submissions of information:
1. Completed final plan application form and final plan application submissions checklist.

2. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
3. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
4. An indication of the type of sewage disposal to be used in the subdivision.
5. An indication of the type of water supply system(s) to be used in the subdivision.
 - a. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design.
 - b. A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.
 - c. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area. Where there is question as to the quantity or quality of groundwater supplies for potable water, the Plan shall carry a note requiring the developer to provide a tested well prior to sale of the lot.
6. The date the plan was prepared, north point, graphic map scale.
7. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
8. The location of any zoning boundaries affecting the subdivision.
9. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
10. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
11. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
12. Street plans, meeting the requirements of Section 401.13.16.
13. The width and location of any proposed new streets or public improvements or open space within the subject property that are shown upon the official map, in the comprehensive plan, or Capital Improvements Program, if any.
14. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be managed and maintained shall be submitted. These may include homeowners' association or condominium bylaws and

declarations. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Town Council is willing to accept the property interest(s) and that the Town Attorney is satisfied with the legal sufficiency of the written offer to convey title shall be included.

15. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
16. The location and method of disposal for land clearing and construction debris.
17. All studies and plans submitted and made part of the preliminary plan approval.
18. Copies of all outside agency reviews and permits.

401.8.4 – FINAL SUBDIVISION PLAN APPROVAL AND FILING

- A. Violation of Prior Approvals - No plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved subdivision within the municipality.
- B. Documentation of Final Plan Board Decisions - Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed one additional period of ninety (90) days. This 90-day period shall begin the day the plan is signed by the Planning Board. Any extension of this 90-day period must be requested of the Planning Board before the first 90-day period expires.
- C. Plan Recording & Receipt Before Building Permits –The applicant shall provide the Code Enforcement Officer (CEO) with a receipt from the Registry of Deeds within that time limit stating that the Plan has been filed and giving the Book and Page numbers. No building permits for an approved plan will be issued until the plan has been registered with the Registry of Deeds and a letter from the subdivider has been submitted to the Town stating that all permanent survey markers have been placed for each lot.
- D. Phasing of Projects to Match Planned Capacity Expansion of Municipal Facilities. At the time the Board grants final plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase. (Note: Applicants may also request approval of a phasing plan under Section 401.11.5 for performance guarantees).

- E. Changes to the Approved Subdivision Plan - No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised final plan is first submitted and the Board approves any modifications, in accordance with the provisions of Article 9. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- F. Approval of a Subdivision Plan does not Constitute Acceptance of any Property Interests by the Town of Gray - The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Town Council covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- G. Failure to Complete Substantial Construction - Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five (5) years of the date of approval and signing of the plan shall render the project in violation of this Ordinance. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE 9 - REVISIONS TO MAJOR SUBDIVISION PLANS

401.9.1 – PROCEDURE

An applicant for a revision to a previously approved plan shall, at least twenty-one (21) days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

401.9.2 – SUBMISSIONS

The applicant shall submit a copy of the approved plan as well as fourteen (14) copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

401.9.3 – SCOPE OF REVIEW

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

ARTICLE 10 - INSPECTIONS AND ENFORCEMENT

401.10.1 – INSPECTION OF REQUIRED IMPROVEMENTS

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
1. Notification - Notify the Town Engineer and Code Enforcement Officer in writing of the time when proposed to construction of such improvements will commence, so that the Town can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 2. Inspection Fees - Deposit with the Town Manager a check in the amount specified in the Schedule of Fees adopted by the Town Council for the inspection of the project infrastructure construction. The fee shall be based on two (2) percent of the cost of construction of the road and utilities, or the estimated cost of inspection estimated by the Town Engineer. [Amended Dec 7, 2010]
- B. Notification of Needed Corrections - If the Town Engineer finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the Town Engineer shall so report in writing to the Town Manager, Planning Board, and the subdivider and builder. The Town Manager shall take any steps necessary to assure compliance with the approved plans.
- C. Approval of Minor Field Changes - If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the Town Engineer is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Town Engineer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Planning Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than one (1%) percent etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 9 for amended plans.
- D. Close of Construction Season Inspection - At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By October 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered. The developer shall implement any recommendations in the inspection report by November 1.
- E. Certification of Surveying Monuments - Prior to the sale of any lot, the subdivider shall provide the Town Engineer and Code Enforcement Officer with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.
- F. Certification of Street Construction for Public Acceptance - Upon completion of street construction and prior to a vote by the Town Council to accept a street for public ownership and maintenance, a written certification signed by a professional engineer shall be submitted to the Town Council at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing

utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the Town Council with the request for street acceptance.

- G. Developer Responsibility to Maintain Streets - The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners' association.

401.10.2 – VIOLATIONS AND ENFORCEMENT

- A. No Plan to be Recorded without Prior Planning Board Approval - No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with these regulations.
- B. No Land to be Conveyed or Offered - A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. All Lots to be Shown on Approved Plan - A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- D. No Utility to Serve Non-approved Lots - No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- E. No Site Development without Approvals - Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. No Lot Sales without Infrastructure Completion - No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts and utilities to serve the lot are completed in accordance with these regulations up to and including the entire frontage of the lot unless an approved performance guarantee is in place to ensure street construction and utilities completion. No home on a lot or unit in a multi-family development shall be occupied before the street upon which the unit is accessed and the utilities to serve the residences are serviceable to the satisfaction of the Town Engineer and Code Enforcement Officer.
- G. Development to Follow Approved Plans – All development activity within an approved subdivision shall follow the plans approved by the Planning Board and any conditions of approval applied by the Board.
- H. Remedies - Violations of the above provisions of this Ordinance shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452.

ARTICLE 11 - PERFORMANCE GUARANTEES

401.11.1 – TYPES OF GUARANTEES

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Cash - Either a certified check payable to the municipality or a savings account or certificate of deposit naming the Town of Gray as owner, for the establishment of an escrow account;

- B. Letter of Credit - An irrevocable letter of credit from a financial institution approved by the Town Attorney establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate.
- C. Conditional Agreement – A restriction on the sale of lots and issuance of building permits within the subdivision until the required improvements are completed. A letter of credit or cash fund shall be required to cover the cost of erosion controls and site stabilization. The restriction on lot sales and building permits shall be lifted at any point in the construction process where a performance guarantee under subsections A or B above is posted for the remaining improvements. The owner of a subdivision approved by the Planning Board prior to November 10, 2008 (December 10 effective date) may ask to amend the subdivision approval to add or substitute a conditional agreement provision under this subsection. Such an amendment will require the review and approval of the Planning Board and must comply with all of the requirements of this subsection, but may not request any other plan changes under the design requirements or review standards. Approval of a plan amendment under this subsection shall not extend the time periods established by Section 401.8.3(C) or (G). [Amended March 17, 2009]

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Town Engineer, Public Works Director, and Town Attorney.

401.11.2 – CONTENTS OF GUARANTEES

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction. Said default date shall be at least sixty (60) days prior to expiration of the performance guarantee.

401.11.3 – CASH ESCROW ACCOUNT

A cash contribution to the establishment of an escrow account shall be made by either a certified check, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account due to default of the developer.

401.11.4 – LETTER OF CREDIT

An irrevocable letter of credit from a bank or other lending institution with offices in the region, shall indicate that funds have been set aside for the construction of the subdivision for the duration of the project and may not be used for any other project or loan.

401.11.5 – PHASING OF DEVELOPMENT

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases and with posting of a new performance guarantee for the next phase. Preliminary subdivision approval of all development phases in a phased subdivision shall establish vested rights against future ordinance changes provided

that adequate design documentation is submitted to verify that all project phases meet all ordinance requirements in effect at the time of final approval of the first project phase.

401.11.6 – RELEASE OF GUARANTEE

Prior to the release of any part of the performance guarantee, the Town Manager or his/her designee shall determine to its satisfaction, in part upon the report of the Town Engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

401.11.7 – DEFAULT

If upon inspection, the Town Engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the Town Manager, the Board, and the applicant or builder. The Town Manager shall take any steps necessary to preserve the municipality's rights.

401.11.8 – IMPROVEMENTS TO BE COVERED BY GUARANTEES

Performance guarantees shall be tendered for all public or common improvements required to meet the standards of these regulations including but not limited to the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

ARTICLE 12 - WAIVERS

401.12.1 – WAIVERS OF CERTAIN SUBMISSION REQUIREMENTS AUTHORIZED.

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, or that the application is simple and minor in nature, it may waive portions of the submission requirements, unless prohibited by these regulations or Maine statutes, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations.

401.12.2 – WAIVERS OF CERTAIN IMPROVEMENTS AUTHORIZED.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the Zoning Ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

In granting any waivers for required improvements, the Planning Board shall make findings that:

- A. The need for a waiver is based on unique circumstances relating to the specific site and development application and that these conditions would not be expected to be encountered elsewhere;
- B. The application of the standards is not requisite to public health, safety, and general welfare;

- C. The waiver would not qualify for relief granted by the Board of Appeals under Article 9.
- D. The granting of the waiver in other situations would not have the effect of amending the Ordinance requirements; and,
- E. Appropriate conditions are applied.

401.12.3 – WAIVER OF PROCEDURAL STEPS

The Board may allow an applicant to combine the final plan and preliminary plan application steps into one procedure, upon making all of the following written findings of fact:

- A. No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a “Permit by Rule;”
- B. The Board agrees to approve a waiver from the requirement to submit a stormwater management plan and sedimentation and erosion control plan, as ordinarily required by Article 7 or Article 8; and
- C. The application contains all other applicable submissions required for both the preliminary and final plan steps, except for those items for which a waiver of a required submission has been requested and granted.

401.12.4 – CONDITIONS FOR WAIVERS

Unless otherwise specified in this Ordinance, waivers may only be granted in accordance with Sections 401.12.1, 401.12.2 and 401.12.3 above. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

401.12.5 – WAIVERS TO BE SHOWN ON FINAL PLAN.

When the Board grants a waiver under Section 401.12.2 to any of the improvements required by these regulations, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

ARTICLE 13 - PERFORMANCE & DESIGN STANDARDS

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Section 401.2. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a final plan. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

401.13.1 – BASIC SUBDIVISION LAYOUT

- A. Blocks.
 - Where street lengths exceed one thousand (1,000) feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least twenty (20) feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards for sidewalks below. Maintenance obligations of the easement shall be included in the written description of the easement.
- B. Lots.
 - 1. Wherever possible, side lot lines shall be perpendicular to the street.

2. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.
3. If a lot on one side of a stream (as defined in the DEP Minimum Shoreland Zoning Guidelines) or road fails to meet the minimum requirements for lot size, it may not be combined with land on the other side of the stream or road to meet the minimum lot size.
4. The ratio of lot length to width, outside of the shoreland zone, shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1.
5. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board.
6. In accordance with Tables 402.5.4.A & B of the Zoning Ordinance, the Planning Board shall have the authority to reduce the minimum street frontage to fifty (50) percent of the required frontage but in no case less than sixty (60) feet of street frontage, whichever is greater, for lots in a Planning Board approved residential subdivision for one or more lots having street frontage only on a cul-de-sac. In such instances, street frontage shall be measured along the outside radius of the cul-de-sac. Lots which have any street frontage not on a cul-de-sac radius as well as lots in a commercial subdivision shall not be eligible for reduced street frontage.

C. Utilities.

Utilities serving lots with a street frontage of one hundred and fifty (150 ft.) feet or less shall be installed underground.

D. Monuments.

1. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than seven hundred and fifty (750 ft.) feet apart along street lines without curves or intersections.
2. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
3. Stone or concrete monuments shall be a minimum of four inches square at the top and three feet in length, and set in the ground at final grade level. After they are set, drill hole 1/2 inch deep shall locate the point or points described above.

4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

401.13.2 – SUFFICIENT WATER

A. Public Water:

1. A subdivision located partially or wholly within the Environmental Protection Agency's (EPA) McKin Superfund Site shall provide public water to all parts and all development within the entire project.
2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Gray Water District and the Fire Chief.
3. Subdivisions not located partially or wholly within the EPA McKin Superfund Site shall not be required to supply public water provided that adequate drinking water and sufficient fire protection measures are adhered to as required in this Ordinance and other applicable standards.

B. Drinking Water:

1. When a proposed subdivision is not served by public water, water supply shall be from individual wells. Due to the increased chance of contamination from surface water, dug wells shall be prohibited.
2. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
3. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.
4. Lots shall be designed to accommodate the placement of wells and septic systems meeting the requirements of the State of Maine Subsurface Wastewater Disposal Rules and Well Driller and Pump Installer Rules, which generally require a one hundred (100) foot separation between wells and septic systems. Additional restrictions on well locations may be required per hydrogeologic assessments under Section 401.13.9.A.6.
5. Water Quality: Water supplies shall meet primary drinking water standards contained in the State of Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded at the Registry of Deeds.

C. Fire Protection:

1. The developer shall provide adequate Fire Protection by one or more of the following methods meeting applicable standards approved by the Gray Department of Public Safety:
 - a. Fire Hydrant(s);
 - b. Underground reservoir(s); and/or

- c. Sprinkler system(s).
- 2. A suitable accessway to the hydrant or other water source shall be constructed. An easement shall be granted to the Town of Gray granting access to and maintenance of hydrants or reservoirs where necessary.
- 3. When a subdivision is to be served by public water, all of the following apply:
 - a. Applicable standards detailed above in 401.13.2.A.2
 - b. Fire hydrants connected to a public water supply shall be located such that no building is more than five hundred (500) feet from a hydrant
 - c. Hydrants or other provisions for drafting water shall be provided to the specifications of the Gray Department of Public Safety.
- 4. For underground reservoirs, a minimum storage capacity of 10,000 gallons shall be provided. Additional storage of 2,000 gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the Gray Department of Public Safety based on factors such as distance to a secondary water supply. Minimum pipe size connecting to storage vaults shall be six inches.
- 5. Sprinklers utilized to meet fire protection for this Section 401.13.2.C shall be designed and installed to the following specifications:
 - a. Developers of a subdivision shall submit plans for Fire Protection to the Gray Department of Public Safety for review and approval
 - b. Residential sprinklers shall follow National Fire Protection Association (NFPA) 13D and 13R for life safety
 - c. Commercial sprinklers shall follow NRPA 13
 - d. Commercial sprinkler systems will have a Fire Department connection that is in an accessible location and clearly marked outside the building
 - e. All sprinkler systems using more than six (6) sprinkler heads shall be approved by the State of Maine Department of Public Safety/Fire Marshall's Office.

401.13.3 – EROSION AND SEDIMENTATION AND IMPACT ON WATER BODIES

- A. The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- D. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

401.13.4 – SEWAGE DISPOSAL

- A. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
- B. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough for a disposal area on soils which meet the Disposal Rules.
- C. On lots in which the limiting factor has been identified as being within fifteen (15) inches or less of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted in the deed so as not to be built upon.
- D. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.
- E. In no instance shall a lot be approved that has its septic system located on an easement on another lot.

401.13.5 – SOLID WASTE

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

401.13.6 – IMPACT ON NATURAL BEAUTY, AESTHETICS, HISTORIC SITES, WILDLIFE HABITAT, RARE NATURAL AREAS OR PUBLIC ACCESS TO THE SHORELINE

A. Preservation of Natural Beauty and Aesthetics.

- 1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
- 2. Except in areas of the municipality designated by the comprehensive plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads. Outside of designated growth areas, a subdivision in which the land cover type at the time of application is forested, shall maintain a wooded buffer strip no less than fifty (50) feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
- 3. The Board may require the application to include a landscape plan that will show the preservation of any existing large specimen trees, the replacement of trees and vegetation, and graded contours.
- 4. Unless located in areas designated as a growth area in the Comprehensive Plan, building locations shall be limited in open fields, and shall be located to the maximum extent possible, through clustering or control of building locations, within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of buildings when viewed from existing public streets. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

B. Retention of Open Spaces and Natural or Historic Features.

1. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, measures for preservation of that portion shall be included in the project design.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be compatible with the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.
4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the Comprehensive Plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics, but shall constitute no less than five (5%) percent of the area of the subdivision. In determining the need for recreational open space the Board shall also consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; and the type of development. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage.
5. Subdivisions with an average density of more than three (3) dwelling units per acre shall provide no less than fifty percent of the open space as usable open space to be improved for ball fields, playgrounds or other similar active recreation facilities. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least two hundred (200 ft.) feet, and have no major dimensions of less than two hundred (200 ft.) feet.
6. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
7. Where land within the subdivision is not suitable or is insufficient in amount for open space and recreation needs of the development, a payment in lieu of dedication as set by the Town Council may be substituted for the reservation of all or part of the open space requirement. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

C. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. Two hundred and fifty (250 ft.) feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife Beginning with Habitat Project Primary Maps 1 and 2 or the Comprehensive Plan as:

- a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
 - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - c. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or
2. Other important habitat areas identified in the comprehensive plan or in the Department of Inland Fisheries and Wildlife Beginning with Habitat Project Primary Maps 1 and 2;

the applicant shall demonstrate that there shall be no undue adverse impacts on the habitat and species it supports. There shall be no cutting of vegetation within such areas, or within the strip of land extending at least seventy-five (75 ft.) feet from the edge or normal high-water mark of such habitat areas without prior consultation with and submission of comments from the Regional Biologist of the Maine Department of Inland Fisheries and Wildlife. The Board may require a report to be submitted, prepared by a wildlife biologist, selected or approved by the Board, with demonstrated experience with the wildlife resource being impacted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe any additional appropriate mitigation measures to ensure that the subdivision will have no undue adverse impacts on the habitat and the species it supports.

H. Protection of Important Shoreland Areas.

3. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.
4. Within areas subject to the state mandated shoreland zone, within a strip of land extending one hundred (100 ft.) feet inland from the normal high-water line of a great pond or any tributary to a great pond, and seventy-five (75 ft.) feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The plan notes shall contain the following restrictions:
 - a. Tree removal shall be limited to no more than forty (40%) percent of the volume of trees four (4 in.) inches or more in diameter measured at 4 1/2 (4.5 ft.) feet above the ground level on any lot in any ten year period.
 - b. There shall be no cleared opening greater than two hundred and fifty (250 sq. ft.) square feet in the forest canopy as measured from the outer limits of the tree crown.
 - c. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six (6) feet.
 - d. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
 - e. Pruning of tree branches, on the bottom third of the tree is permitted.

5. Within areas subject to the state mandated shoreland zone, beyond the buffer strip designated above, and out to two hundred and fifty (250 ft.) feet from the normal high water line of a water body or upland edge of a wetland, cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, twenty-five (25%) percent of the lot area or ten thousand (10,000 sq. ft.) square feet, whichever is greater, including land previously developed.
- I. Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.
 6. All open space common land, facilities and property shall be owned by:
 - a. The owners of the lots or dwelling units by means of a lot owners' association;
 - b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
 - c. The municipality.
 7. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.
 8. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
 - a. It shall not be used for future building lots; and
 - b. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.
 9. The final plan application shall include the following:
 - a. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
 - b. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
 - c. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities. Provisions dealing with matters not relating to the criteria and standards of the Subdivision Ordinance such as requirements for minimum home sizes and prohibitions on satellite dishes shall be separated and shall not be enforceable by the Town of Gray.
 10. In combination, the documents referenced in paragraph E 1. through 4. above shall provide for the following.

- a. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
- b. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
- c. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
- d. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

401.13.7 – CONFORMANCE WITH ZONING ORDINANCE AND OTHER LAND USE ORDINANCES

All lots, other than those found within cluster developments approved pursuant to section 401.13.13, shall meet the minimum dimensional requirements of the Zoning Ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the Zoning Ordinance and other land use ordinances.

401.13.8 – FINANCIAL AND TECHNICAL CAPACITY

A. Financial Capacity

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation. Provision of a commitment letter from a lending institution offering to finance construction of the specific project for amounts confirmed by the Town's peer reviewers shall constitute demonstration of financial capacity when combined with a performance guarantee meeting the requirements of Section 401.11.

B. Technical Ability

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

401.13.9 – IMPACT ON GROUND WATER QUALITY OR QUANTITY

A. Ground Water Quality

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - a. A map showing the basic soils types.
 - b. The depth to the water table at representative points throughout the subdivision.
 - c. Drainage conditions throughout the subdivision.

- d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
 - f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming sixty (60%) percent of annual average precipitation).
 3. No subdivision shall increase any contaminant concentration in the ground water at any subdivision water supply well or any project boundary to more than the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water at said locations to more than the Secondary Drinking Water Standards. A hydrogeological evaluation demonstrating that the groundwater concentrations of nitrate as nitrogen meet the Maximum Contaminant Level standard of 10 mg/L of the EPA's National Primary Drinking Water Regulations at the project boundaries. Where past land activities, such as agriculture, indicate the potential for high background levels of nitrate nitrogen or other groundwater contaminants, the Planning Board may require testing to determine background levels and may place limitations on total groundwater discharges to ensure safe drinking water supplies for existing and/or proposed households.
 4. If ground water is to be used for potable purposes and contains contaminants in excess of the primary standards, the applicant shall demonstrate how water quality will be improved or treated.
 5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed one hundred and fifty (150%) percent of the ambient concentration.
 6. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, such as required well exclusion zones, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.
 7. Whenever the Board determines that there is a potential that some lots in the proposed subdivision may have difficulty obtaining a well with adequate quantity and quality for potable water, the developer shall be required to drill wells and verify the water supply before the lot is sold.

B. Ground Water Quantity

1. Any water table drawdowns beyond the subdivision boundaries, due to groundwater withdrawals by the proposed subdivision, shall not adversely impact groundwater supply availability to existing wells nor cause structural damage (e.g., settlement).

2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation. This standard shall be met by one of the following measures:
 - a. Limiting the impervious surfaces within the project site to no more than 10 (10%) percent of the land surface.
 - b. Providing analysis by a hydrogeologist or qualified engineer that soil and substrate conditions are such that a groundwater drawdown due to increased runoff will not significantly reduce infiltration or cause long term settlements in clay that could result in structural damage. Upon recommendation of peer review consultants engaged by the Town, the Board may require test borings to verify assumptions made by the hydrologist or engineer.
 - c. Installation of groundwater infiltration measures to ensure that water table recharge is not depleted by more than ten (10%) percent.

401.13.10 – FLOODPLAIN MANAGEMENT.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

401.13.11 – IDENTIFICATION OF FRESHWATER WETLANDS, RIVERS, STREAMS OR BROOKS

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the 1987 Corps of Engineers Wetland Delineation Manual, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

401.13.12 – STORMWATER MANAGEMENT

- A. Stormwater management for major subdivisions shall incorporate appropriate treatment measures for water quantity and quality to meet the requirements specified below for development of the lots as well as the infrastructure to support the project. Each application shall include maximum developed, disturbed and impervious areas for each lot based upon the definitions contained within DEP Chapter 500 Stormwater Management.

- B. For major subdivisions that require DEP review under the Site Location of Development Act (SLDA), a stormwater management plan shall be submitted which complies with the SLDA and the requirements of DEP Chapter 500 Stormwater Management.
- C. For major subdivisions that do not require a SLDA permit, but require a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Management.
- D. For major subdivisions outside of the watershed of a Great Pond, that require neither a SLDA permit, nor a DEP Stormwater permit a stormwater management plan shall be submitted which complies with the Basic and General Standards of DEP Chapter 500 Stormwater Management.
- E. For the purposes of these regulations, the watershed boundaries shall be as delineated in the Comprehensive Plan, or as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.
- F. For major and minor subdivisions within the watershed of a Great Pond, that require neither a DEP SLDA permit nor a DEP Stormwater Permit, a stormwater management plan shall be submitted which complies with the Basic Standards of DEP Chapter 500 Stormwater Management. In addition, the stormwater management plan shall comply with the Phosphorous Standard of Chapter 500. If the Great Pond is not severely blooming as listed in MDEP Chapter 502, then the stormwater management plan shall comply with either the General Standard or the Phosphorous Standard of Chapter 500 at the Applicant's choice.
- G. For all major subdivisions, regardless of size, a stormwater management plan shall be submitted which complies with the Flooding Standard of DEP Chapter 500 Stormwater Management. For a project that does not require a DEP SLDA Permit, the Planning Board upon a request by the Applicant may waive the Flooding Standard, in the event that greater than seventy-five (75%) percent of the impervious and developed areas (as defined in Chapter 500) for both the lots and infrastructure are treated through the use of buffers in accordance with Chapter 500.

401.13.13 – RESIDENTIAL OPEN SPACE SUBDIVISIONS

A. Purpose:

1. The purpose of these Residential Open Space Subdivision standards is to encourage greater flexibility and more creative design for the development of single-family projects. It is intended to encourage a pattern of residential development which will result in the following attributes:
 - a. Preservation of Gray's rural character by retention of open space and its natural resource values as determined by the Planning Board with input from appropriate organizations, other Town staff, and State departments.
 - b. To the greatest practical extent, preservation of existing landscape features and the utilization of such features in a harmonious fashion.
 - c. Protection of environmentally sensitive areas.

- d. Economical and efficient building arrangement, traffic circulation, and utility construction.
 - e. Outdoor recreational facilities that may be better utilized and located than would otherwise be provided under more conventional land development.
2. Section 401.13.13.I establishes the purposes of locating individually owned lots in relation to the configuration of the open space. Parties must pay particular attention to this section to ensure that the overall layout of land development is consistent with these standards.

B. Dimensional Standards:

1. Table 401.13.13.B.1 entitled "Residential Open Space Subdivision Dimensional Standards Table" is hereby incorporated into this Ordinance (please see appendix __ of this Ordinance).
2. The Planning Board shall have the authority to reduce setbacks to those stated in Table 401.13.13.B.1.
3. Neither the Planning Board nor the Zoning Board of Appeals shall have the authority to further reduce the setbacks for the entirety of a project.
4. The Planning Board's ability to change setbacks within the project as detailed in Table 401.13.13.B.1 shall not be construed as granting variances to relieve hardship, and the action of the Zoning Board of Appeals shall not be required.
5. All other space standards except those specifically allowed in Table 401.13.13.B.1 for the respective district shall apply to the Residential Open Space Subdivision.
6. Notwithstanding Section 401.13.1.B.4 of this Subdivision Ordinance specifying the maximum ratio of lot length to width, the Planning Board shall have the authority to adjust lot configurations consistent with these standards including the Residential Open Space Dimensional Standards Table (Section 401.13.13.B.1) of this Ordinance.
7. Notwithstanding standards regarding open space, common land, facilities and services established in Section 401.13.16.E of this Ordinance, all open space areas in Residential Open Space Subdivisions shall meet and maintain standards in this Section 401.13.13.

C. Lot Density Calculations and Density Bonuses:

1. In no case shall the maximum number of lots exceed the gross density specified for the respective zoning district established in Table 402.5.4.A of the Zoning Ordinance. In all cases where the number lots permitted equals a decimal number, the number shall be rounded to the nearest whole number.
2. The maximum number of lots shall be calculated by using the Net Residential Density calculations contained in Section 401.13.18 of this Subdivision Ordinance and may be adjusted in accordance with this Section 401.13.13.C.
3. The Planning Board shall approve a density bonus that increases the number of lots if the project meets any one or more of the criteria established in this Section 401.13.13.C of the Subdivision Ordinance. The allowance for increased density may be cumulative up the maximum gross density for the respective Zoning District.
4. As determined by the Planning Board as an integral part of the review of the project, subdivisions that meet one or more of the following shall be eligible for a five percent (5%) increased number of lots for each of the following:

- a. Developed trail network in commonly owned open space.
 - b. Links to trails outside the perimeter of the project.
 - c. A contiguous area of land larger than five (5) acres that is permanently protected by a recorded easement for agricultural purposes.
 - d. A contiguous area of land larger than five (5) acres containing mature growth forest that is permanently protected from timber harvesting by a recorded easement.
 - e. Two (2) or more acres of land, which is not otherwise required to be protected, of valuable wildlife and/or environmentally sensitive areas that is permanently protected from development, other than walking trails.
 - f. Each 10% of additional deeded common open space, above the minimum required in Table 401.13.13.B.1.
5. As determined by the Planning Board as an integral part of the review of the project, subdivisions that meet one or more of the following shall be eligible for a ten percent (10%) increased number of lots for each of the following:
- a. A recorded easement granting the public rights to utilize trails in the common open space portion of the project.
 - b. Each 10% of sustainable affordable single-family housing units permanently protected by recorded deed covenants which establish fixed maximum sale prices regarding the fee transfer of title; each 10% of such permanent affordable single family dwelling housing unit is allowed a 10% density bonus increase.
 - c. Providing public water throughout the project for properties not otherwise required to be served by public water, such as properties in the McKin Superfund area.
6. As determined by the Planning Board as an integral part of the review of the subdivision, projects designed, constructed, and memorialized in recorded deed covenants approved by the Planning Board to be occupied by persons at least 55 years of age shall be eligible for a fifteen percent (15%) increased number of lots.

D. General Requirements:

1. Residential Open Space Subdivisions are allowed in the Rural Residential & Agricultural, Lake District, Medium Density, and Well Head-2 Zoning Districts in accordance with applicable standards.
2. Only single-family dwellings shall be permitted in Residential Open Space Subdivisions. Only one single-family dwelling shall be permitted on each individually owned lot. Accessory Apartments are specifically prohibited in Residential Open Space Subdivisions. A note on the face of the final signed recorded plan and/or included in deeds for each individually owned parcel shall memorialize these use limitations.
3. Accessory residential uses other than Accessory Apartments that are permitted in the respective Zoning District may be permitted unless specifically disallowed as part of the Planning Board's approval. In such cases, the use parameters shall be memorialized on the face of the final signed recorded plan and a clear note in the deeds for each lot.

4. All deeds for individually owned lots in the project as well as the face of the final recorded subdivision plan shall contain the following language; "Lot uses in this Residential Open Space Subdivision are limited to those single-family residential uses that are permitted in the Zoning Ordinance".
 5. Except for standards specifically established in this Section 401.13.13 of this Subdivision Ordinance, Residential Open Space Subdivisions shall meet all other applicable requirements of the Subdivision Ordinance and the Zoning Ordinance.
 6. In accordance with Section 401.13.15.C.1 of this Subdivision Ordinance, the Planning Board shall have the right to require that reserve rights-of-way be established and clearly shown on the face of the recorded plan if adjacent properties may be suitable for future development as determined by the Board. In such cases, lots and building envelopes shall be established and shown on the face of the final signed recorded plan to allow the construction of this future access with respect to applicable setbacks and standards.
 7. Open space shall be shown on the subdivision plan, and with appropriate notation on the face of the final signed recorded plan, that it shall not be further divided for any other use.
 8. An Open Space Subdivision located on a lot that is in more than one Zoning District shall be subject to all applicable provisions for each respective District.
 9. All recreation areas in the project, including trails, and any limitations on their use shall be shown on the face of the final recorded plan. The Planning Board may require that the homeowner's association documents and/or deeds for individual lots include provisions that ensure that the potential buyers are aware of the use and limitations of the recreational areas.
 10. The Town of Gray will not be responsible for enforcement of the use of any open space or recreational areas including trails.
 11. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development specifically including a Town or State road.
 12. In order to achieve maximum efficiency of lot layout, up to two (2) lots accessed by back lot development easements shall be permitted in an Open Space Subdivision.
 13. Shore frontage for each lot shall not be reduced below the minimum normally required by the Shoreland Zoning Ordinance.
 14. Underground utilities shall be required.
- E. Water Supply & Wastewater Disposal Requirements:
1. In the event that the applicant proposes a privately owned common water supply (not Gray Water District) serving multiple lots or dwelling units, provisions shall be taken to ensure that there will be adequate separation from the water supply wellhead to any potential wastewater disposal components. If a privately owned common water supply is to be installed, all residential structures in the project shall be connected to this system. The applicant shall demonstrate to the Planning Board that sufficient measures have been taken to ensure that the on-going maintenance needs of a privately owned common water supply will be addressed such as necessary inclusions in the homeowners association documents.
 2. Subsurface wastewater disposal systems for all lots and dwellings in a Residential Open Space Subdivision shall be on one of the following:

- a. a separate disposal field located on the same individually owned lot as the dwelling.
 - b. shared wastewater disposal field(s) by two to a maximum of four lots meeting applicable standards.
 - c. a centralized collection system and wastewater disposal components for the entire project meeting applicable standards.
3. During the Planning Board's review of the Open Space Subdivision, the Board shall ensure that neither the test pit nor any portion of the proposed subsurface wastewater disposal system, including the disposal field and associated fill extensions, will be located within any minimum buffer to the perimeter of the project. In order to ensure that these standards are met, the Planning Board shall have the authority to require that a fully completed HHE-200 showing fill extensions, the perimeter buffer, and nearby stormwater buffer locations be submitted as part of the review.
 4. When wastewater disposal is to be located on the same individually owned lot as the dwelling, the Planning Board shall have the authority to require the applicant to demonstrate that there are at least two locations on each individual lot that can practically accommodate a subsurface wastewater disposal field in accordance with the Maine Subsurface Wastewater Rules.
 5. The maintenance responsibilities for all component(s) of a shared or centralized wastewater disposal system shall be the appropriate association(s). The face of the final signed recorded plan as well as the respective deeds shall include necessary easements for the on-going maintenance of the wastewater disposal system components.
 6. A centralized collection and treatment system(s) or shared wastewater disposal system(s) shall not be located on any individually owned lot and shall not be counted as part of the minimum required open space. The location(s) of all proposed centralized collection and treatment system(s) or shared wastewater disposal system(s) shall be approved by the Planning Board with their respective location(s) shown on the face of the final signed recorded subdivision plan.
 7. In the event that a centralized collection and treatment of wastewater disposal is proposed, all lots and/or dwelling units in the project shall utilize this centralized wastewater disposal system with the understanding that there may be one or more systems utilized. In addition, all of the following standards shall apply:
 - a. The applicant shall demonstrate that at least one (1) site on each lot has suitable soils for wastewater disposal.
 - b. In instances where one or more of the design flow(s) exceeds one thousand (1,000) gallons per day is proposed, the applicant shall demonstrate that there is at least one (1) additional back-up site that is practically usable for each such proposed wastewater disposal field that could accommodate the wastewater disposal field.
 - c. All land areas utilized for the purposes of wastewater disposal fields for centralized collection of wastewater shall not be counted as part of the minimum required open space.
 - d. In the event that a centralized collection and treatment system is proposed for a location in the open space that is not shown on the face of the recorded subdivision plan, the plan must be amended in accordance with applicable procedures before any permits for the system(s) are issued.

F. Standards for individually owned lots:

1. Each individually owned lot in a Residential Open Space Subdivision shall have a building envelope sufficient to allow the development of customary residential uses as determined by the Planning Board. The dimensional standards are established in Table 401.13.13.B.1. The Planning Board shall ensure that there is ample space for access, for siting principal and accessory residential structures, and as appropriate, for locating a well and subsurface wastewater disposal system.
2. The Planning Board shall have the authority to require detailed proposed lot layouts for individually owned lots that demonstrate the proposed lot is capable of being developed for customary residential purposes. These lot layout plans shall include all necessary lot improvements. The Board shall also have the authority to require the applicant to demarcate these building envelopes via survey to ensure that the potential owners of the lot are aware of the applicable limitations.
3. The Planning Board shall ensure that neither the test pit nor any portion of the proposed subsurface wastewater disposal system, including the disposal field and associated fill extensions, will be located within any minimum buffer to the perimeter of the project. In order to ensure that this standard is met, the Planning Board shall have the authority to require that a fully completed HHE-200 showing fill extensions, the perimeter buffer, and nearby stormwater buffer locations be submitted as part of the review.

G. Standards for required setback buffers around the perimeter:

1. The Planning Board shall permit appropriate reductions in dimensional standards established in Table 401.13.13.B.1 upon a showing that the perimeter buffer is reserved in an appropriate location, shape, topography, size, condition, and nature of growth that will preserve for the residents of the project desirable common area, tree cover, scenic areas or natural features, and that adequate provisions for such dedication have been completed.
2. Setback buffers to the perimeter of the subdivision, whether to any road, side, or rear setback, shall be part of the open space for the project and in no event shall these areas be owned in entirety by any individual lot owner. The ownership and maintenance of these setback buffers to the perimeter of the subdivision shall be the same as the open space for the Subdivision.
3. Stormwater measures that compromise the required buffering standards shall not be permitted in the front perimeter buffer facing the road that provides access to the project. Stormwater measures in the side and/or rear perimeter buffer(s) shall only be permitted with Planning Board approval in instances when the applicant demonstrates that no other practicable solution is available.
4. The Homeowner/Lot owner association documents shall include language that clearly states that the association is responsible for the maintenance of the perimeter buffer.
5. The full depth of all required setback buffers to the perimeter of the subdivision shall consist of dense, mature natural vegetation as determined by the Planning Board. In the event that existing conditions do not meet this requirement at the time the application is before the Planning Board, the Board shall have the authority to require the applicant to plant trees and other appropriate

vegetation to establish an adequate buffer within a reasonable time period as determined by the Planning Board during its review of the project. In order to ensure that the required setback buffer to the perimeter of the subdivision meets applicable standards, the Planning Board shall also have the authority to require the applicant to post a bond or acceptable surety sufficient to ensure that the planted vegetation remain healthy and can be replanted if necessary as specified in Section 401.13.13.G.6.

6. When the Planning Board has determined that the applicant must post a bond or acceptable surety, qualified professionals shall provide proposed surety amounts for consideration by the Planning Board. Based on these submittals, input from Town Staff and the Town's consulting engineer, and any peer reviews that may be necessary, the Planning Board shall determine the amount of the surety that is one hundred and twenty-five (125) percent of the surety amount. The final type of surety, and the associated time frame, shall be determined by the Town's legal counsel based on input from Town staff. No Building Permits for any lot or dwelling unit in the subdivision shall be issued until this bond has been duly established.

H. Standards for Open Space areas:

1. For purposes of the Planning Board's review of Residential Open Space Subdivisions, usable open space shall mean land that can reasonably be accessed and utilized by persons owning individual lots in the subdivision. The land shall be capable of practically functioning as recreational areas including but not limited to uses such as trails or other appropriate activities.
2. Open space portions of the project shall have the following traits as determined by the Planning Board:
 - a. be as continuous as possible.
 - b. contain an area that is sufficiently large to serve appropriate recreational purposes.
 - c. be suitably configured to be utilized for appropriate recreational purposes.
 - d. be located to allow for reasonable access by persons owning lots in the subdivision.
 - e. as appropriate, the natural topography shall allow for areas to be improved for recreational purposes such as ballfields.
3. Open space shall be defined as lands permanently dedicated to one or more of the following uses: agricultural, cultivation, grazing, gardening, forestry, natural resource conservation, wetland protection, wildlife habitat, undeveloped park land, scenic preservation, outdoor recreation or open space areas, including buffers, that are part of an integrated or interconnected open space system.
4. The following areas shall be excluded from open space calculations:
 - a. Full width of all roads and right-of-way(s) necessary for vehicular access to individually owned lots.
 - b. All areas of the subdivision that are to be individually owned specifically including all lots utilized for single family dwellings.
 - c. Areas devoted to common wastewater disposal field(s).
5. Lands dedicated by easement for use as recreation or park facilities open to the public or as private facilities for use by owners of lots in the subdivision shall be included in the open space

and counted toward the open space requirement. Lands occupied by impervious paths or similar for common recreational facilities, not including tennis courts or buildings, may be counted as open space provided that such impervious surfaces constitute no more than five percent (5%) of the total required open space.

I. Configuration and Location of Open Space:

1. The configuration of the open space shall strive to preserve areas of the parcel that are environmentally sensitive or contain unique natural areas.
2. To the maximum extent possible, the open space shall be comprised of large unbroken tracts and the Planning Board shall discourage areas of open space connected together by narrow strips of land.
3. All lots in the Open Space Subdivision shall be located within five hundred (500) feet of the commonly owned open space to ensure practicable access.
4. The Planning Board shall ensure that the configuration, location, and size of the minimum required contiguous usable open space to have direct access immediately adjacent to the road that is required in line #6 of the Dimensional Table in Section 401.13.13.B.1 of this Ordinance will meet the needs of the subdivision as well as possible subsequent phases of the project. The purpose of this minimum required contiguous usable open space area is to reserve a readily-accessed area immediately adjacent to the road within the subdivision to be utilized by those families living in the project to afford a host of purposes including a gathering location, construct a playground, have a commonly used field, etc.
5. When reviewing the location(s) of proposed road(s), lots, and open space, the Planning Board shall consider the following criteria and purposes:
 - a. The overall layout of the project including the location of individually owned lots, roads, and configuration of open space shall promote optimal locations designed to minimize adverse effects on surrounding properties.
 - b. Individual lots, building envelopes, buildings, and streets designed to minimize the alteration of natural site features to be preserved.
 - c. The usability of open space intended for recreation or public use determined by the size, shape, topographic and location requirements of the particular purpose proposed for the site.
 - d. Consider current or planned uses for abutting parcels adjacent to the subdivision and ensure that the layout of the subdivision augments these uses to the maximum extent practicable.
 - e. Open space including irreplaceable natural features located on the tract such as stream beds and setbacks, significant stands of trees, individual trees of significant size, and rock outcroppings.
 - f. Open space intended for recreation or public use shall be easily accessible to pedestrians.
 - g. The suitability of open space intended for scenic value and purposes to achieve the best possible relationship between development and the land.
 - h. Maximize connections to recreational resources and facilities adjacent to the parcel being subdivided.

- i. To the maximum extent practically feasible, preserve habitat functionally necessary for wildlife.

J. Ownership & Use of Open Space:

1. The fee ownership of the minimum required open space shall be either the Homeowners Association or remain fractional by the lot owners in the subdivision. The use of the open space shall be consistent with applicable Town standards specifically including those in this Subdivision Ordinance. The face of the final recorded plan shall contain a note regarding this requirement.
2. The developer or the subsequent homeowners association may choose to grant a conservation easement to the Town of Gray or an association/ land trust legally constituted for conservation purposes.
3. In the event that the developer chooses to include open space in excess of that required, that extra portion is not required to be fractionally owned by the lot owners in the subdivision.
4. Subject to obtaining the necessary permits, open space shall be usable by persons owning lots in the Residential Open Space Subdivision for the following purposes:
 - a. Passive recreation.
 - b. Construction/use of recreational trails.
 - c. Construction /use of ball fields.
 - d. Construction of small accessory structures related to allowed uses.
 - e. Playground.
 - f. Community park/open space.
5. In no event shall the open space be utilized for any commercial purpose, specifically including recreation, other than the periodic timber harvesting in accordance with a plan compiled by a qualified professional designed to re-establish and maintain the Open Space and perimeter buffer.
6. The Homeowners association documents must contain clear language specifying that it is responsible for the maintenance of the common open space in accordance with these standards.
7. The following shall be required for the formation of a community association consisting of the residents or owners of the development:
 - a. The formation and incorporation by the developer of one or more appropriate community associations shall be required prior to final approval;
 - b. Covenants for mandatory membership in the association(s) setting forth the owners' rights, interests, and privileges in the association(s) and the common land shall be approved by the Planning Board and the necessary language included in the deed, not by reference, for each lot;
 - c. The community association(s) shall have the responsibility of maintaining the open space and operating and maintaining recreational facilities and lands;

- d. If deemed necessary by the association(s), the association(s) shall levy charges against all property owners to defray the expenses connected with the maintenance of the open space and recreational facilities and lands;
- e. The developer shall maintain control of such open space and be responsible for its maintenance until development sufficient to support the association(s) has taken place.

401.13.14 – COMPLIANCE WITH TIMBER HARVESTING RULES.

The Board shall ascertain that any timber harvested on the parcel being subdivided, has been harvested in compliance with rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality owned by one person or a group of persons in common or joint ownership.

401.13.15 – TRAFFIC CONDITIONS AND STREETS

A. General Goals

The Planning Board shall review the potential internal and external traffic impacts of all proposed subdivisions in order to ensure that:

1. The subdivision transportation system provides safeguards against hazards to vehicles, bicyclists and pedestrians in interior subdivision streets and access connections to external streets;
2. The subdivision transportation system is designed to avoid traffic congestion on any street;
3. The subdivision transportation system provides safe and convenient circulation for vehicles, bicyclists and pedestrians on interior subdivision streets and access connections to external streets;
4. The subdivision transportation system is designed to be compatible with the estimated Average Annual Daily Traffic of the street, the land uses accommodated by the street, and the lot density of the street; and
5. The subdivision transportation system will reflect the natural and built setting of the proposed subdivision site.

B. General Access Standards.

All subdivision accesses connecting with external streets shall meet the following standards:

1. Accesses connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation “Highway Driveway and Entrance Rules”

2. Accesses that are expected to carry more than 100 passenger vehicle equivalent trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation "Rules and Regulations Pertaining to Traffic Movement Permits."
3. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of streets or intersections neighboring the subdivision to a LOS of "E" or below, unless:
 - a. The comprehensive plan has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection; or
 - b. The level of service of the road or intersection will be raised to D or above through road or intersection improvements and/or by transportation demand management techniques; or
 - c. The applicant provides evidence that it is not possible to raise the level of service of the road or intersection to D or above by road or intersection improvements or by transportation demand management techniques, but improvements will be made or transportation demand management techniques will be used such that the proposed development will not increase delay at a signalized or unsignalized intersection, or otherwise worsen the operational condition of the road or intersection in the horizon year; or
 - d. Improvements cannot reasonably be made because the road or intersection is located in Gray Village or because implementation of the improvements will adversely affect a historic site as defined in 06-096 CMR 375(11) (Preservation of Historic Sites) and transportation demand management techniques will be implemented to the fullest extent practical; or
 - e. The development is located in a designated growth area, in which case the applicant shall be entitled to an exception from the level of service mitigation requirements set forth under the General Standards in this Section. This exception applies even if part or all of the traffic impacts of the proposed development will occur outside the boundaries of the designated growth area. This exception does not exempt the development from meeting safety standards, and greater mitigation measures may be required than otherwise provided in this subsection if needed to address safety issues; or
 - f. In the case of unsignalized intersections, if traffic with the development in place would not meet the warrant criteria for signalization or turning lanes, as set forth in the Federal Highway Administration's "Manual on Uniform Traffic Control Devices," (1988), then the Planning Board upon consultation with the Town Engineer may reduce the mitigation requirement for those measures so long as the resulting traffic conditions provide for safe traffic movement.
4. Accesses to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. The need for left turn storage treatment shall be evaluated for the subdivision using the guidelines set forth in the Maine DOT Highway Design Guide and standard practices of the Maine DOT.

C. General Internal Subdivision Street Standards [Adopted Dec 7, 2010]

All internal subdivision streets shall meet the following minimum standards.

1. The street or street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Wherever a proposed development abuts unplatted land or a future development phase of the same development, the street right of way shall be extended to the property line as deemed necessary by the Planning Board with input from the Town Planner and Town Engineer to provide access to abutting properties or to logically extend the street system. If possible, local streets in the subdivision shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods, to reduce service vehicle mileage, to permit looping of utilities, and/or facilitate emergency access and evacuation, but such connections should not have the effect of encouraging the use of such streets by substantial through traffic unless the street is designed for such purpose.
2. As determined by traffic engineering studies performed by qualified professionals, where necessary to safeguard against off-site hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, the Planning Board with input from the Town Engineer may require turning lanes, traffic directional islands, frontage roads, sidewalks, bike lanes, and traffic controls within the subdivision and/or on existing public streets that are impacted by the development.
3. **Street Names and Signs Lighting.**
Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Street names shall not continue beyond a new intersection unless the street is a direct continuation of that street through the intersection with no turning movements. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Planning Board based on input of the Department of Public Safety. No street name shall be the common given name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation.
4. **Street Lighting.**
Street lights meeting Central Maine Power Company standards shall be installed at all intersections and dead end turnarounds.
5. During street construction, the entire right of way shall not be cleared unless clearing is necessary for utilities, drainage or other infrastructure necessities, or to remove trees that will shade pavement in winter. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. If on-site disposal of the stumps and debris is proposed, the disposal site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

401.13.16 – SPECIFIC ACCESS AND STREET DESIGN STANDARDS [ADOPTED DEC 7, 2010]

A. Access Control.

1. To the maximum extent possible, all subdivision accesses shall be constructed perpendicular to the external street providing access to the subdivision. No subdivision access shall intersect the external street at an angle of less than seventy-five (75°) degrees based upon a showing that the perpendicular alignment is not possible. In such cases the right of way shall be curved to achieve a perpendicular alignment at the intersection for a distance of seventy-five (75 ft.) feet.

2. Where a major subdivision abuts an arterial or major collector street (all numbered State routes in Gray), no lot may have vehicular access directly onto the arterial or collector street. Minor subdivisions on arterials and major collectors shall have shared driveways subject to the requirements of the Street Ordinance and MDOT permitting requirements. Access restrictions on such lots shall be noted on the subdivision plan and in the deeds.
3. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the subdivision plan and as a deed restriction to the affected lots. In cases where creating an access to a lesser traveled way is problematic, the Planning Board, with input from the Town Engineer, may allow an access on the higher volume street if the access does not significantly detract from public safety. For accesses on higher volume streets, the Board shall consider the functional classification of the external street, the length of frontage on the external street, the intensity of traffic generated by the proposed subdivision, the geography along the frontage of the public way with lesser potential for traffic, and the distance to the public way with lesser potential for traffic.
4. Cross (four-corner) street intersections shall be aligned on opposite sides of the through street. If it is not possible to align the intersecting streets, a distance of at least two hundred (200') feet shall be maintained between centerlines of offset intersecting streets and between new intersections on the same side of a street. This intersection alignment rule shall apply to both external and internal intersections.
5. The minimum centerline curve radius shall be two hundred (200') feet. For road sections with greater than five (5%) percent grade, the centerline radius shall be increased by fifty (50') feet for every one (1%) increase in grade above five (5%).
6. Minimum Sight Distance Standards
 - a. Minimum sight distance requirements for all subdivision accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the subdivision access. On roads that are designated by the Maine Department of Transportation as Mobility or Retrograde Arterials, the third column in Table 13.16-1 shall apply.

TABLE 13.16-1 REQUIRED ROAD ACCESS SAFE SIGHT DISTANCES		
Posted Speed (MPH)	Sight Distance (Feet)	Mobility Sight Distance ¹ (Feet)
20	155	225
25	200	300
30	250	380
35	305	480

40	360	580
45	425	710
50	495	840
55 & over	570	990

¹ *Mobility or Retrograde Arterials are critical travel corridors identified by MDOT. In Gray, the only such designated corridor is Route 26 from Cumberland through to New Gloucester.*

- b. The measurement of sight line distances shall be from a point at a distance of ten (10) feet from the edge of the travel way at a height of three and one half (3.5) feet above the level of the surface of the travel way to the top of an object four and one quarter (4.25) feet above the surface of the travel way in the center of the approach lane.
- c. Where sight line distances cannot be met at proposed new intersections, portions of the right of way as well as portions of abutting lots under the control of the applicant may be cleared of all growth (except isolated trees) and obstructions to achieve required sight distances. The applicant shall provide documentation that areas cleared to improve sight distances will be maintained in that condition. If approved by the Town Engineer and Public Works Director, the grade of the approach road may be modified to achieve improved visibility.

7. Proposed Subdivisions on Existing Substandard Roads [Adopted 5-17-2011]

When a proposed subdivision is to be located on an existing road, whether publicly or privately owned, not meeting the design and construction standards of Table 401.13.16-2, the existing road shall be upgraded per the following requirements:

- a. The existing road shall be upgraded to meet the design requirements for a Rural Public Easement street from the intersection of the new subdivision street(s) with the existing road to the point where a paved public road provides access. The limit of dwelling units shall not apply to the existing substandard road if it is upgraded.
- b. The applicant for subdivision shall prepare plans for the road improvements meeting the requirements of Section 401.13.16 B.1.a. through c.
- c. The existing substandard road shall be upgraded to meet the drainage requirements of Section 401.13.16 B.3,
- d. Construction improvements on the existing road shall meet the standards of Section 401.13.16 C. 2 through 5 for road base and paving specifications.
- e. The Planning Board may grant waivers per the criteria of Section 401.12.2 of the construction standards for spot locations on the existing road per recommendations of the Town Engineer provided that the overall condition of the substandard road is brought up to the ordinance standards.

B. Street Design Standards

1. General Requirements

- a. The Planning Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement (see Section 401.13.16 2. f below).
- b. Applicants shall submit to the Planning Board, as part of the preliminary plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
 - (i) Date, scale, and north point, indicating magnetic or true.
 - (ii) Intersections of the proposed street with existing streets.
 - (iii) Intersections of other existing or proposed streets within 300 feet of proposed intersections.
 - (iv) Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, clear zone, sidewalks, and curbs.
 - (v) Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways or drainage systems that could be affected by the proposed development, and proposed drainage ways and stormwater management systems.
 - (vi) Complete curve data shall be indicated for all horizontal and vertical curves.
 - (vii) Turning radii at all intersections.
 - (viii) Centerline gradients.
 - (ix) Size, type, vertical clearance and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, electricity, telephone, lighting, and cable television.
 - (x) A soil erosion and sedimentation control plan showing interim and final control provisions.
 - (xi) For streets that are to be located within the watershed of a great pond (Little Sebago Lake, Crystal Lake, or Forest Lake), a phosphorous impact plan in conformance with the recommendations presented in Phosphorous Control in Lake Watersheds published by Maine Department of Environmental Protection.
- c. Upon receipt of plans for a proposed street the Planning Board shall forward one copy to Public Works Director, and the Town Engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the Town Engineer for review and comment.
- d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Public Works Director or the Maine Department of Transportation, as appropriate.
- e. Private Roads.

- (i) Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan:

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town except for roads that meet requirements for winter maintenance under a public easement.”

- (ii) A road maintenance agreement or homeowners’ association framework, prepared by the applicant’s attorney and approved by the Town Attorney shall be recorded with the deed of each property to be served by a common private road. The agreement or association framework shall provide for a method to initiate and finance a private road and maintain that road in good condition, and a method of apportioning maintenance costs to current and future users.

2. Street Design

- a. These design standards shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless waivers are granted by the Planning Board with input of the Town Engineer and in keeping with the waiver criteria of Article 12.
- b. Reserve strips controlling access to streets shall be prohibited except where their control is placed with the municipality.
- c. All streets in approved residential subdivisions shall meet the variable design standards of Table 13.16-2 (Commercial and multi-family subdivision access drives shall meet the requirements of Chapter 402.10.11 for site plan review).
- d. All residential subdivision streets in the Medium Density (MD) and Village Center (VC) Zoning Districts shall meet the standards for Village Public Streets or Sub-collector streets. Subdivision streets in other zoning districts shall meet the standards for Local Minor Street, Rural Public Easement, Rural Public Street, or Sub-collector based on the number of dwelling units served by the street.
- e. In determining the classification of streets where a loop configuration is formed and vehicles have multiple access options, the classification should be based on an analysis of routes and destinations on individual road segments rather than the full street length. Starting at an intersection with an existing street, proposed new streets shall meet the highest applicable classification of Table 401.13.16-2 based on the total number of dwelling units expected to travel that street or street segment. At each internal intersection, the street classification shall be reduced to reflect the number of dwelling units served.

C. TABLE 401.13.16-2

ITEM	Sub-collector Streets	Village Public Street	Rural Public Street	Rural Public Easement Street	Minor Rural Street
A. Minimum width right of way ¹	60 ft	60 ft	50 ft	50 ft ⁵	50 ft
B. Minimum grade	.5 percent ²	.5 percent ²	1 percent	1 percent	1 percent
C. Maximum grade	8 percent	8 percent	10 percent	10 percent ³	10 percent ³
D. Maximum grade within 75 ft of intersection	3 percent	3 percent	3 percent	3 percent	3 percent
E. Width of shoulders on each side	4 ft (paved)	4 ft (paved)	4 ft (paved)	2 ft (gravel)	2 ft (gravel)
F. Minimum travel way width	22 ft	20 ft	20 ft	18 ft	16 ft
G. Aggregate sub-base course gravel	15 inches	15 inches	15 inches	15 inches	15 inches
H. Aggregate upper base crushed gravel	3 inches	3 inches	3 inches	3 inches	3 inches
I. Bituminous paving	3-1/4 inches	3-1/4 inches	3-1/4 inches	3-1/4 inches	
J. Sidewalks (one side min.):					
Minimum width	5 ft	5 ft			
Aggregate sub-base course gravel	8 inches	8 inches			
Aggregate upper base crushed gravel	2 inches	2 inches			
Bituminous paving	2 inches	2 inches			
K. Minimum curb radii:					
90 degree intersections	40 ft	25 ft	25 ft	15 ft	15 ft
Less than 90 degrees	40 ft	30 ft	30 ft	20 ft	20 ft
L. Minimum dwelling units	51	4	26	11	2
M. Maximum dwelling units	100 ⁴	50	50	25	10

¹ Where road grading extends beyond the specified right of way width, the right of way shall be widened at that location to include the areas of extended grading

² Increase to 1 percent grade with open drainage system

³ Road sections of less than 500 feet length can add 2 percent to the maximum grade provided that such sections are separated by a minimum distance of 500 feet and do exceed the limitations of Section 401.13.16.A.5 for horizontal curvature of the road.

⁴ Streets serving more than 100 homes shall meet the sub-collector standards with four (4 in) inch pavement per Section 401.13.16 C.2.

⁵ Upgrades of existing roads under Section 401.13.16.7 may be done on a “three-rod road” with a right of way measuring 49.5 feet. [Adopted 5-17-2011]

f. Dead End Streets

- (i) In addition to the design standards in Table 401.13.16-2, dead-end streets shall be constructed to provide a cul-de-sac (circular) turnaround with a travel lane and width equal to the minimum width required for the internal subdivision street.
- (ii) The maximum length of a dead end street shall be three thousand (3000 ft) feet.

- (iii) A turn around shall be provided for every fifteen hundred (1500 ft) feet of dead end road.
 - (iv) A minimum of one (1) paper street following the interconnection criteria of Section 401.13.15. C. 1. shall be provided for every fifteen hundred (1500 ft) feet of dead end road.
 - (v) The length of a dead end street shall be measured from the centerline of the street it accesses to the center of the turnaround.
 - (vi) The maximum number of homes on a dead end street shall be twenty-five (25).
 - (vii) The minimum outside travel way radius for cul-de-sac turnarounds shall be forty-two (42 ft) feet and the minimum right of way radius shall be sixty (60 ft) feet.
 - (viii) Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac, or be replanted in the event that safe and healthy retention of the trees is not feasible.
 - (ix) The Planning Board shall require the reservation of a twenty (20 ft) foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a right-of-way easement equal to the right of way width of the internal subdivision street in line with the street to provide continuation of the road where future subdivision is possible.
 - (x) A T-turn around is permissible for residential subdivisions carrying an ADT of one hundred (100 ft) or less. The turnaround area easement shall be located fifty (50 ft) feet from the street terminus and shall have a width equal to the street right of way width, a five (5 ft) foot lot line radius, and a total depth of fifty (50 ft) feet. The travel way of the turnaround shall be the same width as the street it serves and be forty (40') feet in depth, and shall have a curb radius of fifteen (15 ft) feet. The plan shall contain a note indicating that the turnaround easement area will be vacated and returned to the lot that contains it in the event the street is extended in the future.
 - (xi) All driveways located on T-turnarounds shall be located so as to facilitate plowing and storage of snow in accordance with the requirements of Section 401.13.17 E.
- g. Street classifications and public street acceptance policies.
- (i) Sub-collectors, Village Public Streets, and Rural Public Streets generally are designed for full public ownership and maintenance. Sub-collectors and Rural Public Streets carry high volumes of traffic and/or provide through connections between existing streets that improve traffic flows through the community.
 - (ii) Rural Public Easement Streets are designed for public winter maintenance under the Town's private road public easement policy. Minor Rural Streets are designed for full private ownership and maintenance under a maintenance agreement or homeowners' association framework.
 - (iii) All new public streets/easements shall not be isolated from existing public streets/easements by intervening private streets. New public streets/public easements must either intersect existing public streets/easements or there shall be a continuous path

from new public street/easements through other new public streets to one or more existing public streets.

- (iv) All decisions to accept public ownership or public easements, however, are subject to the discretionary authority of the Town Council, and all proposed streets shall be covered by a private maintenance agreement or homeowners' association framework until they are accepted by the Town. Upon receiving preliminary subdivision approval, applicants are required to seek indication of whether the Town Council is willing to accept public ownership of fee interests or public easements.

3. Stormwater Design Standards

- a. In order to drain stormwater from the surface of roadways, streets shall be crowned such that the pavement slopes from the centerline to the shoulder at a pitch of $\frac{1}{4}$ inch per foot. For gravel roads, the crown pitch shall be increased to $\frac{1}{2}$ inch per foot.
- b. No storm water shall be permitted to drain across a street or across an intersection.
- c. An adequate piped storm drainage system including appurtenances such as catch basins and manholes shall be provided for proper drainage of storm water collected in Sub-collector and Village Public Streets for sides with esplanades and sidewalks. Appropriate conveyances for outlets to drainage systems must be provided. A minimum easement width of thirty (30 ft) feet is required along the centerline of any pipe system or drainage course. If ponding will occur at culvert inlets or if permanent erosion control measures extend outside of the right of way, then easements on abutting property are required.
- d. All storm water systems for streets shall be designed to meet the criteria of a twenty-five (25-yr) year storm based on rainfall data from the National Weather Service in Gray. Road culverts shall be designed to meet the criteria for a fifty (50-yr) year storm with the low point in the road profile treated to pass storm flows in excess of a 50-year storm without washing out the street. Road culverts shall be aligned to maintain the direction of natural drainage courses rather than causing such drainage to change directions. Flows shall be computed by a method acceptable to the Town Engineer. Design computations of flows shall be submitted for approval.
- e. The minimum driveway culvert size shall be fifteen (15 in) inches. Larger culverts may be required in some locations based on a stormwater management analysis and plan. Culvert inlets and outlets shall be properly treated with erosion control measures.
- f. Existing downstream drainage facilities shall be studied to determine the effect of development on downstream drainage. The applicant shall demonstrate to the satisfaction of the Town Engineer that the storm drainage will not, in any way, overload existing downstream drainage systems, including any modifications that may be needed to those downstream systems to prevent erosion and/or flooding.
- g. All subdivision streets that lack a piped drainage system shall convey storm water in open ditches or swales meeting the standards and specifications of this ordinance.
- h. All sideslopes of a street shall be graded at a maximum slope of three (3 ft) feet horizontal to one (1 ft) foot vertical from the shoulder to the ditch bottom. Sideslope steepness may be increased to minimize impacts on wetlands or other natural features provided that guardrail and erosion control measures are installed to the satisfaction of the Town Engineer.

- i. All sideslopes shall be finished with loam or other suitable mixture to a minimum compacted depth of four (4 in) inches and seeded or planted as appropriate.
 - j. The final grade level of ditch bottoms shall be a minimum of six (6 in) inches below the subgrade level of the street. The sub-base course gravel shall taper and pitch from the travel way and street shoulders to the ditch base for proper drainage of the road base. The base of the ditch shall be a minimum of two (2 ft) feet in width.
 - k. All ditch backslopes shall be graded at a maximum slope of two (2 ft) feet horizontal to one (1 ft) foot vertical. All backslopes shall be finished with loam or other suitable mixture to a minimum compacted depth of four (4 in) inches and seeded or planted as appropriate. Erosion control mesh shall be installed on all slopes that are steeper than one (1 ft) foot horizontal to three (3 ft) feet vertical.
 - l. Where a cut results in exposed ledge, a side slope no steeper than one (1 ft) foot horizontal to four (4 ft) feet vertical is permitted.
4. Closed Drainage Construction Materials & Standards
- a. Pipes: All drainage piping shall be of plastic or reinforced concrete materials in accordance with Maine Department of Transportation Standard Specifications.
 - b. Manholes: Manholes shall be of precast concrete section construction. Precast sections shall meet the requirements of ASTM Designation C-478. Cones shall be truncated. Castings shall be of cast iron meeting Town of Gray standards. Brick inverts shall be shaped to the crown of the pipe for sizes up to eighteen (18) inches, and to spring line for larger pipes.
 - c. Catch Basins: Catch Basins shall be of precast concrete construction. Castings shall be square cast iron as required for the particular inlet condition with the gratings perpendicular to the curb line. All catch basins shall be provided with a Type 1 curb face inlet and transition stones if necessary.
 - d. All trenching shall be accomplished in accordance with all appropriate Federal and State safety requirements.
 - e. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet.
 - f. Pipe shall be bedded in a granular material with a minimum depth of six (6 in) inches below the bottom of the pipe and extending to six (6 in) inches above the top of the pipe.
 - g. Drain alignment shall be straight in both horizontal and vertical alignment.
 - h. Manholes shall be provided at all changes in vertical and horizontal alignment, and at all junctions. On straight runs, manholes shall be placed at intervals of no more than three-hundred (300 ft) feet.
 - i. Catch basin leads shall enter the drainage system only at manholes. The difference in elevation between the inverts of the lead and the main drain shall not exceed twelve (12 in) inches.
 - j. All drain outlets shall be riprapped to prevent erosion. Facilities for energy dissipation shall be provided (e.g., plunge pools).

- k. When used, underdrains shall be laid with perforation down with a backfill of three-quarter (3/4 in) inch crushed stone wrapped in a filter fabric envelope.

5. Curbing Standards

- a. Curbs shall be installed for stormwater purposes and/or to protect the pavement edge from unraveling along parking lanes or in very intensive developments where heavy use may erode the planted area at the edge of the pavement. Curbs for stormwater management shall be contingent on the stormwater design standards specified in Sections 401.13.12 and 401.13.16.A.3.d above.
- b. Curbing shall be in accordance with Section 609 of the Maine Department of Transportation Standard Specifications except as follows:
 - (i) Curbing shall be limited to Type 1 (granite stone curbing) and Type 3 (bituminous concrete curbing), or other acceptable materials.
 - (ii) Bituminous concrete curbing, or other acceptable material, shall have a minimum reveal of six (6 in) inches.
 - (iii) All curb radii will be of Type 1 (granite stone curbing).
 - (iv) All curbing on roads proposed for full public ownership and maintenance (paving and plowing) shall be vertical or sloped Type 1 (granite stone curbing).

C. Street Construction Standards

All construction shall comply with the latest revision of the Maine Department of Transportation Standard Specifications. In the event of a conflict between the MDOT Standard Specifications and this Chapter, the more stringent standards shall apply.

1. Roadway Preparation:

- a. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50 ft) foot intervals for curved sections and one hundred (100 ft) foot intervals for straight sections. The centerline of the roadway shall be the centerline of the right-of-way.
- b. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, clear zones, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, and brush. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
- c. All organic materials, boulders, or other deleterious material shall be removed below the subgrade of the roadway. On soils which have been identified by the Town Engineer as not suitable for roadways, a Maine Department of Transportation approved stabilization geotextile shall be used (MDOT Standard Specifications Section 203).
- d. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building storm drains and water service connections shall be installed to the edge of the right-of-way prior to paving.

2. Bases and Pavement Thicknesses

The minimum thickness of material after compaction shall meet the specifications in Table 13.16-3:

Table 13.16-3 Minimum Street Materials Thicknesses		
Street Materials	Thickness Standards	Subcollector
Aggregate Subbase Course		
Without base gravel	18 inch	
With base gravel	15 inches	
Crushed Aggregate Base Course (if necessary)	3 inches	
Hot Bituminous Pavement		
Total Thickness	3 ¼ inches	4 inches
Surface Course (9 mm)	1 ¼ inches	1 ½ inches
Base Course (19 mm)	2 inches	2 ½ inches
Surface Gravel (if permissible)	3 inches	

3. Base/Subbase Screening.

- a. The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the screening requirements of Table 13.16-4. Aggregate for the subbase shall contain no particles of rock exceeding six inches in any dimension.

Table 13.16-4 Aggregate Subbase Grading Requirements	
Sieve Designation	Percentage by Weight Passing Square Mesh
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-30%

- b. If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 13.16-5. Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

Table 13.16-5 Grading Requirements	
Sieve Designation Sieves	Percentage by Weight Passing Square Mesh
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

4. Pavement Specifications

All pavement installations shall meet the specifications of the Maine Department of Transportation Standards and Specifications Section 401 for Hot Mix Asphalt (HMA).

5. Pavement Joints

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

D. Street Survey Monument Standards

1. Stone survey marker monuments with metal detection shall be set at all street corners, angle points, and all points of curvature in each street.
2. Each survey marker shall be set with the top between six (6 in) and twelve (12 in) inches above the finished grade except that the top shall be flush with the finished grade wherever it is located in an area to be plowed for removal of snow or is to be pavement, lawn, or a decorative planting area.
3. The preferred material for all lot corner markers shall be rebar five-eighths (5/8 in) inch in diameter. Alternate acceptable materials for lot corner markers shall be iron pipe one (1 in) inch in diameter and stone monuments four (4 in) inches square.
4. All monuments are to be not less than thirty-six (36 in) inches in total length unless they are drilled at least three (3 in) inches into solid ledge or rock.
5. All monuments shall have the Surveyor's identification suitably attached.

E. Sidewalks.

The Planning Board may require sidewalks along the project frontage and to off-site destinations in any situation where the proximity of the proposed subdivision to existing or proposed neighborhood businesses, schools, community facilities, or other pedestrian destinations suggest sidewalks will be needed. The Planning Board shall determine if sidewalks will be installed on one side or both sides of the internal street(s).

1. Location.

Sidewalks may be located adjacent to the curb or shall be located a minimum of five (5') feet from the curb facing or edge of shoulder if the street is not curbed.

2. Bituminous Sidewalks.

- a. The "subbase" aggregate course shall be no less than twelve inches thick after compaction.

- b. All pavement installations shall meet the specifications of the Maine Department of Transportation Standards and Specifications Section 401 for Hot Mix Asphalt (HMA).

401.13.17 – DRIVEWAY DESIGN STANDARDS [ADOPTED MAY 18, 2010]

- A. Proposed private driveways shall be located and designed in profile and grading to be suitable to provide safe access to and from a property at all times for occupants, guests, and emergency vehicles to all buildings and structures.
- B. The arrangement, character, extent, width, grade, and location of all private driveways shall be considered in their relation to existing or planned streets, to topographical conditions, to public convenience and safety, their appropriate relation to the proposed use of land, and to minimize conflict with the flow of traffic. Grades of private driveways shall conform in general to the terrain and as closely as possible to the original topography.
- C. Where topographic or drainage conditions on proposed lots and building sites indicate the need for steep driveway access and/or potential impacts on wetlands or other natural features, the Planning Board may require that the driveways be designed by the project engineer and shown on the subdivision plans. Changes to those driveway designs are allowed subject to the submission of alternative engineering specifications approved as part of a driveway permit and will not require amendment of the subdivision plan if approved by the Code Enforcement Officer.
- D. Private driveways shall be located not less than fifty (50) feet from the tangent point of the travel way edge radius of any intersection of streets.
- E. Private driveways on street end turnarounds shall be located so as not to interfere with snow storage requirements for winter maintenance. Locations of such driveways are subject to review and approval by the Public Works Director.
- F. When a corner lot is bounded by streets of two different classifications, private driveways to the corner lot shall gain access from the street of lower classification unless, in the opinion of the Town Engineer, there is good reason to do otherwise (e.g., on the higher classification road the driveway can be located more distant from the intersection or sight distances are improved).
- G. There shall be a minimum turning radius of twenty (20) feet at the intersection of a private driveway with the street. If necessary, the width of the travel way of the driveway shall be increased in the vicinity of the intersection to provide for this turning radius.
- H. Private driveways shall be located so that the edge of the shoulder closest to a property line is at least ten (10) feet from that property line unless the following conditions are met for a driveway shared between abutting properties:
 - 1. The driveway shall have a minimum travel way width of fourteen (14') feet for the first twenty five (25') feet before dividing into separate driveways.
 - 2. Deeded rights to the driveway shall be issued for all lots serviced by the common driveway and a maintenance agreement specifying rights and responsibilities for its maintenance signed by the parties shall be filed with the driveway permit application.

401.13.18 – NET RESIDENTIAL AREA AND DENSITY

A. Applicability:

1. All Subdivisions shall be required to conform to the Net Residential Area (NRA) and Net Residential Density (NRD) standards listed in this section 401.13.18 of the Subdivision Ordinance.
2. The NRA and NRD standards utilize the drainage classification of the soils and other NRD standards to calculate the maximum density. In order to accurately apply the soil drainage classification standards to calculate the NRA/NRD, applicants for a subdivision shall complete and submit the Soil Survey Requirements in 401.13.18.C in this section as part of the formal submittal.

B. Definitions: For the purposes of calculating NRA/NRD for subdivisions, the following definitions shall be applicable:

1. Developed Areas shall consist of one or more of the following:
 - a. Areas within right-of-ways where road(s) are intended to be constructed or may be constructed in a future phase(s) of the development.
 - b. Areas utilized for the construction of stormwater control and treatment measures including level lip spreaders, detention ponds, and areas adjacent to stormwater measures designed to receive stormwater in sheetflow.
 - c. All portions of lots intended to be individually owned in a Residential Open Space subdivision.
 - d. Portions of building envelopes for lots in a traditional subdivision as established on the face of final signed recorded plan and supporting documentation.
 - e. Portions of a subdivision, including a Residential Open Space Subdivision, that are intended to be utilized for the construction of recreational facilities involving drainage improvements, leveling, filling, etc. such as for creating ballfields.
 - f. Portions of a Residential Open Space Subdivision intended to be utilized for the minimum contiguous usable open space with immediate access to the roadway as required in Table 401.13.13.B.1 of this Subdivision Ordinance.
 - g. Portions of a Subdivision intended to be utilized for a common or shared subsurface wastewater disposal field.
2. Forested Wetland: Land areas that are freshwater wetlands dominated by woody vegetation that is six (6) meters or more or taller
3. Freshwater Wetland: Land below the upland edge of freshwater wetlands consisting of swamps, marshes, bogs, and similar areas, other than forested wetlands, which are inundated or saturated by surface ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils
4. Less Developed Areas shall consist of one or more of the following:
 - a. Areas within Residential Open Space Subdivisions intended to remain undeveloped.

- b. Commonly owned land utilized for non-intensive recreational purposes such as developing trails, etc. as memorialized on the face of the final signed recorded plan.
 - c. Areas of a traditional subdivision to remain undeveloped and memorialized as such by one or more of the following means as determined by the Planning Board based on recommendations by Town Staff:
 - (i) on the face of the final signed recorded subdivision plan.
 - (ii) within the Homeowners/Lot owners association.
 - (iii) in the deeds for the appropriate lot(s).
 - (iv) demarcated on the land on the appropriate lot(s) with permanent markers and/or pins.
 - d. Portions of lots in a traditional subdivision that are part of an individually owned lot that are not part of the established building envelope as shown on the face of final signed recorded subdivision plan and clearly referenced within the respective deed(s).
5. Net Residential Area (NRA): The net area of a parcel or site that is generally suitable for development in its natural state. The residential area shall be determined by subtracting unsuitable and marginal areas from the gross land area as calculated in this Section 401.13.18 of the Subdivision Ordinance.
 6. Net Residential Density (NRD): Net residential density shall mean the number of dwelling units allowed on a parcel or site after the unsuitable land is deducted and the minimum area per lot (or dwelling unit in the case of multi-family) for the District is applied to the remaining land area.

C. Soil Survey Requirements:

1. The use of soil terms, drainage classification, terminology, and soil survey classification shall be consistent with those accepted by the Maine Association of Professional Soil Scientists.
2. Applicants for any subdivision are required to provide information regarding on-site soils from a Certified Soil Scientist (CSS) that document the on-site findings for the criteria established in this Section 401.13.18.C. Soils information for the purposes of determining Net Residential Density shall not be deemed acceptable if submitted by a Licensed Site Evaluator (LSE).
3. Soils information for the subdivision must be determined by one of the following methods:
 - a. High-intensity (Class A) soil survey delineating soil types with a minimum map unit size of one-eighth (1/8th) of an acre may be required by the Planning Board as established in Section 401.7.4.A of this Subdivision Ordinance.
 - b. When a high-intensity soil survey is not required, Developed Areas of a Subdivision shall be required to submit a field verified soil survey that maps the following information at the respective inclusion size:
 - (i) Three (3) acre maximum inclusion size for soils of the following drainage classifications: Excessively Drained, Somewhat Excessively Drained, Well Drained and Moderately Well Drained.
 - (ii) One-half (1/2) acre maximum inclusion size for soils of the following drainage classifications: Somewhat Poorly Drained, Poorly Drained, and Very Poorly Drained.

- c. When a high-intensity soil survey is not required, Less Developed Areas of a Subdivision shall be required to submit a field verified soil survey illustrating the following:
 - (i) Requisite portions of the Natural Resources Conservation Service (NRCS) published soil survey with field verification of soil type boundaries for the following drainage classifications: Excessively Drained, Somewhat Excessively Drained, Well Drained, and Moderately Well Drained. The submitted soils documentation from the CSS must be adjusted to reflect the information obtained from field verification.
 - (ii) Two (2) acre maximum inclusion size for Poorly Drained and Very Poorly Drained soils which may be combined.
 - (iii) Two (2) acre maximum inclusion size for Somewhat Poorly Drained soils.

D. Calculation of Net Residential Area and Density:

1. For land areas that are in more than one category, the more restrictive deduction shall be applicable unless specifically established in this section 401.13.18.
2. 100% of the following land areas within the subdivision shall be deducted for the purposes of calculating Net Residential Area:
 - a. Slopes 25% or steeper;
 - b. Land which is not able to be practically accessible, usable, or unavailable due to its location and/or existing site condition(s) such as being cut off from the main parcel;
 - c. All land areas within the 100-year floodplain FEMA FIRM Maps regardless of any other classification;
 - d. Land below the normal high water mark of any waterbody;
 - e. Land below the upland edge of freshwater wetlands except Forested Wetlands that are to remain undeveloped and not located in a 100-year floodplain (see 401.13.18.D.3.c);
 - f. All lands that have been determined to be a liquidation harvesting per standards established in Title 30-A, M.R.S., Section 4404, subsection 20;
 - g. Unusable areas larger than 1,500 sq. ft. such as significant rock outcroppings, etc.;
 - h. Portions of gravel pit(s) that will not be reclaimed when the project is complete; additional sureties may be required in such instances;
 - i. Poorly drained soils unless located in a Forested Wetland that are to remain undeveloped and not located in a 100-year floodplain (see 401.13.18.D.3.c);
 - j. Very poorly drained soils.
3. 50% of the following land areas within the subdivision shall be deducted for the purposes of calculating Net Residential Area:
 - a. Somewhat poorly drained soils;
 - b. Land designated as Resource Protection that remain undeveloped;
 - c. Forested Wetlands that remain undeveloped not located in a 100-year floodplain;

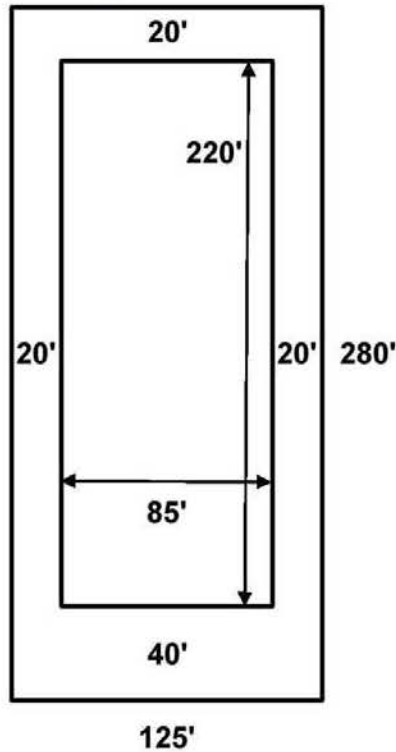
- d. Boundaries of the areas on the parcel, to remain undeveloped, containing the following with field verification as necessary:
 - (i) significant wildlife habitat as mapped by the Maine Department of Inland Fisheries and Wildlife (IF&W);
 - (ii) significant wildlife habitat as determined by the applicant in consultation with the Maine IF&W;
 - (iii) endangered botanical resources as mapped by the Maine Natural Areas Program;
 - (iv) endangered botanical resources as determined by the applicant consultation with the Maine Department of Conservation.
4. For land areas listed in Section 401.13.18.D.3 to remain undeveloped, the Planning Board shall determine the method(s) utilized to memorialize such areas including but not limited to one or more of the following:
 - a. on the face of the final signed recorded subdivision plan;
 - b. within the Homeowners/Lot owners association;
 - c. in the deeds for the appropriate lot(s);
 - d. demarcated on the land on the appropriate lot(s) with permanent markers and/or pins.
5. Roads & ROW's deduction: After the total of both 401.13.18.D.2 and 3 are deducted from the total parcel, the remaining area shall be deducted by ten (10) percent or the actual area of the parcel utilized for roads, parking, and proposed or future vehicular rights-of-way, whichever is greater.
6. Net Residential Density: The net residential density shall be calculated by dividing the land area determined as the net residential area in this section 401.13.18 by the minimum lot area (or dwelling unit for multi-family) for respective Zoning District as established in Table 402.5.4A of the Town of Gray Zoning Ordinance to determine the maximum number of lots or dwelling units permitted.

**Table 401.13.13.B.1
Residential Open Space Subdivision Dimensional Standards Table**

Line #		RRA	LD	MD	WH-2
1	Zoning District Standard: frontage/Min. lot size/min.area per DU	200' front 80K/40K	200' front 80K/80K	150' front 40K/40K- 20K	200' front 175K/175K
2	Min. Orig. parcel size eligible for ROS SD	10 acre	10 acre	10 acre	20 acre
3	Max. density: # indiv. Lots/Orig. parcel size (SF)	1/80K	1/80K	1/40K	1/175K
4	Minimum total OS to Orig. parcel (percentage)	35	40	30	40
5	Minimum useable OS to Orig. parcel (percentage)	20	25	15	25
6	Minimum contiguous usable OS area (SF)-ready access, adj. to road	60K	80K	50K	80K
7	Minimum Individually Owned lot size (SF)	35K	40K	30K	50K
8	Min. buildable land area each Individually Owned lot (SF)	30K	35K	25K	40K
9	Max. Impervious cover/lot coverage (buildings) for indiv. lot	25%/15%	20%/15%	25%/15%	20%/15%
10	Min. Indiv. Owned street frontage/width (feet)	125	125	100	150
11	Min. Indiv. Owned lot front setback (feet)	40	50	35	50
12	Min. Indiv. Owned lot rear setback (feet)	20	20	15	20
13	Min. Indiv. Owned lot side setback (feet)	20	20	15	20
14	Building envelope @ min. frontage/setbacks (feet); width x depth	85 x 220	85 x 250	70 x 250	110 x 260
<u>Min. setback buffers to perimeter of SD Standards:</u>					
15	To Town or State Road (feet)	75	100	75	100
16	To all other roads (feet)	60	75	60	75
17	Abutting Side property line (feet)	30	40	30	40
18	Abutting Rear property line (feet)	30	40	30	40

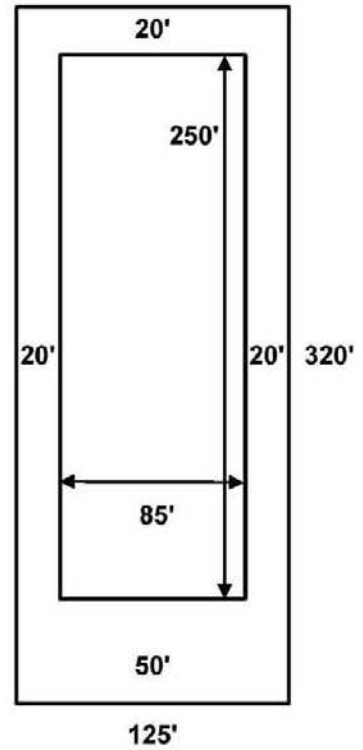
Rural Residential & Agriculture (RRA)

125' x 180'
85' x 220'



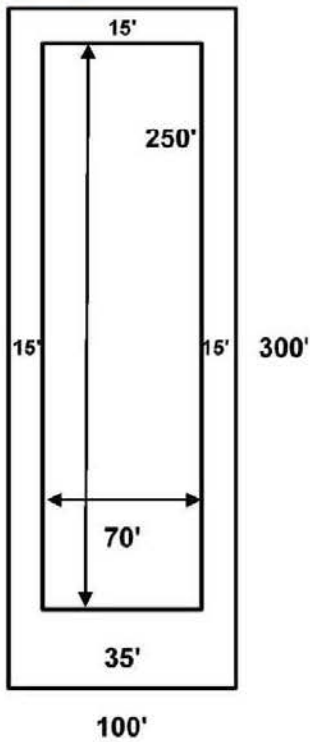
Lake District (LD)

125' x 320'
85' x 250'



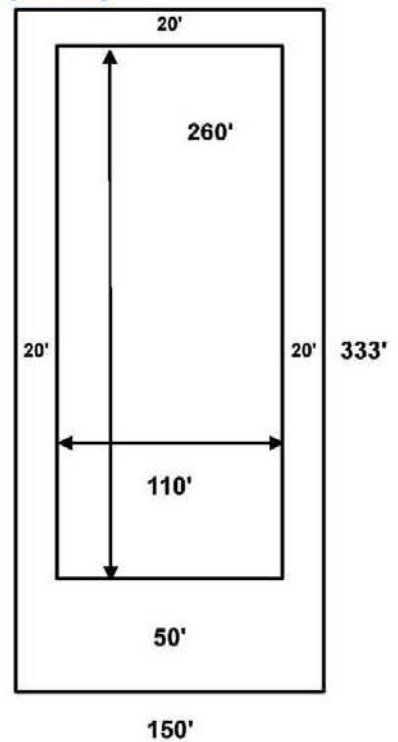
Medium Density (MD)

100' x 300'
70' x 250'



Well Head 2 (WH-2)

150' x 333'
110' x 260'



ARTICLE 14 - APPEALS

401.14.1 – APPEALS TO SUPERIOR COURT

Any party may take an appeal within thirty (30) days of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Article 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury.

401.14.2 – PLANNING BOARD RECONSIDERATION

The Planning Board may reconsider any decision reached under this section at its next regular meeting following issuance of that decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

CHAPTER 303
TAX ACQUIRED PROPERTY PROCEDURES ORDINANCE
TOWN OF GRAY

Adopted March 1, 2011
Effective March 31, 2011

SECTION 1 – TITLE

This Ordinance shall be known and cited as the Town of Gray Tax Acquired Property Procedures Ordinance.

SECTION 2 – PURPOSE

The purpose of this ordinance is to establish procedures for the Town of Gray in accordance with 36 MRSA §§ 942 and 943 which directly relate to disposition of property acquired for non-payment of taxes. The underlying purposes of this ordinance are to make a reasonable efforts to return owner occupied residential properties (one-family or two-family) to their its previous owner(s) and to give the previous owners of all other classes of properties a reasonable opportunity to re-acquire them, while maintaining the integrity and fiscal well-being of the Town's interests in having all properties pay their fair share of the public tax burden.

SECTION 3 – DEFINITIONS

- A. **Foreclosed tax lien:** A tax lien mortgage that has automatically foreclosed pursuant to 36 MRSA §§ 942 and 943.
- B. **Certified/Return Receipt Mail:** Certified/return receipt, first class mail, posted at any U.S. post office, postage prepaid.
- C. **Municipality:** Town of Gray, Maine.
- D. **Municipal Officers:** Gray Town Council.
- E. **Manufactured Real Estate Property:** Any structure, building or dwelling, the same being constructed or fabricated elsewhere and transported, in whole or part, to and placed, set or installed permanently or temporarily upon land within the municipality. For the purposes of this Ordinance, manufactured real estate property shall be commonly referred to as real estate property as defined in this Ordinance.
- F. **Prior Owner:** The person or persons, entity or entities, heirs or assigns to whom the property was most recently assessed for municipal tax assessment purposes.
- G. **Quitclaim Deed:** A signed legal instrument releasing the municipality's right, title or interest in real estate property, acquired by virtue of foreclosed tax lien(s), to an individual or individuals, entity or entities without providing any guarantee or any warranty of title to same.
- H. **Real Estate Property:** All land or lands and all structures, buildings, dwelling, tenements and hereditaments, including manufactured real estate property, located or relocated upon any land or lands connected therewith and all rights thereto and interests therein.
- I. **Tax Acquired Property:** That real estate property interest acquired by the municipality by virtue of a foreclosed tax lien as defined in this Ordinance.

- J. **Tax Lien:** The statutory lien created by 36 MRSA § 552, as the same may be amended or re-codified.

SECTION 4 – MANAGEMENT

Following statutory foreclosure of a tax lien mortgage, title to the real estate property automatically passes to the municipality. The management of this property rests exclusively with the municipal officers, subject to the provisions of state statutes and local municipal ordinances and regulations. The procedures described in Step 1 below are only for owner-occupied residential properties (one-family or two-family only); for all other types of properties, the municipal officers shall determine on a case by case basis whether to offer the previous owner(s) the right to redeem under Step 1 based on the best interests of the Town of Gray, or whether to proceed directly to Step 2 below.

SECTION 5 – POST-FORECLOSURE PROCEDURES

- A. The municipal officers authorize the Town Clerk to send notification by certified/return receipt mail of the previous foreclosure and the Town’s intention to exercise its rights under 36 MRSA §§ 942 and 943 to dispose of the property, in accordance with this Ordinance, to the previously assessed owner(s). The notification shall allow the previously assessed owner(s) the ability to repurchase the property within 30 days of the date of the written notification by paying all outstanding property taxes, including the total amount of all delinquent taxes plus the total taxes for the current year (and the estimated taxes for the next year after commitment) plus accrued interest, lien costs and any other costs relating to the property and this process (including, but not limited to insurance and notice costs). This notification is a matter of courtesy only, and the failure of the municipality or municipal officers to send this notice shall not create any legal rights in any person. The failure of the municipal officers or the Clerk to send this notice, or the fact that the notice has not been received or understood by the person to whom it was sent, shall not invalidate the sale or disposal of the tax-acquired property pursuant to this Ordinance, nor shall such failure provide a legal basis for any legal action against the municipality or municipal officers or any employee thereof.
- B. In the event that the previous owner(s) has not repurchased the property in accordance with Step 1, the Treasurer shall then prepare a list of tax-acquired properties to be presented to the municipal officers at the next Council meeting which list shall include the following:
1. Legal identification of the property including location within the municipality;
 2. Zoning of the property;
 3. Assessed value and size of the property; and
 4. Report from the Tax Assessor concerning occupancy and current state of the property (including, but not limited to, current occupancy status and/or commercial use status).
- C. The municipal officers shall then decide whether to direct the Town Attorney to undertake an action to quiet title in accordance with the provisions of 36 MRSA § 946, as it may be amended or re-codified, or as otherwise provided under Maine law, as a means of securing a clear title to the tax-acquired property.
- D. The municipal officers shall determine whether a tax-acquired property is to be retained for public use or disposed of in accordance with the provisions of this Ordinance.

- E. The municipal officers may charge a monthly rental fee to any and all occupants of tax-acquired property. Should a rental fee be charged, the municipal officers immediately shall obtain general liability insurance coverage for the rented tax-acquired property. The rental fee shall be determined by the municipal officers and will include the cost of the general liability insurance coverage and any attorney's fees incurred in connection therewith, as well as any other applicable fees and charges.
- F. The municipal officers may, if the property is vacated for 60 or more consecutive days, obtain a general liability insurance coverage for the tax-acquired property and secure the property appropriately.

SECTION 6 – DISPOSITION

Should the municipal officers determine that title to tax-acquired property be relinquished rather than retained by the municipality, the following shall be observed:

- A. The municipal officers shall determine the method of public sale of the tax-acquired property on or before the first Council meeting in April, choosing either the auction process or the bid process (although failure to comply with this April 1 date shall be directory only, such that failure to comply does not prejudice the Town's position in any way).
- B. The bid information on the tax acquired property for either process shall be available at the Town Office upon advertisement of the sale and shall include the following:
 1. Legal identification of the property including location within the municipality;
 2. Zoning of the property;
 3. Assessed value and size of the property; and
 4. Report from the Tax Assessor concerning occupancy and current state of the property (including but not limited to: current occupancy status and/or commercial use status).
- C. Advertising for the sale of tax-acquired property for either process will be done by posting in the Town Office and publishing notice once per week in a paper of general circulation in Gray, no later than three consecutive weeks before the date of sale.
- D. The sale of tax-acquired property shall be subject to any additional terms and conditions of sale which the municipal officers may require and the Town Attorney may reasonably advise.
- E. The bid price for either process shall be determined by the municipal officers in no event being less than all outstanding property taxes, including the total amount of all delinquent taxes plus the total taxes for the current year (and the estimated taxes for the next year after commitment) plus accrued interest, lien costs and any other costs relating to the property and this process (including, but not limited to, insurance, attorney's fees, auction/bid or notice costs). If the tax-acquired property is sold for a sum which exceeds the determined bid price, the municipality is entitled to retain the entire proceeds. There is no requirement to refund to the former owner(s) any of the "surplus" realized upon the sale.
- F. The municipal officers shall convey any property sold through either process by Quitclaim Deed.
- G. The purchaser of any tax-acquired property sold through either process shall purchase the tax-acquired property and any improvements thereon on an "as is/where is" basis and shall acknowledge such in writing with the signing of a Town-provided form to that effect. The municipality and its officers, agents and employees make no representations or warranties of any kind, express or

implied, including, but not limited to, the warranties of fitness, habitability, merchantability, satisfaction of building requirements or use for any particular purpose or otherwise, all of which shall be disclaimed.

- H. The purchaser of any tax-acquired property sold through either process shall be responsible for the removal of any and all occupants and contents of said property, as may otherwise provided by law, and shall, in writing with the signing of a Town-provided form to that effect, forever defend and indemnify the municipality and its officers, agents and employees from any and all claims arising out of the said sale, whether by the occupants of the purchased property, their heirs or assigns or otherwise, or by the owners of any contents therein, whether by the occupants, their heirs or assigns or otherwise.
- I. A Purchase and Sale Agreement as well as a Notice and Acknowledgement prepared by the Town Attorney shall be entered into between the municipality and the successful bidder no later than 30 days from the date of the award of bid and upon successful completion of all terms of sale. Such agreement shall require the buyer to close in full on the property within thirty (30) days thereafter.

SECTION 7 – AUCTION PROCESS

Pursuant to 32 MRS § 286 (6), as the same may be amended or re-codified, the Town is not required to use a licensed auctioneer for the sale of tax acquired property.

- A. The auction shall be advertised to include the following information:
 - 1. Notice of date of auction;
 - 2. The minimum bid price, if any;
 - 3. A deposit at the time of award shall be required in the amount of not less than 10% of the awarded auction bid price. Failure to submit a deposit in the said manner at the time of award shall cause the bid to be rejected and allow the municipality to negotiate with unsuccessful bidders without holding another public auction;
 - 4. The awarded bidder has ten (10) business days from the date of award to comply with the terms of the sale in full;
 - 5. Must specify that the auction is being held “With Reserve” in order for the municipality to reserve the right to reject all bids that fail to comply with any minimum bid price or other terms or conditions imposed by the municipality; and
 - 6. Should the awarded bidder fail to comply with the terms of the sale, the deposit shall be forfeited and the municipality may negotiate with unsuccessful bidders without holding another public auction.
- B. The municipal officers shall retain the right to accept or reject any and all bids submitted, and shall cause the same disclaimer to be noted in any public advertisement of auction in accordance with this Ordinance. Should the municipal officers reject all bids, or in the absence of any bids, the property may be offered again for public sale on such terms as the municipal officers determine.
- C. The municipal officers shall, as a credit to payment, retain the submitted bid price deposit of any successful bidder.
- D. The municipal officers shall require payment in full from any successful bidder within ten (10) business days following the award of the bid. Should the awarded bidder fail to comply with the

terms of the sale, the deposit shall be forfeited and the municipality may negotiate with unsuccessful bidders without holding another public auction.

SECTION 8 – BID PROCESS

- A. The municipal officers shall solicit sealed bids for sale of the tax-acquired property and shall read aloud all submitted bids at the first Council meeting in June (although failure to comply with this April 1 date shall be directory only, such that failure to comply does not prejudice the Town's position in any way).
- B. The bid shall be advertised to include the following information:
1. Notice of date of bid;
 2. The minimum bid price, if any;
 3. A certified/return receipt bank check or postal money order, in the amount of not less than 10% of the bid price, shall be included as the deposit on the bid. Failure to submit a deposit shall cause the bid to be automatically rejected;
 4. Bids shall be sealed in a single plain envelope marked only "Tax-Acquired Property Bid" on the exterior and either be hand-delivered to the Town Clerk's office or, if mailed, be enclosed within a second envelope addressed to the Gray Town Clerk, Town Offices, 24 Main Street, Gray, Maine 04039. All bids must be received by the municipality no later than 10:00 a.m., prevailing local time, on the date that is seven (7) calendar days before the date the bids are to be read aloud by the municipal officers;
 5. The awarded bidder has ten (10) business days from the date of award to comply with the terms of the sale in full;
 6. Must specify the bid is being conducted "With Reserve" in order for the municipality to reserve the right to reject all bids that fail to comply with any minimum bid price or other terms or conditions imposed by the municipality;
 7. Should the awarded bidder fail to comply with the terms of the sale, the deposit shall be forfeited and the municipality may negotiate with unsuccessful bidders without holding another public auction.
- C. The municipal officers shall require the following for proper submission:
1. The bid information sheet shall be submitted containing a full description of the property being bid upon and the bid price of the bidder in U.S. currency;
 2. A certified bank check or postal money order, in the amount of not less than 10% of the bid price, shall be included as the deposit on the bid; failure to submit a deposit shall cause the bid to be automatically rejected;
 3. A self-addressed stamped envelope must be included in the bid envelope;
 4. Bids shall be sealed in a single plain envelope marked only "Tax-Acquired Property Bid" on the exterior and either be hand delivered to the Town Clerk's office or, if mailed, be enclosed within a second envelope addressed to the Gray Town Clerk, Town Offices, 24 Main Street, Gray, Maine 04039; and

5. All bids must be received by the municipality no later than 10:00 a.m., prevailing local time, on the date that is seven (7) calendar days before the date the bids are to be read aloud by the municipal officers.
- D. The municipal officers shall retain the right to accept or reject any and all bids submitted, and shall cause the same disclaimer to be noted in any public notice soliciting bids in accordance with this Ordinance. Should the municipal officers reject all bids, or in the absence of any bids, the property may be offered again for public sale on such terms as the municipal officers determine.
- E. The municipal officers shall notify any successful bidder, via mail, with the self-addressed stamped envelope submitted with the bid.
- F. The municipal officers shall, as a credit to payment, retain the submitted bid price deposit of any successful bidder, and shall return all other submitted deposits via mail, with the self-addressed stamped envelope submitted with the bid within fifteen (15) business days. Unsuccessful bidder deposits will be retained in the event that the successful bidder fails to comply with the terms of the sale, the municipality may negotiate with unsuccessful bidders without holding another public bid.
- G. The municipal officers shall require payment in full from any successful bidder within ten (10) business days following the award of the bid. Should the awarded bidder fail to comply with the terms of the sale, the deposit shall be forfeited and the municipality may negotiate with unsuccessful bidders without holding another public bid.

SECTION 9 – SEVERABILITY

If any provision of this Ordinance shall be finally held to be invalid by any court of competent jurisdiction, this invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application. For this purpose, the Tax Acquired Property Procedures Ordinance is severable.

CHAPTER 501
VEHICULAR USE ORDINANCE
TOWN OF GRAY MAINE
Adopted July 13, 1982

SECTION 501.1 – TITLE

This ordinance shall be known and may be cited as the Vehicular Use Ordinance of the Town of Gray, Maine.

SECTION 501.2 – PURPOSE

The purpose of this ordinance is to regulate the use of certain vehicles on certain town ways within the Town of Gray. The restrictions imposed prevent safety hazards and damage which damage has been or will be caused by the passage of vehicles which are too heavy for the designated town ways. Preventing safety hazards and damage to the roads reduces the cost of maintenance, reduces the danger of injury to the traveling public, and generally improves the use of roads by the public.

SECTION 501.3 – AUTHORITY

This ordinance is enacted pursuant to Title 30, MSRA §1917 and 2151 and Title 29 MRSA §902, 1702, 1703 and 1611.

SECTION 501.4 – DEFINITIONS

- A. Restricted Vehicle - a vehicle with dual wheel axles and over sixteen (16) feet in length including any attached trailer or semitrailer. Vehicles used to make residential deliveries or rented on an occasional basis shall not be considered restricted vehicles.
- B. Town Way - an area or strip of land designated and held by a municipality for the passage and use of the general public by motor vehicle and all town or county ways not discontinued or abandoned before the effective date of this ordinance.
- C. Other Words - the definitions contained in Title 29, Section 1 or the Maine Revised Statutes Annotated shall govern the construction of other words contained in this ordinance.

SECTION 501.5 – RULES OF CONSTRUCTION

Any reference to a Title and Section of the Maine Revised Statutes Annotated shall include any amendments, whenever enacted, to the referenced Title and Section unless the amendments support a result which is inconsistent with the purposes of this ordinance, in which case the amendments shall be disregarded.

SECTION 501.8 – PENALTIES

- A. Any person found guilty of violating any provisions of this ordinance shall be subject to a fine of not more than one hundred (100) dollars. Each violation shall be considered a separate offense and violation of this ordinance. All fines imposed pursuant to this ordinance shall accrue to the Town of Gray.
- B. In addition to any fines imposed pursuant to Section S01.8.A, any person violating this ordinance shall be responsible for all damage which said town way may sustain as a result thereof and the amount may be recovered in a civil action brought by the municipality. Any amount so recovered shall be used for repair of the ways so damaged. This section shall not be construed to limit the amount that may be recovered by the Town in a civil action. Any amount recovered in excess of the

amount needed to repair the damaged way shall accrue to the Town. If the Town prevails in a civil action brought pursuant to this section, it shall be entitled to an award of reasonable attorney's fees in addition to any damages awarded.

SCHEDULE A

Name of Street	Restriction
Florence Road	No Thru Trucks

CHAPTER 407
WIRELESS TELECOMMUNICATIONS FACILITIES SITING ORDINANCE
TOWN OF GRAY MAINE

Enacted August 7, 2001 - Effective September 6, 2001
Amended May 18, 2010 – Effective June 17, 2010

SECTION 1 TITLE

This Ordinance shall be known and cited as the “Wireless Telecommunications Facilities Siting Ordinance” of Gray, Maine (hereafter referred to as the “Ordinance”).

SECTION 2 AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section I of the Maine Constitution; the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312 et seq.

SECTION 3 PURPOSE

The purpose of this Ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to:

- A. Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities within the Town of Gray.
- B. Establish clear guidelines, standards, and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities.
- C. Allow competition in telecommunications service.
- D. Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions, and residents of the Town of Gray.
- E. Authorize and facilitate reasonable access to the public rights of way of the Town of Gray for telecommunications purposes on a competitively neutral basis.
- F. Ensure that all telecommunications carriers providing facilities services within the Town of Gray comply with the Ordinances of the Town of Gray.
- G. Ensure that the Town of Gray can continue to fairly and responsibly protect the public health, safety, and welfare.
- H. Encourage the co-location of wireless telecommunications facilities thus helping to minimize adverse visual impacts on the community.
- I. Enable the Town of Gray to discharge its public trust consistent with rapidly evolving Federal and State regulatory policies, industry competition, and technological development.
- J. Further the goals and policies of the Comprehensive Plan of the Town of Gray, while promoting orderly development of the town with minimal impacts on existing uses.
- K. Protect the scenic and visual character of the community. Minimize the adverse impacts of such facilities including: scenic and visual impacts, environmental impacts, impacts to historically significant areas, health and safety impacts, and property value impacts.

SECTION 4 APPLICABILITY

This local land use Ordinance applies to all construction and expansion of wireless telecommunications facilities with the exception that the following are exempt from the provisions of this Ordinance:

- A. Emergency Wireless Telecommunications Facility – A temporary wireless communication facility for emergency communications by public and private officials.
- B. Amateur (ham) radio station antenna – An antenna of an amateur (ham) radio station licensed by the Federal Communications Commission (FCC) provided that it is not more than thirty-five (35) feet in height.
- C. Parabolic antenna – A parabolic antenna less than seven (7) feet in diameter, and not more than thirty-five (35) feet in height, that is an accessory use of a property.
- D. Maintenance or repair – Maintenance, repair, or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
- E. Temporary wireless telecommunications facility – A temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
- F. Antenna as Accessory Use – An antenna that is an accessory use to a residential dwelling unit provided that it does not exceed thirty-five (35) feet in height.
- G. Public Service Use or Facility – A use operated or used by a public body or public utility as a public service that has a maximum height of no more than one hundred (100) feet.

SECTION 5 APPROVAL AUTHORITY

5.1 APPROVAL REQUIRED

No person shall construct or expand a wireless telecommunication facility without approval of the Planning Board or the Code Enforcement Officer (CEO) as follows:

- A. New Construction
 - 1. Construction of a new wireless telecommunications facility requires approval by the Planning Board.
- B. Expansion of an Existing Facility and Co-location
 - 1. Expansion of an existing wireless telecommunications facility that increases the height of the facility by more than twenty (20) feet requires approval by the Planning Board.
 - 2. Expansion of an existing wireless telecommunications facility, accessory use of an existing wireless telecommunications facility, or co-location on an existing wireless telecommunications facility that does not increase the height of the facility by more than twenty (20) feet requires approval by the CEO.

5.2 APPROVAL AUTHORITY

In accordance with Section 5.1 above, the Planning Board or the CEO shall review applications for wireless telecommunications facilities and provide written findings on whether or not the proposed facility complies with this Ordinance.

SECTION 6 APPLICATION AND REVIEW

6.1 PRE-APPLICATION CONFERENCE

All persons seeking approval of the Planning Board or the CEO under this Ordinance shall meet with the CEO before filing an application. At this meeting, the CEO shall explain to the applicant the Ordinance provisions as well as application forms and submissions that will be required under this Ordinance.

6.2 APPLICATION

All persons seeking approval of the Planning Board or the CEO under this Ordinance shall submit an application as provided below. The Town Planner or the CEO, as the case may be, shall be responsible for ensuring that notice of the application is published in a newspaper of general circulation in the community.

A. General Rules for Applications

1. Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and name and address of the applicant.
2. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the proposed facility complies with all current FCC regulations for radio emissions.
3. Identification of districts, sites, building, structures, or objects, significant in American history, architecture, archaeology, engineering, or culture that are listed, or are eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w (5); 36 CFR 60 and 800) from which the facility is visible.
4. Location map and elevation drawings of the proposed facility and any other proposed structures showing colors and identifying structural materials.
5. For a proposed new facility or for a proposed expansion of an existing facility, a signed statement that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
 - a. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant in exchange for a reasonable fee not in excess of the actual cost of preparing a response.
 - b. Negotiate in good faith for shared use of the wireless facility by third parties.
 - c. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location.
 - d. Require no more than a reasonable charge for shared use, based upon community rates and generally accepted accounting principles, this charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared use without causing electromagnetic interference. The amortization of the above cost by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

B. Application for Planning Board Approval

An application for approval by the Planning Board must be submitted to the Town Planner. In addition to the general rules of Section 6.2 A, the application must include the following information:

1. A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities more than one hundred fifty (150) feet in height above the ground level except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the Town of Gray.
2. A site plan prepared and certified by a qualified Professional Engineer registered in State of Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes.
3. A boundary survey of the site performed by a Land Surveyor licensed by the State of Maine.
4. A scenic assessment, consisting of the following:
 - a. Elevation drawings of the proposed facility and any other proposed, structures showing height above ground level.
 - b. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.
 - c. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
 - d. A narrative discussing:
 - (i) The extent to which the proposed facility would be visible from or within a designated scenic resource.
 - (ii) The tree line elevation of vegetation within 100 feet of the facility.
 - (iii) The distance to the proposed facility from the noted viewpoints of a designated scenic resource.
5. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
6. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
 - a. Evidence that no existing facilities are located within the targeted market coverage area that are suitable to meet the applicant's engineering requirements.
 - b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.

- c. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
 - (i) Planned necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and the existing facilities cannot be reinforced to accommodate the new equipment.
 - (ii) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 - d. The fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable.
 - e. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure and has been denied access.
 - f. The applicant's proposed antenna or equipment would cause electromagnetic interference with antennas on the existing towers or structures.
 - g. Antennas or equipment on the existing facility would cause electromagnetic interference with the applicant's proposed antenna.
7. A sample of a form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned. Actual surety is to be obtained after approval of the application by the Planning Board.

C. Application for CEO Approval

Applications for permit approval by the CEO must be in accordance with the general rules of Section 6.2 A

6.3 SUBMISSION WAIVER

At the time of application, an applicant may submit a written request for a waiver of some submission requirements. A waiver of any submission requirement may be granted only if the Planning Board, Town Planner, or CEO finds in writing that the information is not required to determine compliance with the standards of this Ordinance due to special circumstances of the application.

6.4 FEES

A. Application Review Fees

An applicant shall pay all reasonable and customary fees for the costs incurred by the Town of Gray that are necessary to review an application for approval by the Planning Board or CEO. The review fees shall be paid in full prior to the start of construction. Any portion of the review fees not used shall be returned to the applicant within fourteen (14) days of the decision by the Planning Board or CEO.

B. Planning Board Application Fee

An application for Planning Board approval shall include payment of an application fee of one-hundred-fifty dollars (\$150.00). The application shall not be considered complete until this fee is paid. If an application is withdrawn within fifteen (15) days of the date of filing, the applicant is entitled to a refund of the application portion of the fee less all expenses incurred by the Town of Gray to review the application.

C. CEO Application Fee

An application for CEO approval shall include payment of an application fee of one-hundred-fifty dollars (\$150.00). The application shall not be considered complete until this fee is paid. If an application is withdrawn within fifteen (15) days of the date of filing, the applicant is entitled to a refund of the application portion of the fee less all expenses incurred by the Town of Gray to review the application.

6.5 NOTICE OF COMPLETE APPLICATION

- A. Upon receipt of an application, the Town Planner or CEO, as the case may be, shall provide the applicant with a dated receipt. Within five (5) working days of receipt of an application the Town Planner or CEO, as appropriate, shall review the application and determine if the application meets the submission requirements. The Planning Board, Town Planner, or CEO, as appropriate, shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application.
- B. If the application is complete, the Town Planner or CEO, as appropriate, shall notify the applicant in writing of this determination and require the applicant to provide a sufficient number of copies of the application to the Planning Board, Town Planner, Code Enforcement Officer, Town Engineer, and Fire Department.
- C. If the application is incomplete, the Town Planner or CEO, as the case may be, shall notify the applicant in writing, specifying the additional materials or information required to complete the application.
- D. If the application is deemed to be complete, and requires Planning Board review the Town Planner or CEO, as appropriate, shall notify all abutters to the site as shown on the Assessor's records, by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

6.6 PUBLIC HEARING

A public hearing shall be held within thirty (30) days of the notice of the completed application for an application that requires Planning Board approval under Section 5.1 A or 5.1 B.

6.7 APPROVAL

A. Planning Board Approval

Within ninety (90) days of receiving a completed application for approval under Section 5.1 A or 5.1 B, the Planning Board shall approve, approve with condition, or deny the application in writing, together with the findings on which that decision is based. The Town Planner shall notify all abutters within five hundred (500) feet of the proposed site of the decision to approve a permit under this section. The time period may be extended upon agreement between the applicant and the Planning Board. If the Planning board has a waiting list of applications that would prevent the Planning Board from making a decision within the required ninety (90) day time period, then a decision on the application shall be issued within sixty (60) days of the public hearing or within sixty (60) days of the completed Planning Board review. This time period may be extended upon agreement between the applicant and the Planning Board.

B. CEO Approval

Within thirty (30) days of receiving a completed application for approval under Section 5.1 C, the CEO shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based.

The CEO shall approve the application if the CEO finds that the application complies with the provisions in Section 7.1 of this Ordinance. The CEO shall notify all abutters within five-hundred (500) feet of the proposed site of the decision to issue a permit under this section. The time period may be extended upon agreement between the applicant and the CEO.

SECTION 7 STANDARDS OF REVIEW

7.1 PLANNING BOARD APPROVAL STANDARDS

An application for approval by the Planning Board under Section 5.1 A or 5.1 B must meet the following standards:

A. Location

1. New wireless telecommunications facilities are not permitted in the Well Head Protection Zone 2 (WH2).
2. New wireless telecommunications facilities are not permitted in any areas that are subject to Shoreland Zoning restrictions.
3. New wireless telecommunications facilities may be permitted as architectural co-locations attached to any structures such as church steeples, water towers, power poles, tall buildings, and similar structures anywhere in the Town of Gray, with the following restrictions:
 - a. Architectural co-locations are not permitted in the restricted zones of Sections 1 and 2 above.
 - b. New wireless telecommunications facilities that are architectural co-locations are not permitted to extend more than twenty (20) feet above the structures to which they are attached.
4. New wireless telecommunications facilities may be permitted on any State of Maine or Municipal Property except that new wireless telecommunications facilities are permitted in the Village Center Zone (VC) only in areas where the ground elevation is three-hundred-fifty (350) feet or more above MSL.
5. New wireless telecommunications facilities may be permitted in the following Telecommunications Overlay Zones: (Note: The series of Gray Quadrangle U. S. Geological Survey Topographic Maps dated 1980 and revised on file in the Town Office shall be used as reference maps for ground elevation above mean sea level.)
 - a. Telecommunications Overlay Zone 1 shall include all areas in the vicinity of Adams Hill (Mountain View Road) where the ground elevation is five-hundred (500) feet or more above MSL.
 - b. Telecommunications Overlay Zone 2 shall include all areas in the vicinity of Hunt's Hill (Eagle's Nest Road) where the ground elevation is four-hundred (400) feet or more above MSL.

- c. Telecommunications Overlay Zone 3 shall include all areas in the vicinity of Long Hill (Long Hill Road) where the ground elevation is four-hundred (400) feet or more above MSL.
- d. Telecommunications Overlay Zone 4 shall include all areas in the vicinity of Dutton Hill (Dutton Hill Road) where the ground elevation is four-hundred (400) feet or more above MSL.
- e. Telecommunications Overlay Zone 5 shall include all areas in the vicinity of Colley Hill (on the East side of Gray Village) where the ground elevation is three-hundred-fifty (350) feet or more above MSL.
- f. Telecommunications Overlay Zone 6 shall include all areas in the vicinity of Libby Hill (Libby Hill Road) where the ground elevation is three-hundred-seventy (370) feet or more above MSL.
- g. Telecommunications Overlay Zone 7 shall include all areas in the vicinity of Knudsen Road between Cambell Shore Road and the Windham Town Line where the ground elevation is four-hundred (400) feet or more above MSL.
- h. Telecommunications Overlay Zone 8 shall include all areas in the vicinity of the small hill on Libby Brook where the ground elevation is two-hundred-fifty (250) feet or more above MSL.
- i. Telecommunications Overlay Zone 9 shall include all areas in the vicinity of the hill at Weathervane Road where the ground elevation is three-hundred (300) feet or more above MSL.
- j. Telecommunications Overlay Zone 10 shall include all areas in the vicinity of the hill at Merrill Road and Bull Run Road where the ground elevation is three-hundred (300) feet or more above MSL.

B. Siting on Municipal Property

An application to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, must show the following:

- 1. The proposed location complies with applicable Town of Gray policies and ordinances.
- 2. The proposed facility will not interfere with the intended purpose of the property.
- 3. The applicant has adequate liability insurance and a lease agreement with the Town of Gray that will include reasonable compensation as determined by the Town Council after a public hearing for the use of the property and other provisions to safeguard the public rights and interests in the property.

C. Siting on State Property

An application to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, must show the following:

- 1. The proposed location complies with applicable Town of Gray policies and ordinances.
- 2. The proposed facility or facility expansion serves essential government services and does not serve commercial purposes.

D. Design for Co-location

- 1. A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansions for future co-location of at least three additional

wireless telecommunications facilities or providers. The Planning Board, however, may waive or modify this standard where special circumstances effectively preclude future co-location.

2. An exception to Section 1 above shall be allowed in the case of architectural co-location where a new facility may stand alone without any provisions for future co-locators.

E. Height

1. The height any new wireless telecommunications facility must be less than an amount that would require illumination in order to be in accordance with FAA or other applicable State and Federal requirements.
2. On any new site, the height of a new wireless telecommunications facility may be no more than two hundred (200) feet at the highest point including antennas or accessories. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, and processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.
3. For any allowed location where there are one or more existing wireless telecommunications facilities, a new wireless telecommunications facility that is located at a horizontal distance of no more than four-hundred (400) feet from a facility that was in existence at the time of Adoption of this Ordinance may have a height such that the highest point including antennas or accessories may be as much as, but no more than, the height of that existing facility. The new facility not permitted to be illuminated except for security lighting in accordance with Section H below.
4. Facility height shall be the vertical distance measured from the finished grade of the facility site to the highest point of the structure, including base pad, all antennas, and other appurtenances. If the support structure is on a sloped grade, the average between the highest and lowest grades shall be used in calculating the height.

F. Setbacks

A new or expanded wireless telecommunications facility must comply with the setback requirements for the Zoning District in which it is located, or be set back one hundred twenty-five percent (125%) of its height from all property lines, whichever is greater. The setback may be satisfied by including areas outside the property boundaries if secured by easements. The following exemptions apply:

1. The setback requirement may be reduced by the Planning Board upon a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property.
2. A horizontal antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon abutting property.

G. Landscaping

A new wireless telecommunications facility and related equipment must be screened with plants from being viewed by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

H. Fencing

A new wireless telecommunications facility must be suitably fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

I. Lighting

Any new wireless telecommunications facility must not be illuminated except for security lighting that is directed down in a manner to retain light within the boundaries of the site, to the maximum extent practicable.

J. Color and Materials

A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

K. Structural Standards

For a building permit to be issued, a new wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) Standard 222 Revision F entitled “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures” and the Town of Gray Building Code.

L. Visual Impact

The proposed wireless telecommunications facility must not have any unreasonable adverse impact upon designated scenic resources within the Town of Gray as identified either in the Comprehensive Plan, or by a State or Federal agency. In determining the potential unreasonable adverse impact of the proposed facility upon designated scenic resources; the Planning Board shall consider the following factors:

1. The extent to which the proposed wireless telecommunications facility is visible above the tree line as seen from one or more viewpoints of the impacted designated scenic resource.
2. The type, number, height, and proximity of existing structures and features and background features within the same line of sight as the proposed facility.
3. The extent to which the proposed wireless telecommunications facility would be visible from viewpoints.
4. The amount of vegetative screening.
5. The distances of the proposed facility from viewpoints and the location of the facility.
6. The presence of reasonable alternatives that would allow the facility to function consistently with its purpose.

M. Fuels

The risk of environmental contamination that might result from fuel leakage or fuel spills is to be minimized by the use of propane or other suitable alternative fuel for facility heating or for operation of a back-up power generator. Gasoline or diesel fuel is to be used for operation of a back-up power generator only if specially approved by the Planning Board.

N. Noise

Any noise resulting from the operation of a back-up power generator at any time during a general power failure or the testing of a back-up generator shall not exceed seventy (70) dBA at the boundaries of a telecommunications site, excluding any easements.

O. Historic and Archaeological Properties.

The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact

upon a historic district, site, or structure which is currently listed on or eligible for listing on the National Register of Historic Places from which the facility is visible.

7.2 CODE ENFORCEMENT OFFICER APPROVAL STANDARDS

An application for approval by the CEO under Section 5.1 C must meet the following standards:

- A. The applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.
- B. The proposed facility is an expansion, accessory use, or co-location to a structure existing at the time the application is submitted. An architectural co-location must be in accordance with Section 7.1 A 3 above.
- C. The proposed facility does not increase the height of the existing structure by more than twenty (20) feet.
- D. The proposed facility will be constructed with materials and colors that match or blend with the surrounding natural or built environment to the maximum extent practicable.
- E. The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon districts, sites, buildings, structures or objects significant in American history, architecture, archaeology, engineering, or culture, that are listed or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w (5); 36 CFR 60 and 800).

SECTION 8 AMENDMENT TO AN APPROVED APPLICATION

Any changes to an approved application must be approved by the Planning Board or CEO, as appropriate, in accordance with Section 5.

SECTION 9 TOWER INSPECTION

- A. All telecommunications towers must be inspected for structural integrity by a qualified Registered Professional Engineer at time intervals of no more than ten (10) years.
- B. A copy of the inspection report shall be provided to the Town Engineer within thirty (30) days of its receipt by the owner or operator of the tower. Failure to provide required inspection reports in accordance with the required time schedule shall be deemed *prima facie* evidence of abandonment.
- C. Upon recommendation by the Town Engineer, the CEO may require the tower to be repaired or to be demolished based upon the results of the inspection.
- D. Any repairs that are required as a result of the inspection shall be completed within ninety (90) days from the receipt of notice by the owner of the tower. Repairs may be required to be completed more quickly if the Town Engineer determines that a safety or impending environmental emergency exists.
- E. Within ninety (90) days of receipt of notice, the owner must complete the removal of a tower that has been ordered demolished. After the demolition of a tower has been completed, the site may be converted to another use or an application to build a new tower may be submitted to the Planning Board. When applicable, the site must be returned to its pre-construction natural condition as much as may be feasible to the satisfaction of the CEO. The CEO may require the removal of all associated above ground structures, equipment, foundations, guy anchors, utilities, and access roads or driveways constructed to specifically service the demolished tower.

- F. If demolition of a tower has not been completed within ninety (90) days of receipt of notice, then the Municipal Officers may proceed at the owner's expense to demolish the tower and return the site to its pre-construction natural condition or convert the site to another appropriate use. The Municipal Officers may act more quickly if the Town Engineer has determined that a safety or environmental emergency exists. Upon completion of demolition or conversion of the facility to the satisfaction of the CEO and the Planning Board, any balance remaining in the surety provided to the Town of Gray by the owner may be returned to the owner.
- G. After the completion of each inspection and completion of any required repairs, the amount of the surety provided to the Town of Gray by the owner or operator of a tower shall be reviewed. The amount of the surety may be increased if deemed necessary to be adequate to pay for the estimated future costs of demolishing the tower.
- H. All the costs of inspections, reports, repairs, review of surety, or demolition required under this Section of this Ordinance shall be borne entirely by the owner or operator of the tower.

SECTION 10 ABANDONMENT

A wireless telecommunication facility that has not been used or operated at any time during a continuous period of the preceding twelve (12) months shall be considered to be abandoned. The CEO shall provide written notice to the owner of an abandoned facility that the facility is deemed to be abandoned and that the abandoned facility is required to be removed or to be converted to another use.

- A. Within thirty (30) days of receipt of a notice of abandonment, the owner of the facility shall exercise one of the following three options:
 - 1. The owner may demonstrate to the CEO that the facility has not been abandoned, is in use, or has been in use during the continuous period of the preceding twelve (12) months, is being properly maintained, and is not a safety hazard.
or
 - 2. The owner may submit a plan to the CEO for conversion of the facility to another use that will be in accordance with all applicable zoning requirements including approval by the Planning Board or CEO as appropriate.
or
 - 3. The owner may submit a plan for completion of removal of the abandoned facility to be accomplished within ninety (90) days. When applicable, the site must be returned to its pre-construction natural condition as much as may be feasible to the satisfaction of the CEO. The CEO may require the removal of all associated above ground structures, equipment, foundations, guy anchors, utilities, and access roads or driveways constructed to specifically service the abandoned facility.
- B. If there is more than one wireless telecommunication facility at a particular site, then the requirements of Section A above are to be applied only to an abandoned facility.
- C. If the owner of the abandoned facility has not exercised one of the three options of Section A above within ninety (90) days of receipt of the notice of abandonment, then the Municipal Officers may proceed at the owner's expense to remove the abandoned facility and return the site to its pre-construction natural condition or convert the site to another appropriate use. Upon completion of removal or conversion of the facility to the satisfaction of the CEO and the Planning Board, any

balance remaining in the surety provided to the Town of Gray by the owner may be returned to the owner.

SECTION 11 APPEALS

Any persons aggrieved by a decision of the Planning Board or CEO under this Ordinance may appeal the decision directly to the Maine Superior Court within forty-five (45) days of receipt of the written decision in accordance with the rules for such appeals.

SECTION 12 ADMINISTRATION AND ENFORCEMENT

The CEO, as appointed by the Town Manager, shall enforce this Ordinance. If the CEO finds that any provision of this Ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The CEO may take any other legal action to ensure compliance with this Ordinance. The Municipal Officers, or their agents, are authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering penalties without court action. Such agreements shall not allow a violation of this Ordinance to continue unless:

- A. There is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized Municipal Official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith.
- B. The removal of the violation will result in a threat to public health and safety or cause substantial environmental damage.

SECTION 13 PENALTIES

Any person who owns or controls any building or property that violates this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A. § 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

SECTION 14 CONFLICT AND SEVERABILITY

14.1 CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Ordinance, Regulation, or Statute, the more restrictive provision shall apply.

14.2 SEVERABILITY

The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

SECTION 15 DEFINITIONS

The terms used in this Ordinance shall have the following meanings:

- A. “Antenna” means any system of poles, panels, rods, reflecting discs, parabolic antenna, or similar devices used for the transmission or reception of radio frequency or other electromagnetic signals.
- B. “Architectural Co-location” means the installation of a wireless telecommunications facility on structures such as church steeples, water towers, power poles, tall buildings, and similar structures other than new or existing telecommunications towers.
- C. “Co-location” means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

- D. “Comprehensive Plan” means the Comprehensive Plan of the Town of Gray
- E. “Designated Scenic Resource” means that specific location, view, or corridor, as identified as a scenic resource in the Comprehensive Plan or by a State or Federal agency, that consists of any of the following:
1. A three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects such as a downtown skyline or mountain range resulting in a panoramic view corridor.
 2. Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.
- F. “Expansion” means the addition of antennas, towers, or other devices to an existing telecommunications facility .
- G. “FAA” means the Federal Aviation Administration
- H. “FCC” means the Federal Communications Commission, or its lawful successor.
- I. “Height” means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around a structure, to the highest point of the structure.
- J. “Historical or Archaeological Resources” means resources that are any of the following:
1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register.
 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district.
 3. Individually listed on a State inventory of historic places approved by the Secretary of the Interior.
 4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Secretary of the Interior through the Maine Historic Preservation Commission.
 5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the Comprehensive Plan which have been listed or are eligible to be listed on the National Register of Historic Places.
- K. “Historic District” means a geographically definable area possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development and identified in the Comprehensive Plan which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.
- L. “Historic Landmark” means any improvement, building, or structure of particular historical or architectural significance to the Town of Gray relating to its heritage, cultural, social, economic, or

political history, or which exemplifies historical personages or important events in local, State, or National history identified in the Comprehensive Plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

- M. “Line of Sight” means a direct view from a designated scenic resource.
- N. “MSL” means mean sea level.
- O. “Parabolic Antenna” (also known as a satellite dish antenna) means an antenna which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.
- P. “Principal Use” means a use other than one which is wholly incidental or accessory to another use on the same premises.
- Q. “Public Recreational Facility” means a regionally or locally significant facility, as defined and identified either by State statute or in the Comprehensive Plan, designed to serve the recreational needs of people.
- R. “Targeted Market Coverage Area” means the area which is targeted to be served by a proposed telecommunications facility.
- S. “Unreasonable Adverse Impact” means that a proposed project would produce an end result which is excessively out-of-character with designated scenic resources affected, including existing buildings, structures, and features within a designated scenic resource, and would significantly diminish the scenic value of the designated scenic resource.
- T. “Viewpoint” means a location which is identified either in the Comprehensive Plan or by a Federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource.
- U. “Wireless Telecommunications Facility” means any structure, antenna, tower, or device which provides radio or television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, common carrier wireless exchange phone services, specialized mobile radio communications (SMR), personal communications service (PSC), or pager service.

SECTION 16 EFFECTIVE DATE

September 6, 2001

CHAPTER 402
ZONING ORDINANCE
TOWN OF GRAY MAINE

Adopted November 10, 2008 / Effective December 10, 2008

Amended January 19, 2010 / Effective February 18, 2010

Amended June 21, 2011 / Effective July 21, 2011

Amended September 6, 2011 / Effective October 6, 2011 (Medical Marijuana)

Amended November 15, 2011 / Effective December 15, 2011 (Contract Zoning)

Amended December 6, 2011 / Effective January 5, 2012 (Agritourism Center)

Amended June 5, 2012 / Effective July 5, 2012 (Gravel Pits / Art. 11)

Amended February 5, 2013 / Effective March 7, 2013 (Gravel Pits / Art. 11)

Amended October 20, 2015 / Effective November 19, 2015

Amended March 15, 2016 / Effective April 14, 2016

Amended September 6, 2016 / Effective October 5, 2016

Amended January 3, 2017 / Effective February 2, 2017

Amended March 21, 2017 / Effective April 20, 2017

Amended May 16, 2017 / Effective June 15, 2017

Amended September 19, 2017 / Effective October 19, 2017

Amended October 17, 2017 / Effective November 16, 2017

Amended January 2, 2018 / Effective February 1, 2018

ARTICLE 1 – AUTHORITY AND PURPOSES	6
402.1.1 Authority	6
402.1.2 Short Title	6
402.1.3 Purposes	6
402.1.4 Jurisdiction	6
ARTICLE 2 – DEFINITIONS.....	7
402.2.1 Construction of Language.....	7
402.2.2 Definitions.....	7
ARTICLE 3 – OFFICIAL ZONING MAP.....	25
402.3.1 Official Zoning Map	25
402.3.2 Certification of Zoning Map	25
402.3.3 Changes of the Official Zoning Map	25
402.3.4 Rules Governing District Boundaries	25
ARTICLE 4 – ZONING DISTRICTS	27
402.4.1 Zoning Districts Established.....	27
402.4.2 Zoning Districts Purposes	27
402.4.3 Applicability of Zoning Provisions to Districts.....	29
ARTICLE 5 – ZONING DISTRICT REGULATIONS	30
402.5.1 Basic Requirements for Compliance with Codes and Ordinances	30
402.5.2 Legal Rights and Responsibilities to Uses of Land and Property.....	30
402.5.3 District Regulations	30
402.5.4 Districts Dimensional Requirements	34
ARTICLE 6 – GENERAL PROVISIONS APPLICABLE IN ALL ZONING DISTRICTS.....	36
402.6.1 Land Use Requirements.....	36
402.6.2 Lots	36
402.6.3 Net Residential Area	37
402.6.4 Net Residential Density	37
402.6.5 Non-Conformance with the Requirements of this Zoning Ordinance	37
402.6.6 Special Permit Required for Temporary Events	39
402.6.7 Regulation of Signs.....	40
402.6.8 Regulation of Mobile Home Parks	40
402.6.9 Parking Requirements	40

ARTICLE 7 –STANDARDS APPLICABLE IN MOST ZONING DISTRICTS..... 41

- 402.7.1 Temporary Structures..... 41
- 402.7.2 Home Occupations..... 41
- 402.7.3 Flea Markets & Open Air Markets 42
- 402.7.4 Keeping of Large Animals..... 43
- 402.7.5 Back Lot Access Easements 43
- 402.7.6 Residential Open Space Subdivisions and Multi-family housing development..... 44
- 402.7.7 Planned Unit Development for Commercial Subdivisions..... 45
- 402.7.8 Mobile Homes, Motor Homes and Travel Trailers..... 45
- 402.7.9 Accessory Apartments 47
- 402.7.10 Private Landing Strips for Personal Aircraft & Helicopters 49
- 402.7.11 Campgrounds 50
- 402.7.12 Fire and Explosive Hazards 52
- 402.7.13 Lighting..... 52
- 402.7.14 Storage of Materials..... 52
- 402.7.15 Farm Stands 53
- 402.7.16 Bed and Breakfast Establishments..... 54
- 402.7.17 In-Home Offices 54
- 402.7.18 Boat Storage..... 54
- 402.7.19 Building Trades Occupation-1 54
- 402.7.20 RETAIL MARIJUANA..... 55

ARTICLE 8 –STANDARDS ONLY APPLICABLE IN SPECIFIC DISTRICTS..... 56

- 402.8.1 Adult Businesses..... 56
- 402.8.2 Business Transitional District Standards 56
- 402.8.3 Village Center District Standards 58
- 402.8.4 Wellhead District Standards 59
- 402.8.5 Agritourism..... 66
- 402.8.6 Watershed Protection Measures in the Lake District (LD)..... 67
- 402.8.7 Medical Marijuana Cultivation Facilities and Dispensaries 70
- 402.8.8 Business Development District 2 Standards 73
- 402.8.9 Light Manufacturing Overlay District Standards (LMOD)..... 73

ARTICLE 9 – ADMINISTRATION AND ENFORCEMENT..... 77

- 402.9.1 Duties and Authority of the Code Enforcement Officer 77

Chapter 402 Gray Zoning Ordinance

402.9.2 Duties and Authority of the Board of Zoning Appeals..... 78

402.9.3 Duties and Authority of the Planning Board for Approval of Conditional Permitted Uses and Site Plan Review Permits..... 82

402.9.4 Severability of Individual Ordinance Sections and Provisions..... 85

402.9.5 Conflicts with Other Ordinances 85

402.9.6 Planning Board Rules of Procedure..... 85

402.9.7 Effects of New Ordinance Enactment..... 85

402.9.8 Amendments to the Zoning Ordinance and Zoning Map 86

402.9.9 Conditional or Contract Zoning 86

ARTICLE 10 – SITE PLAN REVIEW 87

402.10.1 Purposes of Site Plan Review 87

402.10.2 Applicability of Site Plan Review..... 87

402.10.3 Exempt Activities..... 87

402.10.4 Review and Approval Authority 88

402.10.5 Staff Review Committee..... 88

402.10.6 Classification of Projects 88

402.10.7 Site Plan Review Procedure for Minor Developments 89

402.10.8 Site Plan Review Procedure for Major Developments 91

402.10.9 Application and Technical Review Fees for Site Plan Review 95

402.10.10 Required Submissions for Site Plan Review 96

402.10.11 Site Development Standards for Site Plan Review..... 101

402.10.12 Good Neighbor Standards for Site Plan Review..... 114

402.10.13 Site Design Standards for Site Plan Review 115

402.10.14 Standards for Multi-Family Housing..... 118

402.10.15 Planning Board Waivers of Site Plan Review Performance Standards 119

402.10.16 Negotiated Exactions 119

402.10.17 Post Site Plan Approval Activities..... 124

ARTICLE 11 – GRAVEL PITS AND QUARRIES..... 126

402.11.1 Purpose..... 126

402.11.2 Applicability 126

402.11.3 Permitted Zoning Districts..... 127

402.11.4 Permit Requirements..... 127

402.11.5 Classification..... 127

Chapter 402 Gray Zoning Ordinance

402.11.6 Requirements for Classifications 128
402.11.7 Excavation Regulations 138
402.11.8 Administrative Requirements 140
402.11.9 Waivers of Provisions 141
402.11.10 Enforcement..... 142

ARTICLE 1 – AUTHORITY AND PURPOSES

402.1.1 Authority

This ordinance has been prepared in accordance with the provisions of Title 30-A, Chapter 187 of the Maine Revised Statutes Annotated, as amended.

402.1.2 Short Title

This ordinance and the accompanying Official Zoning Maps shall be known as and may be cited as the "Zoning Ordinance, Town of Gray, Maine."

402.1.3 Purposes

The purpose of this ordinance is to:

- A. Protect the health, safety, and general welfare of the residents of the town of Gray;
- B. To encourage appropriate use of land throughout the municipality;
- C. To promote traffic safety;
- D. To provide safety from fire and other elements;
- E. To provide adequate light and air; to prevent overcrowding of real estate;
- F. To prevent housing development in unsuitable areas;
- G. To provide an allotment of land area in new developments sufficient for all the requirements of community life;
- H. To conserve natural resources, open space, and visual character;
- I. To prevent and control water pollution;
- J. To protect buildings and lands from flooding and accelerated erosion;
- K. To protect archaeological and historic resources;
- L. To protect freshwater wetlands; and,
- M. To provide for adequate public services, as an integral part of a Comprehensive Plan for municipal development.

402.1.4 Jurisdiction

The provisions of this ordinance shall govern all land and all structures within the boundaries of the Town of Gray.

ARTICLE 2 - DEFINITIONS

402.2.1 Construction of Language

In the interpretation and enforcement of this ordinance, all words other than those specifically defined in the ordinance shall have the meaning implied by their context in the ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this ordinance and any map, illustration, or table, the text shall control.

The word "person" includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.

The word "shall" and "will" are mandatory, the word "may" is permissive.

The word "lot" includes the words "plot" and "parcel".

The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

The words "town" or "municipality" means the Town of Gray, Maine.

The words "governing authority" means the Gray Town Council.

402.2.2 Definitions

In this ordinance the following terms shall have the following meanings:

Abutter: The owner(s) of a property sharing a common boundary with or within 250 feet of a given parcel of property, whether or not these properties are separated by a public or private way. For the purposes of this Ordinance, the owner(s) of properties shall be considered to be parties listed by the Tax Assessor as the ones whom taxes are assessed.

Accessory Apartment: A subordinate residential use that requires approval from the Code Enforcement Officer that conforms to the performance standards in this Ordinance including being owner-occupied, a maximum of 660 sq. ft., and is incorporated within a single-family dwelling. An accessory apartment shall not be considered a separate dwelling unit when calculating lot area per dwelling unit for this Ordinance, but must comply with all other applicable requirements of law including the State Minimum Lot Size statute and the State of Maine Subsurface Wastewater Disposal rules.

Accessory Use or Structure: A use or structure which is customarily and in fact both incidental and subordinate to the principal use or structure. The term "incidental" in reference to the principal use or structure shall mean subordinate and minor in significance to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. Accessory use shall include the use of any portion of a lot pursuant to an easement for Commercial Recreation, Outdoor, but shall not include the use of any portion of a lot for purposes related to Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Retail Marijuana Establishments, or Retail Marijuana Social Clubs unless expressly authorized herein.

Adult Business: Any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or services of any kind which appeal to prurient interests and which depict or describe specified sexual activities. As

applied to a business which sells, rents or leases such materials or devices, “substantial or significant portion” means that 25% or more of the floor area of the unit of occupancy in which the business is located is used to display, shelve or store such materials or devices. As applied to a business which exhibits or displays, films, videos or similar visual reproductions for viewing by patrons on the premises, “substantial or significant portion” means that, in any single day, 50% or more of the total display or exhibition time is devoted to such materials.

Aggrieved Person or Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture, General: Includes the cultivation of the soil for food products or other useful or valuable growth of the field, garden, nursery or greenhouse, but does not include dairying, raising of livestock, breeding or keeping of animals, fowl or birds as a business or gainful occupation, or cultivation of Marijuana for Medical Use or Recreational Use.

Agritourism Center: A campus containing Agritourism Facilities along with facilities for educational, cultural, and outdoor recreation programs that may serve larger community purposes. One office building not exceeding fifteen thousand (15,000) square feet may be included to manage and support the mission and operation of the Agritourism Center. An Agritourism Center shall not include any principal or accessory uses related to Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Retail Marijuana Establishments, or Retail Marijuana Social Clubs.

Agritourism Facility: A building, or group of buildings operated in conjunction with each other, in which there is provided overnight lodging facilities, which may include private or other assembly facilities and/or restaurant facilities, to paying or non-paying guests, provided that: The operations of such facilities complement or support the agricultural, silvicultural, animal husbandry, or forest management use of land, or the educational and/or outdoor recreational programs on land so used, which uses or programs are otherwise permitted in the Rural Residential and Agricultural (RRA) District. The buildings or group of buildings may include private or common facilities, such as bathrooms, living areas, dining areas, gathering areas and kitchen facilities. The private or other assembly facilities and restaurant facilities may be open to the public generally in addition to guests of the lodging facilities. A facility meeting the foregoing definition of “Agritourism Facility” shall not be considered a “Bed and Breakfast Establishment” or a “Hotel/Motel.” An Agritourism Facility shall not include any principal or accessory uses related to Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Retail Marijuana Establishments, or Retail Marijuana Social Clubs.

Alteration: Any change, addition, or modification in construction, other than cosmetic or decorative, or any change in the structural members of buildings such as baring walls, columns, beams, or girders.

Animal Husbandry: Dairying or raising of livestock, breeding or keeping of animals, horses, llamas, deer, alpacas and other fur bearing animals, emus, fowls or birds as a business or gainful occupation, which are considered commercial and come under other State laws.

Applicant for Excavation: Anyone who applies for a permit to create or operate an excavation to obtain gravel, rock, sand, fill, borrow, or clay.

Aquifer: Geologic unit composed of rock or sand and gravel, which unit contains sufficient saturated permeable materials to conduct groundwater and to also yield economically significant quantities of groundwater to wells and springs. For purposes of this Ordinance, economically significant quantities of

ground water shall be taken to be any unit capable of yielding ten (10) gallons or more per minute of water to a single well or spring.

Arterial Street: A major thoroughfare which serves as a major traffic way for travel to other communities and through the Town. The following roadways shall be considered arterial streets:

West Gray Road (Route 202)	Shaker Road (Route 26)
Lewiston Road (Route 100)	Wildlife Park Way (Route 26A)
Portland Road (Route 100/26)	

Auction Houses: A place where the public sale of property to the highest bidder is held by one licensed and authorized for that purpose.

Auctions: The sale of household goods by competitive bid conducted on the premises. Civic or nonprofit organizations are exempt from the above but must obtain a permit from the Town Council.

Authorized Agent: Anyone having written authorization to act in behalf of a property owner, signed by the property owner.

Auto Body Shop: A place where collision services, such as body, frame, or fender straightening and repair, overall painting and undercoating of vehicles are performed.

Auto Intensive: Retail, office or restaurant uses which have a drive-through facility.

Auto Repair Garage: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles.

Auto Service Station: A place where gasoline or any other automobile engine fuel (stored in tanks), kerosene, motor oil, lubricants or grease (for operation of motor vehicles) is retailed directly to the public on the premises. This includes the sale of minor accessories and the servicing and minor repair of automobiles, but does not include storage of unlicensed vehicles nor does it include body, frame, or fender straightening and repair.

Bed & Breakfast: A single family dwelling in which lodging and meals are offered to the general public for compensation, offering no more than three bedrooms for lodging purposes.

Blasting: The use of explosives to break up or otherwise aid in the extraction or removal of rock or other consolidated natural formation.

Blazed Tree: A tree from which a section of bark has been removed to display a visible spot that can be easily recognized

Buffer: A strip of land with the purpose to separate and protect one type of land use from another or screen a land use from public view.

Building: Any structure having a roof supported by columns or walls used for shelter or protection of persons, animals or personal property.

Building Height: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

Building Trade Occupation-1: An accessory residential use of a dwelling unit carried on by one (1) self-employed or other craftsman in a construction-related trade who resides in the dwelling unit or Accessory Apartment. This use is subject to performance standards.

Campground: A parcel or parcels of land providing temporary accommodation for recreational vehicles, tenting areas, and other forms of temporary shelter.

Cemetery: A property used for the interment of the dead.

Church: A building or structure or group of buildings or structures and grounds primarily intended or used for the conduct of religious services of any religious group faith, denomination or sect and for accessory uses associated therewith.

Class A Excavations: Class A excavations are those of five (5) acres or more in area that are required to have a permit from the Maine Department of Environmental Protection in accordance with 38 MRSA §§ 490-D Performance Standards For Excavations For Borrow, Clay, Topsoil, Or Silt, 490-Z Performance Standards for Quarries, Excavations that have a Site Location of Development permit issued under 38 MRSA Section 481, or excavations that have filed a notice of intent to comply pursuant to 38 MRSA § Section 484-A of the Site Location of Development Law and have adhered with the compliance schedule as required by that Section.

Class B Excavations: Class B excavations are those of less than five (5) acres in area that are not required to have a permit from the Maine Department of Environmental Protection, but are required to have a permit from the Town of Gray.

Client: A person dependent on another for protection or patronage.

Club: Any association of persons organized for social, religious, benevolent, or academic purposes; whose facilities are open to members and guests including fraternities, sororities, and social organizations.

Code Enforcement Officer: A person appointed by the Town Manager to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like where applicable.

Commercial Recreation, Indoor: Any indoor recreational use such as bowling alleys, roller or ice skating rinks, swimming pools or tennis courts operated primarily for profit.

Commercial Recreation, Outdoor: Any outdoor recreational use such as golf courses, tennis courts, riding stables, swimming pools or ice skating rinks operated primarily for profit.

Community Living Arrangement: A housing facility for eight (8) or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living arrangement may include a group home, foster home, or intermediate care facility

Conditional Permitted Use: A use permitted only after review and approval by the Planning Board. A Conditional Use is a use that would not be appropriate without public review and restrictions, but which is permitted provided that all performance standards and other requirements of this ordinance are met.

Conditional Use Permit: A permit authorized by the Planning Board for a Conditional Permitted Use. A Conditional Use Permit may be issued only after the applicant has followed the procedures of this ordinance.

Conforming Use: A use of buildings, structures or land which complies with all applicable provisions of this Ordinance.

Constructed: Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered as part of construction.

Construction Services: Uses such as plumbing, painting, building, well drilling, carpentry or electrical installation and excavating.

Day Care Facility: Day care facility shall mean a house or other place in which a person, or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for three (3) or more clients.

Deck: An uncovered structure with a floor, elevated above ground level.

Decorative Changes: Repainting or re-siding; removing or replacing trim, railings, or other non-structural architectural details; or the addition, removal or change of location of windows and doors.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback from property lines, lot area, shore frontage and height.

Disability: A physical or mental impairment which substantially limits one or more of a person's major life activities, a record of having such and impairment, or being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

Domestic Animals: These include but are not limited to dogs, cats, birds and reptiles that are raised within the confines of the household. They are not raised in multiple numbers for breeding, sale or exchange for other goods or services and do not meet the requirements for kennels, agriculture operations, or feed lots. This definition and restriction excludes service animals, which may include animals that have been certified and trained to assist in aiding a person with a specific physical or emotional disability.

Driveway: A vehicular access-way serving no more than two dwelling units or lots or a vehicular access way serving an institutional or commercial site.

Drive Through and Drive-In Facility: A commercial/retail facility or operation which provides a service directly to the occupants of a motor vehicle or where the customer can drive a motor vehicle onto the premises and to a location, person or device through which an order may be placed and the customer would be served with their order without exiting the vehicle.

Dwelling: Any building or structure or portion thereof designed or used for residential purposes.

1. **Single-Family Dwelling:** a building containing only one dwelling unit for occupation by not more than one family.
2. **Two-Family Dwelling:** a building containing only two dwelling units, for occupation by not more than two families.
3. **Multi-Family Dwelling:** a building containing three or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

Dwelling Unit: A room or suite of rooms designed and equipped exclusively for use by one family as a habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing but not recreational vehicles or motel units.

Excavation: Any digging, mining, or removal of borrow, topsoil, loam, rock, sand, gravel, clay, silt, or other similar non-metallic earth materials whether alone or in combination.

Existing Excavated Area (Earth-Moving Operations): The area in which actual excavation has occurred preceding 7/4/85. Stripping of vegetation shall not be considered to be excavation. The boundaries of the existing excavated area shall be documented by photographs and site plans drawn to scale and submitted to the CEO.

Existing Parcel (Earth Moving Operations): The total parcel which includes the existing excavated area and may include areas where expansion of existing pit operations will occur. The parcel shall be in single ownership or lease for at least a one-year period preceding 7/4/85 and which is intended to continue. The Code Enforcement Officer shall require evidence which may include cash receipts, affidavits, verbal testimony, photographs or other information to be presented on which to grant status as an existing pit operation.

Existing Pit Operation: An excavation activity which is located on an existing parcel and for which operation for remuneration has taken place in the existing excavated area during the one-year period immediately preceding 7/4/85 and which is intended to continue. The code Enforcement Officer shall require evidence which may include cash receipts, affidavits, verbal testimony, photographs or other information to be presented on which to grant status as an existing pit operation.

Expansion of Existing Pit Operations: Any proposed earth moving, excavating, processing or storage of earth materials operation which is expanded beyond the boundaries of the existing excavated area as defined in this Ordinance. When an existing operation is expanded more than five (5) acres, the operator shall file a copy of the DEP permit with the Planning Board. Expansions of existing pit operations are subject to limited rehabilitation requirements as specified in this Ordinance.

Expansion of a Structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

Expansion of Use: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family: One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel. Such unit shall not exceed five (5) persons not related by blood or marriage unless the group can demonstrate that it:

1. Shares the entire house;
2. Lives and cooks together as a single housekeeping unit;
3. Shares expenses for food, rent, utilities or other household expenses; and,
4. Is permanent and stable.

Farm Stand: A roadside stand not exceeding 200 square feet in floor area selling only farm, garden, greenhouse, or nursery products, and between Labor Day and Christmas, cut Christmas trees, garlands, wreaths and wreath material. A Farm Stand may not sell Marijuana in any form for Medical Use or Recreational Use.

Filling: Depositions or dumping any matter on or into the ground water.

Flea Market – Open Air Market: An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public. There are no long-term leases (over 6 months) between the sellers and operators. Flea markets are not considered retail trade or commercial sales and service.

Flood: A temporary rise in stream flow that results in water overtopping its banks and inundating adjacent areas.

Flood Insurance Map: The official map on which the Dept. of Housing and Urban Development or the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the Town.

Flood Plain: The lands adjacent to a body of water which have been or may be covered by the base flood.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor Area, Gross: The sum, in square feet of the floor areas of all roofed portions of a building, as measured from the exterior faces of the exterior walls plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Floor Area, Net: The total of all floor areas of a building, excluding the following: stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and floors below the first or ground floor, except when used for human habitation or service to the public.

Frontage: The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the front lot line, except in the case of a curved lot line, where the frontage shall be considered the length of the curve.

Frontage, Street: That lot property line abutting on a street or private way, and ordinarily regarded as the front of the lot. On any lot bounded on more than one property line by a street or private way, the street frontage shall be that property line of the lot designated as “street frontage” in any building permit application for such lot. All lots are required to have the minimum street frontage on a single street or private way.

Gravel Pit: An excavation for removal, processing, or storage of borrow, topsoil, loam, gravel, rock, sand, clay, silt, or other similar non-metallic earth materials whether alone or in combination.

Ground Water: All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the slowly moving subsurface water present in the aquifers and recharge areas.

Headquarters for Contracting Business: An establishment primarily engaged in the administration of a business, which renders services on a fee or contract basis. This use is similar to construction services, but generally is smaller in nature and usually includes the firm’s offices with little additional storage.

Heliport: A heliport restricted to private and personal use.

Home Occupation: A home occupation is defined as an occupation or business activity which results in a product or service and is conducted in whole or in part in the dwelling unit or accessory structure. Home Occupations shall not include Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Retail Marijuana Establishments, or Retail Marijuana Social Clubs.

Hotels/Motels: A building or group of buildings designed for overnight accommodations for travelers and transients in rental guest rooms with or without cooking facilities but most accommodations having their own bathrooms. This definition includes Bed and Breakfasts with more than five (5) rooms, tourist courts, motor courts and motor lodges, but excludes lodging houses, boarding houses, rooming houses and dormitories.

Household Pets: Those pets normally considered as household companions, but not including horses, cattle, sheep, goats, swine, chickens, turkeys or any animals raised for sale or for the sale of their products which shall be deemed farm animals.

Impervious Surface/Cover: Structures and other man-made improvements to land, and materials covering the land, which substantially reduce the infiltration of water. Impervious surfaces shall include but not be limited to roofs, paved areas, and parking lots and driveways, regardless of the surface materials.

Kennel: Any place, building, tract of land, adobe, enclosure, or vehicle where three or more dogs or three or more cats, owned singly or jointly are kept for any purpose, including but not limited to breeding, hunting, show, field trials or exhibition, or where one or more dogs or other pets are kept for their owners in return for a fee. This definition shall not apply to dogs or cats under the age of six months. Conditional Use and Site Plan Review approval by the Planning Board are required for this use to be established.

Leachable Wastes: Waste materials, including solid wastes, sludge, industrial uses and agricultural wastes capable of releasing contaminants to the surrounding environment.

Light Manufacturing: The fully enclosed assembly or fabrication of materials specifically excluding processes such as smelting, refining, distilling, forging, and similar uses that convert raw materials to a finished or semi-finished product(s). This use may involve warehousing directly associated with the light manufacturing but does not include more traffic-intensive use(s) such as a Trucking Terminal. This use is subject to performance standards in the Light Manufacturing Overlay District. Light Manufacturing shall not include Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, or Retail Marijuana Establishments.

Lot: A parcel of land having distinct and defined boundaries and described in a deed, plot or similar legal document.

Lot Area: The total land surface area within the lot lines.

Lot, Back: Any lot without direct frontage on a street. Legal access for development purposes can be added to a back lot through the back lot easement provisions of this ordinance.

Lot, Corner: A lot with at least two (2) contiguous sides abutting upon a street and/or private way.

Lot, Coverage: The percentage of the lot covered by all buildings.

Lot Lines: The property lines bounding a lot and as further defined below:

1. **Front Lot Line:** Any line separating the lot from a street(s) or right(s) of way. On a corner lot, the line separating the lot from both streets or rights of way. In such cases, both lines abutting the street or private way are treated as front lot lines for the purposes of setbacks.
2. **Rear Lot Line:** The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot lines, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds.

Lot Width: The distance between the side lot lines of the lot measured at the front setback line.

Manufactured Housing Unit: Structures, transportable in one or more sections, which were constructed in a manufacturing facility and transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

Manufacturing/Processing: Uses such as a textile mill, shoe factory, metal fabrication, canning of foods, meat packing or grain mill, the preparation of finished products made from foodstuff, fabrics, leather, wood, paper, rubber, stone, clay, glass, plastics, manmade materials and other similar materials. . Manufacturing and Processing shall not include Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, or Retail Marijuana Establishments.

Marijuana: The leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not.

Marijuana Concentrate: The resin extracted from any part of the plant genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including hashish. In determining the weight of marijuana concentrate, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

Marijuana Paraphernalia: Equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, smoking or otherwise introducing into the human body marijuana for medical use or recreational use as defined in this Chapter, including, without limitation, water pipes, hashish pipes, glass pipes, bongs, vaporizers, scales rolling papers, hydroponic equipment and grow lights and general tobacco products in so-called smoke shops.

Market Value: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mechanical Repair Garage: A place where general mechanical repairs to motor vehicles and related equipment that are predominantly not utilized on roads or highways may be performed. Collision services such as bodywork, frame or fender straightening and repairs such as repainting and undercoating are excluded. The storage or sale of engine fuels and kerosene or the storage of unlicensed vehicles is not permitted. The fabrication of parts for such motor vehicles and related equipment may be performed.

Medical Facilities: A facility, which contains establishment dispensing health services including clinics and/or groups of doctors in an office complex. A Medical Facility shall not include primary or accessory uses associated with the cultivation or dispensing of Medical Marijuana.

Medical Marijuana: Medical Marijuana means marijuana used for “medical use,” as that term is defined herein.

Medical Marijuana Cultivation Facility: Medical Marijuana Cultivation Facility means a not-for-profit entity registered pursuant to the laws of the State of Maine and Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as may be amended from time to time, that is a Medical Marijuana Dispensary’s permitted additional location for the cultivation of marijuana. Any facility providing space for three or more marijuana growers/cultivators or an excess of 60 plants is also a Medical Marijuana Cultivation Facility for purposes of this Ordinance. A Medical Marijuana Cultivation Facility shall not include a Retail Marijuana Establishment.

Medical Marijuana Dispensary: A Medical Marijuana Dispensary is a not-for-profit entity registered by the State of Maine that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses Medical Marijuana or related supplies and educational materials to qualifying patients and primary caregivers of those patients and may also be referred to as a “registered dispensary” as that term is defined in 22 M.R.S.A. § 2422(6), as may be amended from time to time. A Medical Marijuana Dispensary shall not include a Retail Marijuana Establishment.

Medical Use of Marijuana: “Medical use” means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered patient's debilitating medical condition or symptoms associated with the registered patient’s debilitating medical condition.

Mineral Exploration: Hand sampling, test boring or other methods of determining the nature or extent of mineral resources, which create minimal disturbance to the land.

Minimum Lot Area: The land area of a parcel, not including the area of any land which is: beneath roads or driveways serving more than two lots, and areas which are part of a right of way for a street or easement, such as but not limited to, surface drainage easements or traveled rights of way (but not including utility easements servicing that lot).

Mobile Home: A detached, single-family dwelling unit with the following characteristics:

1. Manufactured as a relocatable living unit without a permanent foundation, designed for long-term, year-round occupancy and containing sleeping accommodations, a toilet, a tub or shower bath and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment to outside systems.
2. Designed to be transported, after fabrication, on its own chassis, and connected to utilities upon being placed on a permanent foundation or mobile home stand.
3. Designed to be installed with only incidental unpacking and assembling operations.

Mobile Home Park: A parcel of land under unified ownership approved by the municipality for the placement of three (3) or more mobile homes.

Mobile Vendor: Mobile Vendor shall mean and include any food service establishment not more than eight (8) feet in width and eighteen (18) feet in length attached to wheels and which is capable of

moving under its own power or being a self-contained unit to be readily moved and must have a wash basin and napkins if selling food, and which has all utilities and facilities contained within it or is capable of hookup thereto, in order to serve persons present at its location. The term shall exclude any use which falls exclusively within the definition of “lunch wagon” under 30-A.M.R.S.A. Sec. 3931 as amended from time to time.

Municipal Uses: A municipally owned or operated facility performing any governmental function including but not limited to municipal buildings, structures and facilities, public parks, public recycling facilities, public recreation facilities and fire stations. This definition does not include public schools.

Multifamily Development: A lot which contains one or more multifamily dwellings, two or more duplexes, three or more single family dwellings, or any combination of buildings containing three or more dwelling units.

Net Residential Area: The net area of a parcel or site that is generally suitable for development in its natural state. Net residential area shall be determined by subtracting unsuitable and marginal areas from the gross land area as calculated in Section 401.13.18 of the Town of Gray Subdivision Ordinance.

Net Residential Density: Net residential density shall mean the number of dwelling units allowed on a parcel or site after unsuitable land is deducted and the minimum area per lot (or dwelling unit in the case of multi-family) for the District is applied to the remaining suitable land area.

New Pit Operations: Creation of new sand, fill or gravel pits. New pit operations are subject to rehabilitation requirements as specified in this Ordinance.

Non-Conforming Lot of Record: A lot shown on a plan or deed recorded prior to the effective date of this ordinance or amendment which does not meet the area, frontage, width or depth requirements of the District in which it is located but which met all such requirements at the time it was created.

Non-Conforming Structure: A structure that does not meet all of the following dimensional requirements: set-backs, height, and lot coverage; but which met all such requirements at the time it was constructed.

Nonconforming Use: Use of land or structures that is not permitted in the district in which it is located or which does not meet the performance standards proscribed for it by this ordinance but which was permitted and did meet all standards at the time it was established.

Nursing Home: An institution that provides nursing or convalescent care to chronic or convalescent patients, but does not provide hospital services such as an operating room or x-ray facility unless incidental to the delivery of nursing or convalescent care.

Office, Business or Professional: The place within and from which a person or persons conducts a business providing, by way of example, but not limited to, a trade, professional or service to clients or customers. Business and professional offices may include, but are not limited to, offices for plumbing, electrical, and other construction trades, firms or contractors (including headquarters); and for lawn care and building cleaning companies; and for lawyers, doctors, accountants, engineers and other professional consultants. Personal services, Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Retail Marijuana Establishments, and Retail Marijuana Social Clubs are not included in this definition.

Open Space: Land or water area not involving a structure, earth-moving activities, the removal or destruction of vegetative cover, spawning ground of fish and aquatic life or bird and other wildlife habitat.

Operator: The owner or operator of an excavation.

Passive Recreation: Outdoor recreational activities which involve no structural or mechanical components or facilities, or earth moving, such as hiking, fishing, hunting, etc.

Patio: An uncovered floor, usually made on concrete, brick or other masonry material, which is not elevated above the surface of the ground in any matter.

Permitted Use: A use specifically allowed in a zoning district without the need for any review by a Town regulatory Board but subject to all zoning and building code requirements. Retail Marijuana Establishments and Retail Marijuana Social Clubs are expressly prohibited in all zoning districts within the Town.

Personal Property: Property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Personal Service: Uses such as a laundromat, laundry, dry cleaning establishment, beauty shops, barber shops, shoe repair, photographic studio and similar businesses providing services of a personal nature.

Planned Unit Development: A commercial and retail land development project comprehensively planned as an entity via a unitary site plan which permits flexibility in building, siting, mixtures of commercial and retail types and land uses, usable open spaces, and the preservation of significant natural features.

Principal Building: The building in which the primary use of the lot is conducted.

Principal Use: The primary use to which the premises are devoted, and the main purpose for which the premises exist, provided however that use of any portion of a lot pursuant to an easement for Commercial Recreation, Outdoor shall not constitute a Principal Use or structure of said lot.

Private Assembly: A gathering of a number of people for meetings of a private nature such as social clubs, fraternal and service organizations, or cultural enrichment and primarily not for profit.

Private Landing Strip for Personal Aircraft: A landing strip restricted to private and personal use. Includes areas for landing helicopters subject to the provisions of the Ordinance.

Private Way: Any access way, designated for private or public use by a group of property owners, but not under public ownership and maintenance.

Prohibited Use: All uses not specifically allowed as Permitted Uses or Conditional Uses, except as provided by Section 402.5.2 D of this Ordinance.

Professional Offices: The place of business for doctors, lawyers, accountants, architects, surveyors, psychiatrists, psychologists, counselors, but not including financial institutions or personal services.

Protected Natural Resource: As defined in 38 MRSA Section 480-B Subsection 8.

Public Assembly – Indoor: Use such as theaters, playhouses, arenas, field houses or auditoriums.

Public Assembly – Outdoor: Use such as drive-in movies, race tracks, or stadium.

Public Building: A building owned, operated or funded in whole or in part by the Town of Gray which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to the Municipal Offices, Stimson Hall, the Gray Public Library, Newbegin Gym, the Public Safety Building, and the Fire Stations.

Public Utilities: The office, plant, generating facility, substation, or transmission lines of a person, firm or corporation, board or commission authorized to furnish gas, steam, electricity, communication facilities, transportation or water to the public.

Public Works Projects: A project for the Town of Gray, other municipal entity, or the State of Maine including, but not limited to, the Maine Department of Transportation, and the Maine Turnpike Authority.

Quarry: An excavation for the extraction of rock.

Recharge Areas: Areas composed of porous sand and gravel, or other areas that collect precipitation or surface water and carry it to aquifers.

Reclamation: Reclamation means the rehabilitation of the area of land affected by mining, including, but not limited to, the stabilization of slopes and creation of safety benches, the planting of forests, the seeding of grasses and legumes for grazing purposes, the planting of crops for harvest, the enhancement of wildlife and aquatic habitat and aquatic resources and the development of the site for residential, commercial, recreational or industrial use.

Recreational Vehicle: A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must possess a current registration sticker from any state Division of Motor Vehicles.

Recreational Use of Marijuana: Recreational use of marijuana means personal use of marijuana as permitted in 7 M.R.S.A. § 2452, as may be amended from time to time.

Redemption Center: A place of business which deals in acceptance of empty returnable beverage containers from either consumers or from dealers, or both, and which is licensed by the State of Maine as a redemption center.

Registered Patient: Registered patient means a “registered patient” as that term is defined in 22 M.R.S.A. § 2422(12), as may be amended from time to time.

Registered Primary Caregiver: Registered primary caregiver means a “registered primary caregiver” as that term is defined in 22 M.R.S.A. § 2422(11), as may be amended from time to time.

Repair Service: A business engaged in the servicing or repair of equipment and goods customarily associated with residential households rather than businesses. Such uses may include, but are not be limited to, the servicing or repair of: appliances, watches, jewelry, bicycles, computers and electronic equipment typically used in households. The servicing of any motorized vehicle, construction-related equipment, or recreational vehicle or accessory is specifically excluded from this definition. In no event shall there be any retail sales or outdoor storage associated with the repair service unless otherwise allowed in the district and specifically approved under Site Plan Review.

Research Facilities: A building or buildings and/or structure or structures and any accessory equipment or use in directing scientific or other forms of human inquiry into phenomena including but not limited to nature, human nature, the physical environment, eco-systems, other systems and products and devices.

Residential Open Space Subdivision: A form of single-family residential development that provides flexibility in design and promotes creating open space by reducing lot area and bulk requirements for

individually owned lots, provided that the allowed number of lots does not exceed the required zoning density standards for the respective district.

Restaurant: A business establishment where food and drink are prepared, served, and consumed primarily within the principal building. Providing food to patrons shall clearly be the primary use and the serving of alcoholic beverages shall be ancillary (see Tavern). Outdoor seating is permitted with Planning Board approval. Drive-Through facilities shall not be permitted unless it is a permitted/conditional use and specifically approved by the Planning Board. In no event shall a Restaurant be permitted to prepare, sell, serve or allow to be consumed on premises Retail Marijuana or Retail Marijuana Products.

Retail Marijuana: Marijuana or Marijuana Concentrate that is cultivated, manufactured, distributed or sold by a licensed Retail Marijuana Establishment or Retail Marijuana Social Club.

Retail Marijuana Cultivation Facility: An entity licensed to cultivate, prepare and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail Marijuana Establishment: A Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility or a Retail Marijuana Testing Facility.

Retail Marijuana Product: Concentrated retail marijuana and retail marijuana products that are composed of Retail Marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and tinctures.

Retail Marijuana Products Manufacturing Facility: An entity licensed to purchase Retail Marijuana; manufacture, prepare and package Retail Marijuana Products; and sell Retail Marijuana and Retail Marijuana Products only to other Retail Marijuana Products Manufacturing Facilities, Retail Marijuana Stores and Retail Marijuana Social Clubs.

Retail Marijuana Social Club: An entity licensed to sell Retail Marijuana and Retail Marijuana Products to consumers for consumption on the licensed premises.

Retail Marijuana Store: An entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Products from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana products to consumers.

Retail Marijuana Testing Facility: An entity licensed and certified to analyze and certify the safety and potency of Retail Marijuana and Retail Marijuana Products.

Retail Trade: Any business engaged in sales to the ultimate consumer for direct consumption and/or use, and not for resale. The term retail trade shall include such uses as stores for the sale of hardware, food, apparel, furniture, jewelry, drugs, general merchandise, photographic equipment, athletic equipment, appliances, reading material, automobile sales and banks. Retail trade shall not include the sale of Marijuana for Medical Use or Recreational Use, or Marijuana Paraphernalia.

Rock: A hard non-metallic material that requires cutting, blasting, or similar methods of forced extraction.

Schools: An institution either public or private for education or instruction, including a college, university or school conducting classes pursuant to a program approved by the State Board of Education or similar governmental agency, but not including commercially operated schools, such as schools of beauty culture, business, dancing, driving, music or recreation which shall be deemed retail businesses.

Self-Storage Facility: A structure containing separate storage spaces of varying size, leased or rented on an individual basis.

Setback: The horizontal distance from a lot line to the nearest part of a structure, including any building overhangs.

Silt or Clay: A material that consists of particles of such size that forty-five (45) percent or more of the fraction of those particles able to pass through a three (3) inch sieve pass through the United States Standard Number 200 sieve, or a material that exhibits similar erosion potential, difficulty of stabilization, or runoff based upon gradation, plasticity, permeability, or other relevant criteria.

Similar Use: A use which is not specifically listed as a permitted or conditional permitted use in the Ordinance but is similar to and not more objectionable than those listed in the Ordinance as determined by the Planning Board under the conditional use criteria of Section 402.9.3. In no event shall a Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary, Retail Marijuana Establishment, or Retail Marijuana Social Club be deemed a similar use.

Site Plan Review: The process by which the Planning Board reviews and may attach conditions under the conditional use criteria and site plan review standards to uses that are of such a scale and nature that they may affect the physical and visual environment, the provision of public services, the value and rights of adjoining properties, and the health, safety and welfare of the citizens.

Sludge: Residual materials produced by water or sewage treatment processes and by domestic septic tanks.

Solid Waste: Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing. This includes, but is not limited to, rubbish garbage, scrap materials, junk and refuse.

Specified Sexual Activities:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Stream, Year-Round: Any stream that is marked on a USGS map by a solid line.

Street: An existing state, county, or town way; a street shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds: or a street shown on a plan duly recorded in the County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term "street" shall not include those ways which have been discontinued or abandoned.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground, including buildings, commercial park rides and games, carports, decks, and other building features, but not including signs, sidewalks, fences, patios, driveways, and parking lots.

Subdivision: This ordinance defines "Subdivision" as it is defined in 30-A M.R.S.A. Section 4401 to mean the division of a tract or parcel of land into three (3) or more lots within any five (5) year period that begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units on a single

tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five (5) year period. This definition and all other provisions in 30-A M.R.S.A. Section 4401 as may be amended from time to time is also incorporated into this definition.

Substantial Expansion: Floor space increase of 25% or new materials or processes not normally associated with the existing use.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historical Places.

Substantial Start: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tavern: A business establishment, serving either the general public or a private party, where beverages and/or food are prepared, served, and consumed predominantly within the principal building. Serving beverages shall clearly be the primary use and providing food shall be ancillary (see Restaurant). The retail sale of prepackaged beverages or food to be consumed off the premises is specifically prohibited. Approval by the Planning Board for Conditional Use and Site Plan Review is required for any food or beverage consumption outside the principal building. In no event shall a Tavern be permitted to prepare, sell, serve, or allow to be consumed on premises Retail Marijuana or Retail Marijuana Products.

Timber Harvesting: The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Topsoil: The top layer of soil that is predominantly fertile and ordinarily moved in tillage or the equivalent of such a layer in uncultivated soils.

Travel Trailer: Any portable vehicle which is designed to be transported on its own wheels; which is temporarily living quarters for travel, recreational, vacation or construction purposes; and which may or may not contain one or all of the accommodations and facilities included in a mobile home.

Trailer, Utility: A vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

Trucking Terminal: A building or buildings and/or structure or structures and any other facilities for the loading and off-loading of goods from trucks, the temporary storage of said goods, spaces for the temporary overnight parking of trucks, facilities for the normal and routine maintenance of trucks, accessory uses thereto including but not limited to dispatcher's office or administrative or recordkeeping office.

Undue Hardship: Legal criteria established by State statute that must be met before a variance from the requirements of the Zoning Ordinance can be granted by the Board of Zoning Appeals:

1. That the land in question cannot yield a reasonable return unless a variance is granted;
2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
3. That the granting of a variance will not alter the essential character of the locality; and
4. That the hardship is not the result of action taken by the applicant or a prior owner.

Use: The purpose for which land or a structure is arranged, designed, intended, or for which land or a structure is or may be occupied.

Variance: A relaxation of the terms of this ordinance. Variances permissible under this ordinance are limited to dimensional and area requirements subject to the hardship criteria. No variance shall be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of nonconformities of other buildings or uses in the immediate or adjacent areas.

Warehousing: A land area where goods, wares, and merchandise are stored in a warehouse facility and/or in outdoor areas. This use may involve light manufacturing directly associated with the warehousing but does not include more traffic-intensive use(s) such as a Trucking Terminal. This use is subject to performance standards in the Light Manufacturing Overlay District. Warehousing and associated light manufacturing shall not include Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, or Retail Marijuana Establishments.

Wholesale Trade: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. Wholesale Trade shall not include the sale of Marijuana for Medical Use or Recreational Use.

Working Excavation: The area of extraction, including side slopes, of an excavation for borrow, topsoil, loam, gravel, rock, sand, clay, silt, or other similar non-metallic earth materials whether alone or in combination. The area of a "working excavation" does not include areas for stockpiles, permanent fixed structures such as an office building, permanent processing facility, or fixed fuel storage.

Veterinary Hospital or Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight accommodations. The overnight boarding of healthy animals shall be considered a kennel.

Zoning District: A specified portion of the municipality, delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

ARTICLE 3 – OFFICIAL ZONING MAP

402.3.1 Official Zoning Map

Districts are located and bounded as shown on the Official Zoning Map which is made a part of this ordinance. The Shoreland Zoning District boundaries are determined by the terms of Chapter 403 the Shoreland Zoning Ordinance creating that district, and any delineation of them on the Official Zoning Map shall be for reference only and shall not supersede or modify such boundaries as created in that Ordinance.

402.3.2 Certification of Zoning Map

The Official Zoning Map is certified by the attested signature of the Town Clerk under the following words: "This is the Official Zoning Map referred to in Section 402.3.2 of the Zoning Ordinance of the Town of Gray," together with the date of the adoption of this Ordinance. The official copy shall be located in the office of the Town Clerk.

402.3.3 Changes of the Official Zoning Map

If changes are made in the district boundaries or other matter portrayed on the Official Zoning Map such changes shall be made on the Official Zoning Map within thirty (30) days after the amendment has been adopted together with an entry on the Official Zoning Map as follows:

"On (insert date) by official action of the Town Council, the following change(s) was (were) made: (insert brief description of the nature of change)."

Immediately beneath the entry the Town Clerk shall place their signature.

402.3.4 Rules Governing District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map the following rules shall apply.

- A. Boundaries indicated as approximately following the center lines of streets, highways, railroad rights-of-way, rivers, or streams shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following Town limits shall be construed as following Town limits.
- D. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.
- E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or other circumstances not covered by subsections A through E above, the Planning Board shall interpret the district boundaries.

Chapter 402 Gray Zoning Ordinance

- G. The delineation of the Wellhead Protection Districts is shown on the official Zoning Map. In addition, delineation boundary markers, including coordinates are as follows: [To be provided by Sevee & Maher, consulting engineers to the Gray Water District].

ARTICLE 4 - ZONING DISTRICTS

402.4.1 Zoning Districts Established

For the purpose of this Ordinance, the Town of Gray is hereby divided into fifteen (15) Districts and two (2) Overlay Districts:

Districts & Overlay Districts created by the Zoning Ordinance

1. Rural Residential & Agriculture	“RRA”
2. Lake District	“LD”
3. Medium Density	“MD”
4. Business Development 1	“BD-1”
5. Business Development 2	“BD-2”
6. Commercial	“C”
7. Village Center	“VC”
8. Village Center Proper	“VCP”
9. Business Transitional 1	“BT-1”
10. Business Transitional 2	“BT-2”
11. Wellhead Protection 1	“WH-1”
12. Wellhead Protection 2	“WH-2”
13. Mobile Home Park Overlay District*	“MHP”
14. Light Manufacturing Overlay District	“LMOD”

* Mobile Home Park Overlay District created by separate Mobile Home Park Ordinance.

Districts created by the Shoreland Zoning Ordinance

15. Resource Protection	“RP”
16. Limited Residential	“LR”
17. Stream Protection	“SP”

For regulations affecting the Resource Protection and Limited Residential, and Stream Protection Districts, see the Town of Gray “Shoreland Zoning Ordinance” dated December 3, 1991 and as amended.

402.4.2 Zoning Districts Purposes

A. Purposes of the Rural Residential and Agricultural District:

The Rural Residential and Agricultural District is located in the most rural and sparsely populated sections of the Town, and extends beyond the areas of Gray that may reasonably be serviced by

public water and sewer. It is the intent of this district to encourage low density development which will enhance, reinforce and protect the rural/open space environment currently characterizing these areas of the Town and to promote Agritourism on agricultural, forested and open space land for the use and enjoyment of these lands by allowing owners or operators of land to develop and offer accommodations, food and hospitality services on lands within this zone.

B. Purposes of the Lake District

The Lake District contains the watershed areas of Gray's lakes, exclusive of the land within the boundaries of the Shoreland Zoning Districts. It is the intent of this district to help protect the sensitive lake watershed areas and to contribute to the protection of surface water quality by limiting the density of development.

C. Purposes of the Medium Density District

This district is located in areas, outside of the village center which are currently serviced by public water, with the exception of the area on Route 100 from Whitney Road, south to the Cumberland Town Line. Most of these areas are presently developed for predominantly residential uses. It is the intent of this district to recognize present relationships between land use and natural features by preserving the predominant residential character while allowing a somewhat denser development to occur than in other areas of the Town.

D. Purposes of the Business Development District

This district is located in areas of the community which are most suited for larger scale business activities such as business parks, warehouses, and manufacturing. The purpose of this district is to allow more intense business uses, while protecting the public health and safety, environmental quality and economic well-being of the Town of Gray. Businesses in this area must also maintain the rural character of the community. Community services and road access were important criteria for selecting such areas.

The Business Development District is further divided into two sub-districts as shown on the Gray Zoning Map. The uses allowed in Business Development 2 (BD-2) District are less restrictive than those in the Business Development 1 (BD-1) District and allow more flexibility reflecting the unique nature of the existing business and industrial campus.

E. Purposes of the Commercial District

This is a district designed to continue the Rural New England character by providing services and shopping opportunities to the residents of the community and to visitors. It is designed to encourage a pleasant, shopping environment. Commercial establishments may be more auto intensive than in the Village District.

F. Purposes of the Village Center and Village Center Proper Districts

The purpose of the Village Center District and the Village Center Proper District, which is contained within the center of the Village Center District and is its most densely developed portion, is to provide services and shopping opportunities to the residents of the community, and to visitors, in a pleasant, village type, shopping environment.

G. Purposes of the Business Transitional Districts

This is a district designed to provide services and shopping opportunities to the residents of the community and to visitors. It is designed to encourage a pleasant shopping environment that is

consistent with New England character and serves as a transitional zone between residential and rural areas to the north and the more densely developed Village area to the south. This area lies near the new Route 26A westerly bypass, and is proximate to the Wellhead Protection Zoning District, meriting limitations on development and prohibition of certain uses in order to protect groundwater quality and recharge potential for present and future use of this resource by individuals, industries, or public bodies. Commercial establishments may be more auto intensive than in the Village District.

The Business Transitional District is further divided into two sub-districts. Business Transitional 1, lies outside the wellhead capture zone of the Gray Water District as shown on the Gray Zoning Map. Business Transitional 2 lies within the capture zone and adds special requirements to protect groundwater quality and the Town's drinking water supply. The uses allowed within Business Transitional 1 are more restrictive due to the proximity to adjacent residential neighborhoods. The uses allowed in Business Transitional 2 are less restrictive reflecting its proximity to the Maine Turnpike, the downtown area, and its prior designation as Wellhead District 2.

H. Purposes of the Wellhead Districts

The intent of the Wellhead Protection Zoning Districts is to protect the ground water resources of the Gray Water District from harmful contaminants that can reasonably be expected to accompany certain uses of land. Wellhead Protection District 1 is the smaller and the more restrictive Wellhead Protection District with its dimensions based upon an estimated two hundred (200) day water travel time. Wellhead Protection District 2 is the larger and the less restrictive Wellhead Protection District with its dimensions based upon the location of the wellhead capture zone and estimated water travel times greater than two hundred (200) days.

I. Purposes of the Mobile Home Park Overlay District

See the Mobile Home Park Ordinance.

J. Purposes of Light Manufacturing Overlay District

The purpose of the Light Manufacturing Overlay District (LMOD) is to provide greater flexibility for businesses engaged in manufacturing, warehousing, and directly associated uses to conduct and expand operations in Gray. The performance standards and review criteria associated with the District are intended to minimize the adverse impacts of the use to abutting and neighboring properties.

K. Purposes of the Resource Protection, Limited Residential and Stream Protection Districts

See the Shoreland Zoning Ordinance.

402.4.3 Applicability of Zoning Provisions to Districts

All uses of land and development of property within the established Zoning Districts of the Town of Gray shall conform to the standards, criteria, and administrative procedures set forth in this Zoning Ordinance.

ARTICLE 5 - ZONING DISTRICT REGULATIONS

402.5.1 Basic Requirements for Compliance with Codes and Ordinances

Permitted Uses and Conditional Permitted Uses in all districts shall conform to all applicable specifications and requirements of this Zoning Ordinance. A Plumbing Permit, Building Permit, and/or Certificate of Occupancy shall be required for all buildings, uses of land and buildings, and sanitary facilities, according to the provisions of this ordinance and all other applicable codes, ordinances, and laws of the Town of Gray and the State of Maine.

402.5.2 Legal Rights and Responsibilities to Uses of Land and Property

The Uses listed in this Zoning Ordinance are divided into four categories:

- A. Permitted Uses are “by right” provisions that require no special review or approval other than standard building permits for most projects, and Planning Board site plan review when the proposed development falls within the thresholds for site plan review based on the type of use and/or the scale of development.
- B. Conditional Permitted Uses are permitted whenever the Planning Board determines upon review that the Conditional Use criteria have been met. The burden is on the applicant to demonstrate that proposed development meets the Conditional Use criteria, but upon satisfactory demonstration of compliance with the criteria, and subject to any conditions applied by the Planning Board to meet those specific criteria, Conditional Permitted Uses have the same inherent rights under the Zoning Ordinance as Permitted Uses.
- C. Prohibited Uses include any use not specifically listed as a Permitted Use or a Conditional Permitted Use. All unlisted land uses are prohibited on all lots and property in Gray unless specifically provided for by State law and regulated by the State (e.g., forestry).
- D. Similar Uses are uses that are variations of Permitted or Conditional Permitted Uses that develop over time through market and/or technological changes and do not fit precisely in the ordinance list of uses. This Zoning Ordinance grants to the Planning Board authority to determine that a use similar to but not specifically listed as a Permitted or Conditional Permitted Use can be approved by the Planning Board subject to the Conditional Use Criteria of Article 9.

402.5.3 District Regulations

Land uses permitted in each district, in conformance with the General Performance Standards in Articles 6 and where applicable, the Specific Performance Standards of Articles 7 and 8 are shown in the following table:

Key: P - Permitted Use

C - Conditional Permitted Use: requires Planning Board review under Article 9 if classified as a Major Development under Article 10 (Section 402.10.6). Minor Developments are treated as Permitted Uses.

‡ - Subject to Specific Performance Standards in Article 7.

* - Subject to Specific Performance Standards in Article 8.

Chapter 402 Gray Zoning Ordinance

TABLE 402.5.3 TABLE OF PERMITTED USES AND CONDITIONAL PERMITTED USES

		RRA	LD*	MD	BD-1	BD-2	C	VC*	VCP*	BT-1*	BT-2*	WH-1*	WH-2*	LMOD
1.	Accessory Apartment ‡	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C		P/C	
2.	Accessory Uses and Structures	P	P	P	P	P	P	P	P	P	P	P	P	
3.	Adult Business*						C							
4.	Agritourism Center*	C												
5.	Agritourism Facility*	C												
6.	Animal Husbandry	P	P		C	C	C				C		C	
7.	Auto Body Shop				C	C	C							
8.	Auto Repair Garage						C							
9.	Auto Service Station				C	C								
10.	Bed and Breakfast ‡	C	C	C	P	P	P	P	P	P	C		C	
11.	Building Trades Occupations – 1	P	P	P	P	P	P	P	P	P	P	C	P	
12.	Campground ‡	C	C											
13.	Cemetery	P					C							
14.	Church	P	P	P	P	P		C	C		C		C	
15.	Commercial Recreation - Indoor or Outdoor	C	C		C	C	C	C	C	C	C		C	
16.	Community Living Arrangement	P	P	P	P	P	P	P	P	P	P	P	P	
17.	Construction Services				P	P					C		C	
18.	Day Care Facility for Five (5) or fewer clients.	P	P	P	P	P	P	P	P	P	P		P	
19.	Day Care Facility for Six (6) or more	C	C	C	C	C	C			C	C		C	
20.	Drive Through and Drive in Facility					1C	C			C	C		C	
21.	Expansion of Nonconforming Uses	C	C	C	C	C	C	C	C	C	C	C	C	

Chapter 402 Gray Zoning Ordinance

		RRA	LD *	MD	BD-1	BD-2	C	VC *	VCP *	BT-1 *	BT-2 *	WH-1 *	WH-2 *	LMOD
22.	Farm Stand ‡	P	P	P	P	P	P	P	P	P	P		P	
23.	Flea Market, Open Air Market ‡	C	C	C	C		C	P	P					
24.	Garage Sale	P	P	P	P	P	P	P	P	P	P	P	P	
25.	General Agriculture	P		P	P	P	P				C		C	
26.	Headquarters for a Contracting Business	C	C	C	P	P					C		C	
27.	Heliport	C	C		C	C								
28.	Home Occupation ‡	P	P	P	P	P	P	P	P	P	P	C	P	
29.	Hotel and Motel				C	C	C			C				
30.	In-Home Offices‡	P	P	P	P	P	P	P	P	P	P	P	P	
31.	Kennels	C	C				C						C	
32.	Light Manufacturing				P	P								P/C
33.	Manufacturing and Processing				C	C								
34.	Mechanical Repair Garages	C			P	P	C							
35.	Medical Facility	C	C	C		C	C	C	C	C				
36.	Medical Marijuana Cultivation Facility*				C	C	C	C						
37.	Medical Marijuana Dispensary*							C						
38.	Mineral Excavation	P	P	P	P	P	P							
39.	Mineral Exploration	C			P	P		P	P		P	P	P	
40.	Mobile Vendor	P	P	P	P	P	P	P	P	P				
41.	Motel (< 11 rooms)	C	C			C								
42.	Multi-family Development			C	C	C	C	C	C	C				
43.	Municipal Uses	C	C		C	C	C	C	C	C	C		C	

Chapter 402 Gray Zoning Ordinance

		RRA	LD*	MD	BD-1	BD-2	C	VC*	VCP*	BT-1*	BT-2*	WH-1*	WH-2*	LMOD
44.	Nursing and Convalescent Home	C	C	C	C	C	C			C				
45.	Office			C	P	P	P	P	P	C	C		C	
46.	Personal Services				C	C	C	C	C	C				
47.	Planned Unit Development ‡				C	C	C	C	C	C				
48.	Places for Public Assembly, Indoor and Outdoor	C	C		C	C		P	P					
49.	Private Assembly				C	C	C	C	C					
50.	Private Landing Strips for Personal Aircraft ‡	C			C	C								
51.	Public Utilities	C	C	C	C	C	C	C	C	C	C	C	C	
52.	Redemption Center						C			C			P	
53.	Repair Service				P	P	C	P	P		C		C	
54.	Research Facility				C	C		C	C					
55.	Residential Open Space Subdivisions	P	P	P										
56.	Restaurant				P	P	C	P	P	C	C			
57.	Retail Trade				P	P	C	P	P	C	C		C	
58.	School	P	P	P		C	C	C	C	C	C		C	
59.	Self-Storage Facility				C	C	C			C				
60.	Single-Family Dwelling	P	P	P	P	P	P	P	P	P	P	P	P	
61.	Similar Uses	C	C	C	C	C	C	C	C	C	C	C	C	
62.	Tavern					C	C	C	C					
63.	Trucking Terminal				C	C								
64.	Two-Family Dwelling	P	P	P	P	P	P	P	P	P	P		P	
65.	Warehousing				P	P								P/C
66.	Wholesale Trade				C	C		P	P					

1 Drive through and drive in facilities are allowed only as an accessory use to the permitted and conditional uses in the Business Development 2 District; see Section 402.8.8(A).

402.5.4 Districts Dimensional Requirements

Lots and structures in all districts shall meet or exceed the following minimum requirements.

TABLE 402.5.4 A - LOT DIMENSION & DENSITY STANDARDS					
ZONING DISTRICT	Minimum Lot Area	Minimum Street Frontage ^C	Minimum Area Per Dwelling Unit (Town Water)	Minimum Area Per Dwelling Unit (Private Well)	Maximum Impervious Surface
RRA	80,000 sq. ft.	200 ft.	40,000 sq. ft.	40,000 sq. ft.	N/A
LD	80,000 sq. ft.	200 ft.	N/A	80,000 sq. ft.	N/A
MD	40,000 sq. ft. ^A (80,000)	150 ft.	20,000 sq. ft.	40,000 sq. ft.	N/A
BD-1	80,000 sq. ft.	200 ft.	40,000 sq. ft.	40,000 sq. ft.	50 %
BD-2	80,000 sq. ft.	200 ft.	40,000 sq. ft.	40,000 sq. ft.	85 %
C	40,000 sq. ft.	200 ft.	20,000 sq. ft.	40,000 sq. ft.	65 %
VC	20,000 sq. ft.	40 ft.	10,000 sq. ft.	10,000 sq. ft.	75 %
VCP	20,000 sq. ft.	40 ft.	10,000 sq. ft.	10,000 sq. ft.	75 %
BT-1	40,000 sq. ft.	150 ft.	20,000 sq. ft.	40,000 sq. ft.	50 %
BT-2	40,000 sq. ft.	150 ft.	20,000 sq. ft.	40,000 sq. ft.	^B 10 (30) %
WH-1	4 Acres	200 ft.	4 Acres	4 Acres	^B 10 (30) %
WH-2	4 Acres	200 ft.	4 Acres	4 Acres	^B 10 (30) %

^A Lots in MD District not served by public water require 80,000 square feet of lot area.

^B Impervious surface and lot coverage in BT-2, WH-1, & WH-2 Districts can be increased to 30% of lot with Planning Board approval subject to the requirements of Section 402.8.4 L for recharge protection.

^C In accordance with Tables 402.5.4.A & B of the Zoning Ordinance, the Planning Board shall have the authority to reduce the minimum street frontage to fifty (50) percent of the required frontage but in no case less than sixty (60) feet of street frontage, whichever is greater, for lots in a Planning Board approved residential subdivision for one or more lots having street frontage only on a cul-de-sac. In such instances, street frontage shall be measured along the outside radius of the cul-de-sac. Lots which have any street frontage not on a cul-de-sac radius as well as lots in a commercial subdivision shall not be eligible for reduced street frontage.

TABLE 402.5.4 B - BUILDING CONSTRUCTION SPATIAL STANDARDS

ZONING DISTRICT	Maximum Lot Coverage	Minimum Lot Line Setback Front	Minimum Lot Line Setback Side	Minimum Lot Line Setback Rear	^A Maximum Building Height
RRA	10 %	50 ft.	^B 25 (15) ft.	50 ft.	35 ft.
LD	20 %	50 ft.	^B 25 (15) ft.	50 ft.	35 ft.
MD	15 %	50 ft.	^B 20 (15) ft.	20 ft.	35 ft.
BD-1	50 %	50 ft.	^B 25 (15) ft.	50 ft.	^C 35 (53) ft.
BD-2	85 %	^E 25 ft.	^E 0 ft.	^E 15 ft.	^C 35 (53) ft.
C	50 %	10 ft.	15 ft.	20 ft.	^C 35 (53) ft.
VC	75 %	10 ft.	0 ft.	10 ft.	35 ft.
VCP	75 %	0 ft.	0 ft.	0 ft.	35 ft.
BT-1	50 %	25 ft.	^D 15 (10) ft.	20 ft.	35 ft.
BT-2	10 (30) %	25 ft.	^D 15 (10) ft.	20 ft.	35 ft.
WH-1	10 (30) %	50 ft.	^B 25 (15) ft.	50 ft.	35 ft.
WH-2	10 (30) %	50 ft.	^B 25 (15) ft.	50 ft.	35 ft.

^A Height requirements do not apply to flagpoles, chimneys, transmission towers, steeples, windmills or similar structures usually erected at a greater height than the principal building; however such accessory structures or appurtenances require a lot line setback distance of no less than its height.

^B Side setback for non-conforming lots of record in RRA, LD, MD, BD-1, WH-1, & WH-2 Districts is 15 feet.

^C Maximum building height in BD-1, BD-2, and C is 53 feet if public water is available and at least two sides of the building are accessible by fire apparatus.

^D Side setback in BT Districts is 10 feet if not abutting a residential property.

^E For any lot in a BD-2 District, the setback for any property line(s) that abuts another district, including BD-1, shall meet the minimum setback(s) for either the abutting district or BD-1, whichever is less restrictive.

ARTICLE 6 – GENERAL PROVISIONS APPLICABLE IN ALL ZONING DISTRICTS

402.6.1 Land Use Requirements

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved, or altered and no new lot shall be created unless in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted that meets the legal requirements of the Ordinance and State law.

402.6.2 Lots

- A. Lots with Multiple Street Frontages
- B. Lots which abut on more than one street shall provide the required front setbacks along every street.
- C. Developable Areas
- D. No structure or other impervious surface may be constructed on land with sustained slopes of twenty-five (25%) percent or greater, nor in any wetland. Subsurface wastewater disposal systems may not be located where soils are unsuitable for septic systems according to the Maine State Plumbing code, as amended.
- E. Building Extensions to Meet Setbacks
- F. All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any required minimum front, side or rear setback.
- G. Only One Principal Building per Lot
- H. No more than one (1) principal structure and its accessory buildings as regulated in this Ordinance may be located on any one lot, except in the case of a Planned Unit Development and Cluster Housing unless all applicable space and dimensional standards are met separately for each principal structure or use on the lot, subject to the following:
 - 1. Where a lot has more than one existing principal structure or use, any new principal structure or use proposed for the lot, or any proposed division of the lot, shall meet all applicable space and dimensional standards for the new lot or principal structure or use; provided, however, before creation of a new principal structure or use on the lot or division of the lot, the property owner shall provide the Code Enforcement Officer with a sketch plan, drawn to scale, in sufficient detail to satisfy the Code Enforcement Officer that it accurately represents the current conditions in the field; and
 - 2. The creation of a new lot or new principal use or structure must satisfy current space or dimensional standards established for the zone in which the lot is located. Where an existing principal structure is legally nonconforming as to any applicable space or dimensional standard, the creation of a new lot or principal use or structure shall not increase the degree of such nonconformity.
 - 3. For lots located in the Business Development 2 Zoning District, the number of uses per principal structure shall be determined by standards established in Section 402.8.8 of this Ordinance.
 - 4. No variances are allowed from the provisions of the preceding paragraphs of this section.

402.6.3 Net Residential Area

Repealed and moved to Chapter 401 Residential Subdivision Ordinance effective February 2, 2017.

402.6.4 Net Residential Density

Repealed and moved to Chapter 401 Residential Subdivision Ordinance effective February 2, 2017.

402.6.5 Non-Conformance with the Requirements of this Zoning Ordinance

A. Continuation, Maintenance, & Replacement of Non-Conforming Structures and Uses

1. **Continuance, Enlargement, Reconstruction:** Any legally existing non-conforming use or non-conforming structure may continue to exist but may not be extended, reconstructed, enlarged, or structurally altered except as specified below.
2. **Transfer of Ownership:** Non-conforming structures, non-conforming lots of record, and non-conforming uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this ordinance.
3. **Restoration or Replacement:** This ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repairs, renovations, or modernizations which do not involve expansion of the non-conforming use or structure; and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require. Any non-conforming use or structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent, may be restored or reconstructed within one (1) year of the date of said damage or destruction, provided that:
 - a. The nonconforming dimensions of any restored or reconstructed structure shall not exceed the non-conforming dimensions of the structure it replaces;
 - b. Any non-conforming structure shall not be enlarged except in conformity with this ordinance and the Maine State Subsurface Wastewater Disposal Rules; and
 - c. Any non-conforming use shall not be expanded in area.

B. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

C. Discontinuance of Non-Conforming Uses

D. **Resumption Prohibited:** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the use. A non-conforming use of land which is accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.

E. Discontinuance of the use of a legally existing non-conforming structure shall not constitute abandonment of the structure. Conforming use of the structure may be commenced at any time.

F. Expansions & Changes Involving Non-Conforming Uses

1. **A Structure Non-Conforming as to Use:** A building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated or approved by the Planning Board under the Conditional Use criteria of Article 9. A non-conforming use of part of a building or structure shall not be extended throughout other parts of the building or structure unless those

parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this ordinance, or of any amendment making such use non-conforming or is approved by the Planning Board under the Conditional Use criteria of Article 9.

2. **Change of Use:** A legally existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Planning Board under the Conditional Use criteria. The determination of appropriateness shall require written findings on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The Conditional Use criteria in Article 9 of this ordinance shall apply to such requests to establish new non-conforming uses.
3. **Use of Land:** A non-conforming use of land may not be extended into any part of the remainder of a lot of land.

G. Expansions not Involving Non-Conforming Uses

H. (Pertaining solely to dimensional requirements of lots and structures. Applications regarding non-conforming uses shall be reviewed under the provisions above.)

1. **Enlargements Controlled:** A non-conforming structure shall not be added to or enlarged unless: such addition or enlargement conforms to all the regulations of the district in which it is located; the addition does not increase the non-conformity of the structure; or a variance is obtained. In addition, state laws and local ordinance requirements must be adhered to. The following actions are not considered to be expansions of non-conforming structures:
 - a. The addition of an open patio with no structures elevated above ground level shall not constitute the expansion of a non-conforming structure. The addition of steps or the enclosure of an existing deck shall not constitute the expansion of a non-conforming structure. But the addition of a deck shall constitute the expansion of a non-conforming structure and shall meet all the dimensional requirements of this ordinance.
 - b. The placing of a foundation below a lawfully existing non-conforming structure shall not constitute the expansion of the structure so long as the first floor space of the structure is not increased.
 - c. Construction or expansion of a foundation under an existing dwelling which expands habitable space shall be considered an expansion and shall be subject to the State Plumbing Laws (Title 30, Maine Revised Statutes Annotated, §3221, Subsection 4) requiring documentation of wastewater disposal capabilities.
2. **Lack of Required Parking or Loading Space:** A building or structure which is non-conforming as to the requirements for off-street parking and/or loading space shall not be enlarged, added to, or altered unless off-street parking and/or loading space is provided to bring parking and/or loading space into conformance with the requirements of this ordinance for both the addition or alteration and for the original building or structure, or a variance is obtained.
 - a. The provision of required off-street parking for an existing non-conforming use that is not being enlarged, added to, or altered shall not be considered the expansion of the use.
3. **Disability Access Structures:** The Code Enforcement Officer may approve construction of access ramps not meeting setback requirements for the purpose of making that property

accessible to a person with a disability who is living on the property. The Code Officer shall restrict any approval granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The approval shall be only for the duration of the disability or the time that the person with the disability lives on the property. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, M.R.S.A. Section 4553.

I. Existing Lots of Record Grandfathered

A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area or width requirements, or both, of the District in which it is located may be built upon provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership, and that all other provisions of this Ordinance shall be met. Variance of yard or other requirements not involving area or width shall be obtained only by action of the Board of Appeals. (Any lot of record, established on or before January 1, 1970 is a legally nonconforming lot.)

J. Required Combination of Substandard Sized Lots

If two (2) or more contiguous lots or parcels are in single ownership of record at the time of adoption or amendment of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of this ordinance, the lands involved shall be considered to be a single parcel for the purposes of this Ordinance and no portion of said parcel shall be built upon or sold which does not meet dimensional requirements of this Ordinance; nor shall any division of the parcel be made which creates any dimension or area below the requirements of this Ordinance.

Notwithstanding the preceding provisions of this subsection, lots depicted on a subdivision plan approved by the Planning Board, on or after 1977 shall be buildable, even if contiguous and in the same ownership, provided however, that any such lot must meet the minimum requirements set forth in 12 M.R.S.A., Subsection 4807-A for minimum lot size with septic systems.

K. Vested Rights when Ordinance is Amended

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required state permits and approvals. Such rights arise when substantial construction of structures, or development of infrastructure improvements for town approved subdivisions, began prior to adoption or amendment of this Ordinance. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits. In the case of pending applications, vesting occurs when the substantive review process on an application has commenced. Substantive review occurs when a completed application demonstrating compliance with all Ordinance requirements has been submitted and reviewed by the Planning Board.

402.6.6 Special Permit Required for Temporary Events

A. Activities such as music festivals and car shows that are of a decidedly temporary nature or of short duration which will, because of unusual circumstances, be unable to meet the minimum requirements of the performance standards may be allowed under the provisions of a Special Permit issued by the Code Enforcement Officer. The conditions of issuance for this permit are:

1. The proposed activity or use will not continue beyond a maximum time period of one (1) week. If, in the judgment of the Code Enforcement Officer, additional time is necessary or desirable, extensions of the Permit may be granted for additional one week periods. Upon expiration of the

Special Permit the activity must be immediately discontinued or brought into conformance with the minimum standards of performance or be violation of this code.

2. The proposed activity will not create, cause, or increase any health, safety, or public nuisance problems. In making this determination, the Code Enforcement Officer shall seek input from the Fire Chief and Public Works Director.
 3. The proposed activity will not cause immediate or future damage to adjacent properties.
 4. Reasonable provisions are made to prevent or minimize harmful environmental impacts of the proposed activity.
- B. To assist the Code Enforcement Officer in making these determinations a public hearing may be required for the purpose of soliciting additional information or other municipal boards and commissions may be consulted. If an extension of a Special Permit beyond one (1) week is requested, the Code Enforcement Officer must obtain the concurrence of the Planning Board before such an extension is granted.

402.6.7 Regulation of Signs

All signs are required to meet the requirements of the Sign Ordinance, Chapter 406.

402.6.8 Regulation of Mobile Home Parks

Mobile Home Parks shall be subject to the provisions of the Mobile Home Park Ordinance, Chapter 402.A.

402.6.9 Parking Requirements

All uses of land and development of property shall be provided with parking and loading facilities meeting the standards of Section 402.10.11 B under Site Plan Review.

402.6.10 Townwide Erosion and Sedimentation Standard

- A. All activities, except those specifically exempted in this Section 402.6.10, which involve filling, grading, excavation, or other similar activities which result in unstabilized soil conditions, whether or not a permit is required, are required to adhere to Maine Erosion and Sediment Control Best Management Practices (BMP's) as published by the Maine Department of Environmental Protection until the site is stabilized.
- B. The following activities, as defined by the State of Maine and/or this Ordinance, are exempt from following MeDEP's BMP's provided that all applicable State and local standards are met and maintained:
 1. Agriculture
 2. Forestry and/or Timber Harvesting
 3. Duly permitted Mineral Extraction/Gravel Pits

ARTICLE 7 -STANDARDS APPLICABLE IN MOST ZONING DISTRICTS

402.7.1 Temporary Structures

- A. Temporary Structures in Conjunction with Construction Work
- B. Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six (6) month period and may be renewed by the Code Enforcement Officer.
- C. Temporary Structures in Conjunction with Disasters
 - 1. Temporary structures including temporary living quarters used in conjunction with disasters such as fire, flood, lightening, hurricanes, and ice or snowstorms and other forces of nature shall be permitted only during the period that restoration work is in progress.
 - 2. Restoration work includes the repairing, rebuilding, and altering of a premise, land, or structure to a former, normal or unimpaired state or condition including but not limited to the cleaning and removal of debris, trash, and waste.
 - 3. Temporary structures shall not encroach any further upon the setback requirements of the structure destroyed. Any deviation from those setbacks must be approved by the Code Enforcement Officer.
 - 4. Temporary living quarters shall be connected to the existing septic system or to an alternate system which, in either case, must comply with the Plumbing Code and be approved by the Code Enforcement Officer.
 - 5. Permits for temporary structures shall be issued for a six (6) month period and may be renewed by the Code Enforcement Officer for a maximum of one extension provided a duly authorized building and plumbing permit has been issued for a permanent structure.

402.7.2 Home Occupations

- A. Intent and Purpose
- B. Home Occupations when managed conscientiously and with respect for the neighborhood in which they are situated can offer benefits to both the proprietors and the community, and a productive alternative to the formally structured traditional workplace. Consequently, it is the intent and purpose of this Ordinance to produce liberal, flexible standards for the establishment and maintenance of home occupations, while simultaneously providing the town with a mechanism in which to monitor and regulate their use.
- C. Home Occupation Requirements:
 - 1. A home occupation shall conform to the following requirements:
 - 2. The home occupation shall be carried on primarily within the principal structure or accessory structures.
 - 3. The home occupation shall be carried on by a member or members of the family residing in the dwelling unit. One employee, who is not part of the family residing in the dwelling unit, shall be permitted.

4. The home occupation is clearly incidental and secondary to the use of the dwelling unit for residential purposes.
5. There shall be no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building, except such signs as are permitted.
6. There shall be no more than two (2) commercial vehicles kept outside the garage overnight.
7. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, hazardous materials, odors, heat, or glare shall not be generated.
8. Hours of operation shall be reasonable and normal for residential areas.
9. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.
10. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicle of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operation hours.
11. No more than fifty (50%) percent of the floor area of a residence and an accessory building shall be used for a home occupation.
12. Retail sales are limited to the sale of products or goods produced, fabricated or substantially altered on the premises as a result of the home occupation. This may include products that are not fabricated on the premises as defined above, but which are customarily incidental to the product created by the home occupation.
13. Retail businesses such as restaurants, new or used car sales, auto repair garages, auto body shops, and auto service stations shall not be considered home occupations.
14. The size and number of signs used in connection with a home occupation shall be determined by the sign ordinance.

402.7.3 Flea Markets & Open Air Markets

- A. Authorization to Use the Property
- B. Flea Markets and Open Air Markets must be held on land that is owned by the applicant or has written permission from the owners to use.
- C. Adequate Parking
- D. Before the permit is issued by the Code Enforcement Officer or approved by the Planning Board, whichever is appropriate, the applicant must prove adequate off street parking and provide means of insuring parking provided is used.
- E. Time Limit for Conduct
- F. The market can operate no more than three (3) days a week. All evidence of use must be removed from the premises for the balance of the week.
- G. Site Plan Review Required
- H. Markets are subject to the site plan review procedures of Article 10.

402.7.4 Keeping of Large Animals

A. Minimum Lot Size Required

Bovine, cloven hoofed animals, horses or other types of riding or laboring animals such as horses may be kept in any district except the Shoreland Zone and the WH1 Districts, provided that there is a minimum of 120,000 square feet of land owned, rented or leased or the first animal to be kept thereon and an additional 10,000 square feet for each additional animal to allow pasturing and disposal of animal waste.

B. Enclosures & Nutrient Plan

Animals must be kept in enclosures at least fifty (50) feet from both the front and rear lot line and twenty five (25) feet from any side lot lines and from the edge of any water body all in full compliance with the best management practices and a Nutrient Management Program per the then current State Law. Any increase in the number of animals kept on the minimum lot size shall first require the owner to have and implement a Nutrient Management Plan prepared and approved by a Nutrient Management Planning Specialist who has been certified by the Commissioner of Agriculture before local approval may be granted.

C. Complaints

Complaints will be referred to the State of Maine Department of Agriculture for review of compliance and resolution.

402.7.5 Back Lot Access Easements

Back lots used for single family purposes shall be permitted, provided they meet the following standards:

A. Access Requirements

1. A fifty (50 ft.) foot wide access shall be provided for back lots.
2. Said access shall be owned either in fee or by permanent easement and maintained by the back lot users.
3. Record of said access way shall be recorded as part of the deed of each back lot and shall be filed with the County Register of Deeds.
4. The access way entrance to a street shall conform to standards of the Subdivision Ordinance and shall be approved by the Code Enforcement Officer.
5. The issuance of a building permit for a single family dwelling on a back lot shall in no way be construed to imply the acceptance of any access way for the purpose of maintenance, improvements or snow removal by the Town of Gray.
6. Creation of a subdivision requires compliance with the provisions of the Gray Subdivision Ordinance.

B. Lot Frontage Requirements

Frontage equal to the street frontage required for the zoning district shall be required along the access way.

C. Lot Size Requirements

1. Any back lot shall be equal to or greater than the minimum lot size required for the zoning district. Computation of minimum lot size area shall not include any portion of the area devoted to an access way for the lot across which the easement crosses and for the lot served by the easement.
2. The side lot line nearest and generally parallel to the road to which the back lot access way leads shall be equal to the street frontage required for the zoning district.

402.7.6 Residential Open Space Subdivisions and Multi-family housing development

- A. Purposes of Residential Open Space Subdivision: The purpose of Residential Open Space Subdivision standards is to encourage greater flexibility and more creative design for the development of single-family projects. It is intended to encourage a pattern of residential development which will result in the following attributes:
1. Preservation of Gray's rural character by retention of open space and its natural resource values as determined by the Planning Board with input from appropriate organizations, other Town staff, and State departments.
 2. To the greatest practical extent, preservation of existing landscape features and the utilization of such features in a harmonious fashion.
 3. Protection of environmentally sensitive areas.
 4. Economical and efficient building arrangement, traffic circulation, and utility construction.
 5. Outdoor recreational facilities that may be better utilized and located than would otherwise be provided under more conventional land development.
- B. Residential Open Space Subdivisions standards are contained in the Town of Gray Subdivision Ordinance, Chapter 401, in Section 401.13.13.
- C. Section 401.13.13.I establishes the purposes of locating individually owned lots in relation to the configuration of the open space. Parties must pay particular attention to this section to ensure that the overall layout of land development is consistent with these standards.
- D. Space, bulk, and dimensional standards for Residential Open Space Subdivisions shall be subject to the following:
1. The Planning Board shall have the authority to reduce setbacks to those stated in Table 401.13.13.B.1 of the Town of Gray Subdivision Ordinance.
 2. Neither the Planning Board nor the Zoning Board of Appeals shall have the authority to further reduce the setbacks for the entirety of a project.
 3. The Planning Board's ability to change setbacks within the project as detailed in Table 401.13.13.B.1 of the Subdivision Ordinance shall not be construed as granting variances to relieve hardship, and the action of the Zoning Board of Appeals shall not be required.
 4. All other space standards except those specifically allowed in Table 401.13.13.B.1 of the Subdivision Ordinance for the respective district shall apply to the Residential Open Space Subdivision.

- E. Provisions for Multi-Family Development: Provisions for multi-family development are contained in Section 402.10.14 of Site Plan Review. For the purposes of this Ordinance, multi-family development is not considered to be a Residential Open Space subdivision.

402.7.7 Planned Unit Development for Commercial Subdivisions

A. Purposes of Planned Unit Development

1. The purpose of the Planned Unit Development shall be to encourage a commercial development which will result in:
2. A choice in the types of environment, a mixture of commercial and retail uses and quality in land use so that development will be a permanent and long-term asset to the Town.
3. An aesthetically-pleasing development, innovative design standards, open space and ample off-street parking and traffic circulation.
4. A pattern of development which reserves trees, outstanding natural topography and geologic features and prevents soil erosion.
5. An efficient use of land resulting in smaller networks of streets and utilities, encouraging the use of underground utilities.
6. An environment in harmony with surrounding development.
7. A more desirable environment than would be possible through the strict application of other sections of this Ordinance.
8. Encouragement of central water and sewer systems.

B. Provisions for Planned Unit Development

The Planning Board, in reviewing and approving proposed commercial and retail developments located in the Town, may modify provisions related to minimum lot size, lot frontage, number of structures, and setback size to permit innovative approaches to commercial and retail development and environmental design in accordance with the following standards. This shall not be construed as granting variances to relieve hardship.

1. The Planning Board may reduce lot frontage requirements by up to fifty (50%) subject to the conditional use and site plan criteria and standards.
2. The Planning Board may reduce front setback requirements by up to fifty (50%) subject to the conditional use and site plan criteria and standards.
3. The Planning Board may reduce the minimum lot area by up to fifty (50%) percent subject to the conditional use and site plan review criteria.

402.7.8 Mobile Homes, Motor Homes and Travel Trailers

A. Use of a Mobile Home as Temporary Living Quarters While Building a Home

A mobile home may be used as a temporary single-family dwelling subject to the following requirements:

1. No person, firm or corporation shall move or cause to be moved into the Town of Gray a mobile home to be located otherwise than in a duly-licensed mobile home park without first securing a temporary permit from the Code Enforcement Officer to do so.
2. The application for such permit shall state the name of the owner of the mobile home, its make, serial number, length, width, color and any other identification information that the Code Enforcement Officer may require.
3. The applicant shall also state the proposed location in the Town where the mobile home is to be placed. The owner of the mobile home must own the lot upon which the mobile home is to be placed.
4. The applicant shall also furnish the Code Enforcement Officer with a plot plan showing the boundary lines of the lot proposed for the location of the mobile home, and also showing the sewage disposal area.
5. The applicant shall also furnish the Code Enforcement Officer with reliable information relating to soil tests conducted on the sewage disposal area in accordance with any applicable state law, code or regulation and must demonstrate that soil conditions are suitable for the absorption of waste materials from septic tanks.

B. Issuance of a Temporary Mobile Home Permit

1. The temporary mobile home permit shall expire six (6) months after its issuance and if not replaced by the permanent permit, as hereinafter provided. Within said period, any mobile home moved or caused to be moved into the Town shall either be moved to a duly licensed mobile home park or removed from the limits of the Town.
2. A temporary permit may be granted by the Code Enforcement Officer to reside in a mobile home during the construction of a permanent home on the same lot as long as a valid building permit is held by the applicant. The permit shall be subject to semi-annual review by the Code Enforcement Officer and may be renewed if, in his/her judgment, reasonable progress is being made and nuisance conditions do not exist.

C. Use of a Mobile Home as Permanent Living Quarters on a Single Lot

The Code Enforcement Officer may grant a permanent permit for the location of the mobile home on the lot referred to in the temporary permit provided that the following additional requirements are met:

1. The applicant shall have constructed a permanent and continuous masonry foundation for the mobile home and located and securely fastened the mobile home upon said foundation.
2. Said foundation shall be around the entire perimeter of the mobile home and shall be on concrete or building blocks bounded together on an 8" x 16" footing extending at least four (4) feet below grade. Said foundation may contain suitable openings for ventilation not to exceed 32" x 16" in area except that opening for windows or doors in said foundation may be of a larger size.
3. The ground floor area of said mobile home shall be at least four hundred (400) square feet.
4. The lot upon which said mobile home is located shall meet the space regulations set forth in this Ordinance and shall have a minimum lot area required by the applicable zoning district.

D. Uses of Travel Trailers and Motor Homes

1. Temporary Occupancy: A householder may permit bona fide guests to park not more than two (2) travel trailers or motor homes in the yard adjacent to such house for a period not exceeding thirty (30) days per calendar year, provided that the travel trailer or motor home is used only for sleeping purposes during said period and also provided that the householder shall have granted permission to the travel trailer or motor home occupant to use the householder's toilet facilities.
2. Storage: An unoccupied travel trailer or motor home may be stored on any lot subject to all regulations concerning setbacks for buildings provided that it shall not be used for living or sleeping purposes during said period of storage.
3. Construction Offices: No travel trailer or motor or mobile home shall be used as a permanent office, but may be used for a temporary demonstration and sale of such articles or services as may be readily transported or displayed in a trailer or mobile home by a distributor or salesperson if situated in the applicable zoning district for a period not to exceed fifteen (15) days; provided, further, that such a travel trailer or motor, or mobile home may be used as temporary office headquarters (including electricity and phone) for a bona fide charitable organization for a period not to exceed one year. During such period such a trailer or motor or mobile home shall not be used for living or sleeping purposes. The Town Council may extend said sixty (60) day period in the case of trailers or mobile homes used as offices on construction work, renewable by the Code Enforcement Officer, until construction is completed.

E. Existing Mobile Homes and Travel Trailers

A travel trailer or mobile home lawfully established at the time of adoption of this section shall not be affected by this Section and such travel trailer or mobile home may be replaced with another travel trailer or mobile home, but not later than ninety (90) days after its destruction, removal, or abandonment.

402.7.9 Accessory Apartments

A. General Standards:

1. Accessory Apartments shall only be located within a single-family dwelling (SFD) or a structure permanently attached to the SFD by common walls and a permanent roof meeting the aesthetic standards below in Section 402.7.9.C.
2. Accessory Apartments are specifically prohibited in, on, or within any of the following:
 - a. any detached accessory structure such as a separate garage;
 - b. any structure or parcel located in the Shoreland Zone;
 - c. any duplex or multi-family dwelling;
 - d. any SFD located on a back-lot that utilizes a right-of-way less than fifty (50) feet wide;
 - e. any individually owned lot in a Cluster/Open Space subdivision that contains less than 75% of the minimum lot size for the zoning district in which the property is located;
 - f. any lot that contains less than 75% of the minimum lot size for the zoning district in which the property is located, existing non-conforming lots of record;
 - g. any lot that contains one or more principal commercial use(s) either on the parcel or in any structure located on such lot; or

- h. any lot than contains less than 20,000 square feet.
 3. Only one accessory apartment is allowed per lot, and only on a lot that the CEO has determined the primary use to be a SFD.
 4. Accessory Apartments are permitted uses, on lots which meet the minimum required lot area and street frontage for the zoning district in which the lot is located. For lots in Cluster/Open Space subdivisions with commonly owned area, only the lot that is individually owned may be used for the purposes of this determination; fractional ownership of Open Space or other land may not be counted for this purpose.
 5. Accessory Apartments are conditionally allowed, subject to Planning Board approval, on lawfully existing non-conforming lots of record provided that the lot size is at least 75% of the minimum lot size for the zoning district in which the lot is located. For example, a lot in a zoning district that requires 80,000 square feet for the minimum lot size must contain at least 60,000 sq. ft. For lots in Cluster/Open Space subdivisions with commonly owned area, only the lot that is individually owned shall be used for the purposes of this determination; fractional ownership of Open Space or other land may not be counted for this purpose.
 6. The maximum square footage of finished living area for accessory apartments is six-hundred and sixty (660) square feet. The Zoning Board of Appeals shall not have the authority to increase this maximum finished living area by variance or otherwise.
 7. Although an existing single-family dwelling may be expanded or utilized for the purposes of creating an Accessory Apartment, no portion of an Accessory Apartment shall be located within minimum lot line setbacks, including non-conforming structures of record.
 8. In addition to any off-street parking required for the SFD, there must be at least one year-round off-street parking space for use by the Accessory Apartment occupant(s). There must also be sufficient space on the site for vehicular turn-arounds without having to back out onto the street.
 9. One Home Occupation use may be conducted, as otherwise allowed under the Ordinance, as an accessory use to either an Accessory Apartment or an existing SFD, but not both. Solely for the purposes of this paragraph 9, In-Home offices are not considered a Home Occupation.
 10. Accessory Apartments must comply with applicable building and fire safety codes.
 11. Accessory Apartments must have shared common utilities, such as water, electricity, etc.
- B. Ownership Standards:
1. Ownership of the existing SFD and the Accessory Apartment must be held by the same person(s).
 2. Either the existing SFD or the Accessory Apartment must be owner-occupied. "Owner-occupied" means that either the existing SFD or the Accessory Apartment must be occupied by a person(s) who has a legal ownership and bears risk of decline in value of the property and who receives any payment from the lease or rental of the property.
- C. Aesthetics:
1. Accessory Apartments shall retain and respect the existing streetscape, character of the neighborhood, and preserve the SFD appearance, architectural style, and character of the dwelling.

2. Any exterior modifications to the SFD associated with the construction or installation of the Accessory Apartment must be consistent with architectural style and character of the SFD in terms of exterior materials, roof pitch/form, and window type/spacing.
3. Any exterior alteration of the SFD must preserve the formal, front entrance of the building in order to maintain the SFD appearance and architectural style of the building.
4. Exterior stairs more than five (5) feet above final finished grade shall be enclosed and are restricted to the rear and sides of the SFD wherever practicable provided that that they are integrated into and consistent with the architecture of the building.
5. Accessory Apartments shall have a full common wall with the principal dwelling.
6. In the event that the Code Enforcement Officer and the applicant for the Accessory Apartment cannot agree on the aesthetic standards contained in this Section 402.7.9.C, the applicant may appeal to the Planning Board within thirty (30) days of the CEO's written decision.

D. Wastewater Disposal:

1. An Accessory Apartment may be served by one of the following subsurface wastewater disposal (SSWD) systems: (a) an existing SSWD system, (b) an upgraded SSWD system, or (c) a new SSWD system, all as otherwise allowed by law.
2. In all cases, the SSWD system serving the Accessory Apartment must meet First Time System criteria as established in the Maine SSWD Rules. Utilizing Replacement System or Expanded System criteria per 10-144 CMR 241 is prohibited.
3. If an existing SSWD system is proposed to serve the Accessory Apartment without being upgraded, the LPI shall require the applicant to submit sufficient documentation from a Maine licensed site evaluator showing the SSWD system meets First Time System criteria.
4. If a new SSWD system is proposed to serve the Accessory Apartment, the LPI shall have the authority to require the design be recorded at the CCRD if it does not need to be installed as may be allowed in the Maine SSWD Rules.

E. Discontinuance:

1. If any of the applicable ordinance standards are no longer being met, use of the Accessory Apartment must be discontinued, and the SFD must revert to single-family use by removing the eating and cooking facilities/equipment support system(s) from the Accessory Apartment as established in the definition of "Dwelling Unit" contained in the version of the International Residential Building Code most recently in effect.

402.7.10 Private Landing Strips for Personal Aircraft & Helicopters

Private landing strips for personal aircraft and helicopters, as defined herein, shall be allowed in districts where permitted by this Ordinance, subject to approval by the Planning Board under the Conditional Use and Site Plan Review criteria and standards. Any and all necessary Federal and State approvals must be obtained by the applicant prior to final Planning Board Private landing strips for personal aircraft and helicopters shall be further subjected to the following provisions:

- A. No commercial operations or activities shall be permitted on or from the private landing strip for personal aircraft and helicopters.

- B. No more than six (6) aircraft shall be permitted at the private landing strip for personal aircraft and helicopters at any one time.
- C. The minimum runway length of the airstrip shall meet established manufacturers' safety standards. Maximum runway length shall not exceed 2,500 feet.
- D. Operations at the private landing strip for personal aircraft and helicopters shall be restricted to aircraft of gross weights not exceeding 3,500 pounds and rotor craft of gross weights not exceeding 3,500 pounds.
- E. The minimum setbacks required for parcels containing a private landing strip for personal aircraft shall be one hundred fifty (150) feet minimum setbacks to either side of the center line of the runway, and a four hundred (400) foot minimum setback from either end of the runway.
- F. Heliports shall require designated landing areas of fifty feet (50') by fifty feet (50'), with setbacks from all sides of the designated landing area of no less than one hundred fifty (150) feet from the property perimeter.
- G. Temporary landing areas for aircraft in use for three (3) days or less in any calendar year are exempt from the provision of this Ordinance.
- H. The Planning Board may request an evaluation of the air safety aspects of the site plan from the Division of Aeronautics of the Maine Department of Transportation.

402.7.11 Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following (in cases of possible conflict, the stricter rule shall apply):

- A. General
 - 1. A campground must be constructed on at least 10 acres of land, and all camping units or structures shall be located at least 100 feet from any property line and 200 feet from any residence (except residences belonging to the campground owners).
 - 2. Campsites shall be laid out and screened in such a manner that none are within view from public roads, navigable rivers, existing residences or approved subdivision lots. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this screening standard, when campsites would otherwise be visible from the locations described above.
 - 3. No trailers other than recreational vehicles or utility trailers as defined herein, shall be permitted within any campground, temporarily or otherwise. No camping unit shall be stored or exhibited for sale for commercial purposes within the park.
 - 4. Tent sites and sites for recreational vehicles (RV's) shall be laid out so that the density of each developed acre of land does not exceed the standards below (in terms of sites per acre of land, excluding circulation roads):

	Non-Shoreland	Shoreland Zones
Tent Sites	14 per acre	8 per acre

RV Sites

11 per acre

7 per acre

5. The minimum frontage of a campsite along any shoreline shall be 100 feet. Minimum setback from the normal high water elevation shall be 100 feet for all recreational vehicles, tents, or other vehicles and temporary or permanent structures.
6. No campsite shall be located within a Resource Protection District or within the 100 year flood plain.

B. Parking and Circulation

1. A minimum of three hundred square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site. Recreational vehicles shall be parked in spaces so that:
 - a. there shall be a minimum of 50 feet between vehicles; and
 - b. there shall be a minimum of 75 feet between all recreational vehicles and tents, and all public rights-of-way located inside the boundaries of the campground.
2. Vehicular access shall be provided onto a hard-surfaced road adequate for the volume and type of traffic likely to be generated. Grades and sight distances specified in the town's subdivision standards shall be observed in designing all intersections. Roads shall be constructed of at least 12" of bank-run gravel (no stone larger than 4"), 2" of crushed gravel (1/2" chips) and two applications of liquid asphalt (1/2 gallon per sq. yd. each application). The minimum width of roadways shall be twelve feet for one way roads and 22' for two-way roads. No vehicle parking shall be permitted on the roadway.

C. Health and Safety

1. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table and trash receptacle. The park management shall dispose of refuse from said containers by transporting the refuse in a closed truck or in enclosed containers or bags to an approved disposal area at least once every three days.
2. A campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. In no case shall less than one toilet and lavatory be provided for each sex for every ten camping and tent sites. All recreational vehicle sites shall be equipped with water and sewage hook-ups, connected to approved distribution or disposal systems.
3. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. 24 hour emergency communication service (e.g. telephones) shall be provided.
4. Each campsite shall be provided with a masonry or metal fireplace, approved in writing by the Fire Chief.

D. Planning and Review

1. Roads, parking, campsites and required facilities shall be planned in accordance with the basic principles outlined below, and shall be shown on the proposed plan which is submitted for review and approval as a Conditional Permitted Use:

- a. A logical sequence of entry and circulation should be created: entrance, administration and storage, parking, campsites, toilets and laundry, playing fields or shoreline.
 - b. Campsites should be clustered in groups according to intensity of use (low density, medium density, etc.) and also related to common support service areas (laundries, play areas, etc.) serving a number of campsite clusters. The purpose is to minimize road length, increase accessibility, and preserve open space.
 - c. Footpaths and roads should follow "desire lines" of pedestrian and vehicular movement between campsites and all jointly used facilities. Parking areas may be grassed provided there is a dry and stable subbase.
 - d. Access roads shall be laid out as loops to the greatest extent that is practicable, although "cul-de-sacs" or "dead-ends" may be allowed to serve up to twenty campsites.
2. A soil erosion and sedimentation control approved by the County Soil and Water Conservation District shall be submitted. In addition to data on soils, slopes and drainage, a vegetation map showing the following items may be required:
- a. The major types of vegetation should be identified and described (as to age, height, openness or density, and pattern, either natural or reforested).
 - b. New planting should be selected to provide screening and shelter, to tolerate existing and proposed site conditions, and to blend compatibly with existing natural vegetation.
 - c. All vegetative clearing should avoid creating straight-line edges between open land and surviving stands.
 - d. Areas of activity and/or traffic should be sited to avoid wildlife areas (such as thickets for birds and small mammals, or deer yards and trails).

402.7.12 Fire and Explosive Hazards

All above ground and underground fuel storage tanks shall meet the requirements of the Maine Department of Environmental Protection (Chapter 691 & 692) and the Maine Department of Public Safety (Chapter 34).

402.7.13 Lighting

- A. No lights shall be placed or maintained upon or in view of any public roadway or street so that its beams or rays are directed at any portion of the road when the light is of such brilliance and so positioned as to blind, dazzle or otherwise impair the vision of the driver of any motor vehicle upon said roadway.
- B. No rotating or flashing light or signals except safety-signaling devices are required by law is permitted.
- C. Adequate buffers using either the natural landscape or artificial screening are required to prevent unnecessary or undesirable light from being directed beyond lot lines onto adjacent properties.

402.7.14 Storage of Materials

All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats, or other vermin. This shall be accomplished by placing containers in enclosures, storing

materials above ground, separation of material, elimination of stagnant water, extermination procedures and other means that would provide for decent, safe, and sanitary living conditions.

402.7.15 Farm Stands

- A. Farm Stands for the sale of farm, garden, greenhouse and nursery products shall conform to the following standards:
1. They shall be used exclusively for the sale of farm, garden, greenhouse, and nursery products.
 2. No farm stand shall be permitted unless such use is allowed in the underlying zoning district.
 3. They shall be located on land owned or leased by the producer or the operator of the farm stand, and not within or on any public ways
 4. The licensee must demonstrate to the Code Enforcement Officer that there is sufficient access, parking and maneuvering space, that the location and adequacy of approach are sufficient, and that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the farm stand.
 5. Front, rear and side setbacks shall conform to those of the underlying zoning district.
 6. No farm stand shall operate within 200 feet of any fixed base retail establishment or other farm stand offering the same or substantially similar goods or services.
 7. Farm Stand Signs: Farm Stands must conform with the Town of Gray Sign Ordinance.
 8. The hours of operation shall be from sunrise to sunset.
 9. Noise Level: No loud speakers or any unnecessary noise will be allowed on the site. Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. The average d.b.a. count resulting shall not exceed 60 d.b.a. at any point on or beyond the site.
 10. A sufficient number of covered, metal rubbish containers shall be provided at each site immediately adjacent to the farm stand to hold material. The licensee shall keep sidewalks, roadways, and other public and private spaces adjacent to the site free from refuel and dust which may be generated by the operation of the business.
- B. Fees: The annual fee to operate a farm stand shall be as established in the Town Fee Schedule and will cover the period of January 1st of the calendar year to December 31st. Fees will not be prorated.
- C. Insurance: The licensee shall provide written evidence of insurance coverage for the period of the license and executed by an insurance company authorized to issue such policy in the State, in the usual form of liability insurance policies in this State for injuries to persons and property resulting from the use and operation of the farm stand to be licensed.

Such policy of insurance shall be issued for the principal sum, no less than \$300,000 for bodily injury, death and property damage. A certificate of insurance bearing an endorsement thereon by the issuing agent shall be deposited with the Clerk. Such certificate shall state that the issuing agent will notify the Clerk in writing no less than thirty (30) days prior to the cancellation thereof.

402.7.16 Bed and Breakfast Establishments

- A. The only meal served in a bed and breakfast shall be breakfast and food service shall be limited to overnight guests.
- B. A bed and breakfast with three (3) guest rooms or less shall be considered a home occupation accessory to principal use of the dwelling and shall be allowed under the standards applicable to home occupations.
- C. The average occupancy is not to exceed three (3) persons per guest room per night.
- D. A structure shall not be used or occupied as a bed and breakfast establishment until all necessary State approvals have been received and a certificate of use and occupancy has been issued by the local Code Enforcement Officer.

402.7.17 In-Home Offices

- A. In any district, the Code Enforcement Officer may issue a permit for the operation of an in-home office by one or more residents of a dwelling unit as an accessory use to the dwelling unit. An in-home office shall not be considered a home occupation if the following conditions are met:
 - 1. Customers or clients do not come to the dwelling to receive goods or services;
 - 2. Communication with customers, clients, and business associates is primarily by mail, electronic mail, telephone, or other telecommunication device, and deliveries or pick-ups by truck, if any, occur at an average frequency not substantially greater than the ordinary frequency of delivery truck traffic at a single family residence;
 - 3. There are no signs or any other exterior indications of the in-home office activity;
 - 4. The activities conducted within the in-home office are limited to processes, such as data processing, word processing, desktop publishing, and electronic research, which do not create noise, pollution, or nuisance conditions detectable outside the dwelling;
 - 5. The in-home office does not employ any persons who are not residents of the dwelling unit; and
 - 6. There are no signs (other than a name on a mail box which complies with U.S. Postal Service regulations), exterior exhibits, exterior storage of materials, or any other exterior indications of the in-home office.

402.7.18 Boat Storage

No vessel exceeding twenty-four (24) feet in length shall be stored or parked on any residential property unless the vessel is stored or parked so as to not violate the minimum front, rear, or side yards for structures. For the purposes of measuring vessel length, any permanently attached element of the vessel shall be included specifically including a bowsprit and/or stern step(s).

402.7.19 Building Trades Occupation-1

- A. The person conducting the contracted services must reside on the property where the Building Trade Occupation accessory residential use occurs.
- B. The occupation or profession shall not alter the existing character of the surrounding area or the zoning district to the extent that it becomes a nuisance.

- C. The occupation or profession shall not utilize more than ten (10) percent of the finished floor area of the dwelling unit nor more than five hundred (500) square feet of indoor storage or materials, supplies or equipment.
- D. Any sign must meet applicable standards contained Gray's Sign Ordinance (Chapter 406).
- E. No outdoor storage of any vehicle associated with the occupation or profession shall be allowed except for a maximum of one (1) vehicle less than 16,000 gross vehicle weight and one (1) trailer less than twenty (20) feet in total length at any time. For the purposes of this use, an additional trailer or other registered, over the road implement utilized for the occupation of profession shall constitute a vehicle.
- F. Adequate off-street parking and turn-around area shall be provided on the property where the Building Trades Occupation use is occurring to avoid the necessity to back out onto a publically maintained roadway.
- G. There shall be no exterior display, no exterior storage of materials, supplies, or equipment and no exterior indication of the occupation or profession or variation of the residential character other than a duly authorized sign.
- H. No offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical disturbances shall be generated by the occupation or profession.
- I. Traffic in excess of that customarily occurring in a residential neighborhood shall not be generated by the occupation or profession. Residential traffic shall be measured according to the current edition of the Institute of Traffic Engineers handbook.
- J. The CEO approval is only valid for the applicant. In the event that the applicant/ owner of the property changes, a new approval is required to operate the Building Trades Occupation-1 use.

402.7.20 RETAIL MARIJUANA

- A. The following uses as defined by this Chapter and under the “Marijuana Legalization Act” (7 M.R.S.A. §§ 2441 – 2454, as may be amended and successor provisions thereof) are hereby expressly prohibited in all Zoning Districts within the Town of Gray:
 - 1. Retail Marijuana Cultivation Facility
 - 2. Retail Marijuana Establishment
 - 3. Retail Marijuana Products Manufacturing Facility
 - 4. Retail Marijuana Social Club
 - 5. Retail Marijuana Store
 - 6. Retail Marijuana Testing Facility
- B. This Section shall be construed to limit the use, possession, transport, cultivation, transfer or purchase of Retail Marijuana to the greatest extent permitted by the Marijuana Legalization Act (7 M.R.S.A. §§ 2441 – 2454, as may be amended from time to time). Further, this ordinance shall be deemed to prohibit, and does hereby prohibit, attempts to circumvent its restriction on selling retail marijuana by persons or firms giving it away, nominally without charge, in connection in any way with any lawful transaction under the guise of being a gift or an enhanced consideration for same.

- C. Nothing in this Section shall be construed to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act (22 M.R.S.A. 2421 – 2430-B, as may be amended from time to time).

ARTICLE 8 –STANDARDS ONLY APPLICABLE IN SPECIFIC DISTRICTS

402.8.1 Adult Businesses

A. Location of Adult Businesses Restricted

B. No adult business shall be located:

1. In any zoning district other the Commercial District “C.”
2. In any location where the customer entrance to the adult business would be closer than one thousand (1,000 ft.) feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:
 - a. Occupied by a residence, school, park, playground, church or public building; or,
 - b. Occupied by another adult business.
3. In any location closer than seven-hundred and fifty (750) feet of a residential zoning district, measured in a straight line without regard to intervening structures or objects.

C. Outside Displays Prohibited

No materials or devices displaying or exhibiting specified sexual activities shall be visible from the exterior of the building in which the adult business is located.

402.8.2 Business Transitional District Standards

- A. Design Guidelines: All development in Business Transitional Districts 1 and 2 shall conform to the Town’s Business Transitional District Design Guidelines, adopted November 13, 2007.
- B. Vehicle Access and Parking: Vehicle access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development, as demonstrated by a traffic impact study conducted by a Maine licensed professional engineer. The use may not cause unreasonable safety hazards for pedestrians, cyclists, and operators of motor vehicles and may not result in a decrease in overall level of service below LOS D at study area intersections or the project driveway during the design hour. (Levels of service are defined by the latest edition of the Highway Capacity Manual, 30th highest hour of the year for the intersection.)
- C. Layout and Parking: The layout of the site must provide for the safe movement of pedestrians, and passenger, service and emergency vehicles through the site. Parking layout and design are specifically exempted from the site plan review standards of Section 402.10.11 B.5 but must instead conform to the parking standards contained in the Town’s Business Transitional District Design Guidelines, adopted November 13, 2007.
- D. Stormwater Design: Adequate provision must be made for the collection and disposal of all stormwater that runs off from proposed streets, parking areas, roofs, and other surfaces, through a stormwater management and maintenance plan certified by a Maine licensed professional engineer as conforming to the Maine Department of Environmental Protection’s Chapter 500 standards, as amended from time to time, such that groundwater quality is protected and there are no unreasonable impacts to abutting and downstream properties.

- E. Stormwater Standard: Stormwater runoff from unusually severe storm events shall not cause erosion of man-made drainage features. Culverts and drainage ditches shall be designed to accommodate the twenty-four (24) hour, fifty (50) year storm.
- F. Stormwater Maintenance: Provisions shall be made to ensure the long-term operation and repair of drainage facilities on the site. A maintenance plan shall document the maintenance requirements and the parties responsible for maintenance of the storm water control system.
- G. Wellhead District Aquifer Protection: All portions of the Business Transitional District-2 are located within the recharge zone of the Gray Water District wells located on Shaker Road, and all uses and activities within that sub-district are therefore subject to all provisions and requirements of Section 402.8.4.
- H. Signs: Signage in the Business Transitional District is specifically exempt from the standards of Chapter 406, the Sign Ordinance, but shall instead conform to the signage standards contained in the Town's Business Transitional District Design Guidelines, adopted November 13, 2007.
- I. Noise: The development must satisfy the following noise standards:
 - 1. Sound From Routine Operation of Developments: Hourly sound levels resulting from routine operation of the development shall not exceed the following limits:
 - a. 75 dBA at any time of day, at any property line of the development or contiguous property owned by the developer, whichever is farther from the proposed development's regulated sound sources.
 - b. At any protected location in an area outside the Business Transitional zoning districts:
 - (i) 60 dBA between 7:00 a.m. and 7:00 p.m. (the "daytime hourly limit"), and
 - (ii) 50 dBA between 7:00 p.m. and 7:00 a.m. (the "nighttime hourly limit").
 - c. At any protected location also located within a Business Transitional zoning district:
 - (i) 70 dBA between 7:00 a.m. and 7:00 p.m. (the "daytime hourly limit"), and
 - (ii) 60 dBA between 7:00 p.m. and 7:00 a.m. (the "nighttime hourly limit").
 - d. When a proposed development is to be located in an area where the daytime pre-development ambient hourly sound level at a protected location is equal to or less than 45 dBA and/or the nighttime pre-development ambient hourly sound level at a protected location is equal to or less than 35 dBA, the hourly sound levels resulting from routine operation of the development shall not exceed the following limits at that protected location:
 - (i) 55 dBA between 7:00 a.m. and 7:00 p.m. (the "daytime hourly limit"), and
 - (ii) 45 dBA between 7:00 p.m. and 7:00 a.m. (the "nighttime hourly limit").
 - e. Notwithstanding the above, the developer need not measure or estimate the pre-development ambient hourly sound levels at a protected location if he demonstrates, by estimate or example, that the hourly sound levels at the property line resulting from routine operation of the development will not exceed 50 dBA in the daytime or 40 dBA at night.
 - f. Except as specifically approved by the Planning Board, non-residential uses in the Business Transitional zoning district shall not be open to the public between the hours of 12:00 a.m.

and 5:00 a.m. Deliveries and other external loading and unloading operations, including dumpster servicing, shall not be conducted between the hours of 7 p.m. and 7 a.m.

2. Sound from Construction of Developments
 - a. Construction is prohibited between the hours of 7:00 p.m. and 7:00 a.m., provided that the Code Enforcement Officer may approve construction between these hours where an applicant demonstrates short-term circumstances of special need during the construction process.
 - b. Sound from construction activities between 7:00 a.m. and 7:00 p.m. shall not exceed the following limits at any protected location:

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

3. Exemptions from Noise Standards:
 - a. Sound from registered and inspected vehicles, when such vehicles are operating on public ways, or enter the development to make a delivery or pickup, when such vehicles are moving, starting or stopping, but not when they are parked for over 60 minutes in the development.
 - b. Snow removal, landscaping and street sweeping activities.
 - c. Warning signals and alarms.
4. For purposes of this subsection, a “protected location” is defined as any location, accessible by foot, on a parcel of land containing a residence or fully approved and permitted residence or fully approved residential subdivision.

402.8.3 Village Center District Standards

A. Replacement of Existing Buildings and Structures

Existing buildings or other structures in the Village Center District are allowed to be rebuilt or replaced with new construction provided that the existing “footprint” is not exceeded unless in conformance with the standards in Section 402. 5.4 for the Village Center District and the Village Center Design Guidelines in Section 402.8.3. B below.

1. **Replacement of Destroyed or Damaged Building:** The owner of a building or structure in the Village Center District that is destroyed or damaged by any means beyond the control of the owner shall have the option of rebuilding or restoring the building or structure either on the same “footprint” or in accordance with the space standards of Section 402.5.4 within a period of one (1) year from the date of destruction or damage. The Code Enforcement Officer may issue a permit for one additional one (1) year period if reasonable progress is being made and is nuisance conditions do not exist.
2. **Voluntary Replacement:** A building or structure in the Village Center District may be voluntarily replaced provided that the existing “footprint” is not exceeded. The construction of the replacement building or structure must be completed in accordance with a building permit drawn within one (1) year of the demolition of the prior building or structure and construction must be completed within a period of two (2) years from the date of the building permit. The building permit shall expire if the work or change involved is not commenced within one (1) year of the date on which the permit is issued, and if the work or change is not substantially completed within the two (2) years. The Code Enforcement Officer may issue a permit for one additional one (1) year period if reasonable progress is being made and if nuisance conditions do not exist. Before a building or structure is voluntarily replaced to the existing “footprint” under this paragraph, the owner must provide the Code Enforcement Officer with a Class D survey, conducted before demolition of the building or structure showing its exact location on the lot unless the replacement building or structure is proposed to be in accordance with the space standards of Section 402.5.4.

B. Special Performance Standards:

The following standards apply in the Village Center District to those uses requiring site plan review by the Planning Board:

1. All development shall conform to the Town’s Village Center District Design Guidelines, adopted December 18, 2007.

402.8.4 Wellhead District Standards

Commercial and agricultural chemical and petroleum products use, storage, and handling activities within the Wellhead Protection Districts shall be subject to the requirements of this section. Normal home activities such as gardening, lawn care, and landscaping are exempt from the requirements of this Section.

A. Chemicals of Special Concern in Wellhead Districts

1. The principal chemicals of concern regarding groundwater contamination include agricultural chemicals, petroleum products, various solvents, road salt, manure, and various waste products:
 - a. Agricultural chemicals include nutrients, fertilizers, and various pesticides (including fungicides, herbicides, and insecticides).
 - b. Petroleum products include gasoline and jet fuels that have low viscosity and soluble components such as MTBE and benzene as well as home heating oil.
 - c. Harmful solvents include a variety of cleaners and degreasers such as trichloroethylene (TCE), perchloroethylene (PCE), and methylene chloride.

- d. Harmful waste products include unused paints, paint scrapings or sandings, spent solvents, and wash water.
 2. Major potential sources of groundwater contamination include:
 - a. Leakage of liquid chemicals, petroleum products, and solvents from tanks or drums.
 - b. Leaching of solid chemicals in bulk if exposed to precipitation.
 - c. Spills during transport and delivery.
 - d. Leaching of chemicals by water during fire-fighting emergencies.
 3. The lists of materials of the National Primary Drinking Water Standards, National Secondary Drinking Water Standards, State Primary Drinking Water Standards, and State Secondary Drinking Water Standards, as amended from time to time, shall be utilized to identify chemicals subject to the provisions of this Ordinance.
- B. Specific Prohibition of Certain Activities in Wellhead Districts due to the Risk to the Public Water Supply

Due to the inherent risks to the public water supply system of certain activities, the following uses and activities are specifically prohibited in the Wellhead Protection Districts:

1. Disposal of solid wastes (except brush and stumps), leachable wastes (except subsurface disposal of domestic sewage), and sludge.
2. Storage of leachable wastes or solid wastes.
3. Mining or Excavation in excess of ten (10) cubic yards other than excavation for permitted uses or approved special exceptions.
4. Application of de-icing chemicals with a salt content of more than ten (10) percent unless the entity responsible for such activities submits an agreement satisfactory in all respects to the Town Council that will assure adequate protection of the potable water supply wells, together with a non-binding recommendation from the Gray Water District. Homeowners undertaking normal residential activities are exempt from this provision.
5. Large and medium Concentrated Animal Feed Operations (CAFOs) as defined by the U.S. Environmental Protection Agency (EPA) under the Clean Water Act (CWA) as amended from time to time.
6. Manure application to land other than in accordance with an approved State of Maine Nutrient Management Plan.
7. Application of sludge to land.
8. Storage of Petroleum or Gasoline in excess of one-hundred (100) gallons except for such storage necessary for petroleum use on site as a fuel. In accordance with Maine law, installation of new or replacement underground storage tanks is prohibited in the Wellhead Protection Districts.
9. Vehicles transporting petroleum or gasoline, other than the vehicle propulsion fuel, are not permitted to be stored in Wellhead Protection 1 District. Vehicles transporting petroleum or gasoline in excess of one-hundred (100) gallons, other than the vehicle propulsion fuel, are not permitted to be stored in Wellhead Protection 2 District or Business Transitional 2 District. Vehicles transporting petroleum or gasoline in excess of one-hundred (100) gallons are permitted

to routinely pass through the Wellhead Protection Districts and to make deliveries, but are not permitted to be stopped or parked for a time longer than that needed for making deliveries.

10. For any proposed use or activity, not specifically listed above, deemed by either the Code Enforcement Officer or the Planning Board “likely to be detrimental” to the quality of the groundwater, the proponent of the proposed use or activity shall have the burden of proving to the Planning Board, after notice to the Gray Water District, that the use or activity will not be detrimental. The Planning Board shall seek comments on the same from the Gray Water District before making a determination.

C. Submission Requirements for Applications in Wellhead Districts involving Chemical and Petroleum Products

Where commercial and agricultural chemical and petroleum products use, storage, and handling activities occur within the Wellhead Protection Districts, the following information, where applicable, shall be submitted for review and approval by the Code Enforcement Officer in consultation with the Gray Water District:

1. Type and volume of chemical compounds and petroleum products handled and/or stored.
2. Intended uses of chemical compounds and petroleum products.
3. Site plan showing all storage, handling, and use areas for raw materials and wastes.
4. For inside areas, plans to contain spills including the:
 - a. Location of control dikes.
 - b. Location of floor drains and floor drain outlets.
 - c. Location of separators, holding tanks, and/or drain outlets.
 - d. Location and design of piping systems for wash water discharge to appropriate sewers or treatment systems.
5. For outside areas, plans to contain spills including:
 - a. Information to demonstrate the prevention of the flow of natural runoff from entering the storage area and keeping leaks or spills from flowing off site.
 - b. Plans to control chemical, petroleum product, and solvent spills.
 - c. Provisions to segregate underground systems to ensure that there are no cross connections.
 - d. Provisions to prevent accidental containment breach due to vehicle or equipment collisions.
 - e. A plan for emergency measures which can be implemented for surface drainage systems.
6. A Spill Prevention Control and Countermeasures (SPCC) plan detailing:
 - a. Materials and equipment to be available.
 - b. A training plan and schedule of training.
 - c. A list of contacts (EPA/DEP/local fire officials) with phone numbers.
 - d. An inspection schedule.

- e. A Pre-Plan tailored to the chemicals and materials on site. The Pre-Plan should address the procedures the fire department can utilize to minimize leaching of chemicals by water in order to limit groundwater contamination in case of a fire.
 7. An Integrated Pest Management Plan in accordance with guidance from the Maine Board of Pesticide Control.
 8. An on-site soils evaluation to assess nutrient holding capacity and permeability of the soils.
 9. Plans for control of surface water run-off and erosion in areas where chemicals will be applied.
- D. Performance Standards in Wellhead Districts involving Chemical and Petroleum Products
- Performance Standards for commercial and agricultural chemical and petroleum products use, storage, and handling, where applicable include:
1. All chemical and petroleum products shall be stored under cover and on an impervious surface, without floor drains.
 2. Secondary containment of liquids shall be provided to contain at least 110% of the stored product.
 3. Tanks for liquid chemical and petroleum products storage shall be equipped with automatic shut-off valves and high level alarms.
 4. Above-ground piping shall be designed to prevent line breakage due to collision.
 5. Containers and piping shall be constructed of corrosion resistant materials.
 6. Containers shall be clearly labeled with the contents name and date of purchase.
 7. When a Spill Prevention Control and Countermeasures (SPCC) plan is required by the Maine DEP, a copy shall be provided to the Code Enforcement Officer, the Gray Fire Department, and the Gray Water District with a statement of procedures the fire department can utilize to minimize leaching of chemicals by water in order to limit groundwater contamination in case of a fire.
 8. All agricultural restricted use pesticides and herbicides shall be in accordance with current Maine Board of Pesticide Control rules and regulations, as amended from time to time, for application, storage, and disposal.
 9. The use of chemicals and petroleum products or residuals shall not cause or contribute to the cumulative, calculated, or actual levels of any contaminants in the groundwater within the Wellhead Protection Districts for the Gray Water District Wells to exceed fifty (50) percent of the Maximum Contaminant Level (MCL) as published in the National and State Primary and Secondary Drinking Water Standards, as amended.
 10. Only pesticides with low leachability applied by Maine licensed applicators are allowed.
 11. Provisions shall be made to control surface run-off and erosion in areas where pesticides are being applied.
 12. Pesticide logs and reports maintained as required by the Maine Board of Pesticide Control shall be made available on request by the Code Enforcement Officer.
- E. Submission Requirements for Applications in Wellhead Districts involving Agricultural Manure and Fertilizers

Where agricultural manure and fertilizer use, storage, and handling activities occur within the Wellhead Protection Districts occur, the following information, where applicable, shall be submitted to the Code Enforcement Officer for review and approval in consultation with the Gray Water District:

1. A nutrient management plan for agricultural activities within the Wellhead Protection Districts.
2. Type and volume of manure and fertilizer handled and/or stored.
3. An on-site soils evaluation to assess nutrient holding capacity and leachability of the soils.
4. Plans for control of surface water run-off and erosion in areas where manure and fertilizer will be applied.
5. Site plan showing all storage, handling, and use areas for manure and fertilizer.

F. Performance Standards in Wellhead Districts involving Agricultural Manure and Fertilizers

Performance Standards for agricultural manure and fertilizer storage and application, where applicable:

1. Sludge shall not be applied to any land within the Wellhead Protection Districts
2. All agricultural fertilizers shall be applied in accordance with label directions and shall be applied in accordance with an approved Nutrient Management Plan.
3. Fertilizer applications shall be tailored to the specific needs of the crop, as determined by soil suitability analyses.
4. Use of slow-release fertilizer is preferred.
5. Irrigation schedules shall be coordinated with nutrient application to minimize leaching potential.
6. Manure may be used within the Wellhead Protection Districts in accordance with a nutrient management plan.
7. Applications of approved residuals, not including sludge, and manures shall be tailored to the specific needs of the crop, as determined by a soil suitability analyses.
8. Residuals and manures shall not be applied over very shallow soils of less than one (1) foot or over exposed bedrock.
9. Residuals and manure shall not be applied on frozen ground or immediately before storm events.

G. Submission Requirements in Wellhead Districts involving Commercial Vehicle Storage and Maintenance

Where commercial vehicle maintenance and storage activities occur within the Wellhead Protection Districts, the following information shall be provided to the Code Enforcement Officer for review and approval in consultation with the Gray Water District:

1. The number and types of commercial vehicles to be maintained or stored.
2. A site plan, drawn to scale, showing locations and designs of secondary containment for fuel and storage and refueling pads.

H. Performance Standards in Wellhead Districts involving Commercial Vehicle Storage and Maintenance

Performance Standards for vehicular maintenance and storage:

1. Precautionary measures such as portable drip pans shall be taken to ensure that no spills occur when draining oils or fluids from vehicles.
2. All fuel oil, waste oil, lubricants, antifreeze, or other potential contaminants shall have secondary containment of at least one-hundred-ten (110) percent of the liquid volume stored.
3. Washing of vehicles in the Wellhead Protection Districts shall be in accordance with Best Management Practices.
4. Refueling of commercial vehicles :
 - a. A portable drip catch pan shall be in place beneath the fill tube at all times during the refueling operation.
 - b. Refueling shall be done on a concrete pad or other impermeable surface.

I. Submission Requirements in Wellhead Districts involving Subsurface Wastewater Disposal

All applications for a wastewater disposal system permit in Wellhead Districts shall include the following information submitted for review and approval by the Code Enforcement Officer in consultation with the Gray Water District:

1. A hydrogeologic analysis of nitrate concentrations at the property line for systems using a tank greater than one-thousand (1,000) gallons,
2. Design plans for all floor drains, grease traps, and holding tanks.

J. Performance Standards in Wellhead Districts involving Wastewater Disposal Systems

1. Nitrate and nitrite concentrations shall not exceed five (5) mg/L at the property line for systems using a tank greater than one-thousand (1,000) gallons.
2. Floor drains, grease traps, and holding tanks that are not connected to a subsurface waste disposal system designed and installed in accordance with the Maine Subsurface Wastewater Disposal Rules of the Department of Human Services are prohibited.
3. The Code Enforcement Officer shall notify the Gray Water District in writing of any installation, expansion, or replacement of any waste water disposal system within the Wellhead Protection Districts.

K. Submission Requirements and Performance Standards in Wellhead Districts involving Stormwater Management

New construction and stormwater management activities shall be in accordance with the following requirements within the Wellhead Protection Districts:

1. Calculations and plans which provide following information, where applicable, shall be included in Site Plan Application submissions for new construction and new stormwater management activities within the Wellhead Protection Districts:
 - a. Design of dry wells, storage, retention, or detention facilities and other surface water Impoundments.
 - b. Stormwater system outlets.
 - c. Delineation of post development drainage areas.

d. Plans for snow removal, ice control, and use of road salt.

2. Performance Standards for Stormwater Management:

Stormwater shall be directed to an appropriate vegetated buffer, detention, or treatment system.

L. Submission Requirements and Criteria for Increasing Lot Coverage and Impervious Surfaces in the Wellhead Protection Districts

The Planning Board may authorize an increase in the allowable lot coverage and/or impervious surfaces as indicated in Tables 402.5.4 A and B for proposed development in the Wellhead and Business Transitional-2 Districts (except for areas within four-hundred (400) feet from the springs and well site controlled by the Gray Water District), provided that the Board finds that criteria established in subsections 1. through 6. below have been met. Evidence as to whether the criteria below have been met shall be submitted by the applicant in the form of a stormwater management plan prepared by a qualified registered professional engineer and a hydrogeologic analysis prepared by a certified geologist. The Planning Board shall, when deemed necessary to determine compliance with the criteria contained in this section, retain the peer review services of the Town Engineer and hydrologist; the cost of such services to be covered by the applicant:

1. Recharge to the aquifer shall not be significantly impaired. To avoid reduction in recharge, the ground surface of the site in question shall be modified so as to create recharge swales and/or recharge dry wells. Swales and dry wells shall be designed to accept stormwater from a twenty-four (24) hour, ten (10) year storm, falling on the total area of impervious surface and the area of the swale itself.
2. Stormwater runoff shall be satisfactorily infiltrated into the aquifer. Wetland conditions shall not be created in recharge swales. Test pit logs, water level readings from wells or piezometer or other climatological data shall determine that the bottom of recharge swales and/or dry wells will not intersect the seasonal-high water level.
3. For the purposes of encouraging recharge, evaporation of impounded stormwater shall be minimized. Surface and subsurface soil permeabilities shall be sufficient to drain runoff generated by the twenty-four (24), ten (10) year storm within a period of seven (7) days.
4. The hydrogeologic analysis shall provide evidence that the resultant water quality of the runoff due to the increased impervious cover will not be degraded over existing, predevelopment conditions.
5. Stormwater runoff from unusually severe storm events shall not cause erosion of man-made drainage features. Culverts and drainage ditches shall be designed to accommodate the twenty-four (24) hour, fifty (50) year storm.
6. Provisions shall be made to ensure the long-term operation and repair of drainage facilities on the site. A maintenance plan shall document the maintenance requirements and the parties responsible for maintenance of the stormwater control system.

M. Control of Existing Threats in the Wellhead Protection Districts

1. Inspection

- a. The Code Enforcement Officer shall have the right to inspect any property or building located in a Wellhead Protection District at reasonable hours, with owner or occupant

permission, as provided in 30-A MRSA section 4452, for the purpose of determining compliance with this Ordinance or any permit issued hereunder.

- b. The Code Enforcement Officer may be accompanied by a representative of the Gray Water District, or its designee.
- c. In the event the landowner denies or prevents access for this purpose, the Code Enforcement Officer shall be authorized to apply for an administrative inspection warrant pursuant to Rule 80E, Maine Rules of Civil Procedure.

2. Monitoring

Whenever the Code Enforcement Officer finds, or becomes aware of from any source, that any use commencing on or after the date of adoption of this Ordinance on February 6, 2006, including but not limited to uses of the types identified in Section 402.8.4 of this Ordinance, is located within a Wellhead Protection District designated by this Ordinance and poses an actual or potential threat to the safety or quality of the public groundwater supply, the Code Enforcement Officer, with the concurrence of the Gray Water District, may:

- a. Order the property owner to grant permission for installation of groundwater monitoring wells and testing at reasonable hours and at the sole cost of the Gray Water District.
- b. In the event the owner of the property refuses to comply with an order to grant permission for installation of groundwater monitoring wells and testing at reasonable hours at the sole cost of the Gray Water District the Town of Gray may apply to the Maine District Court for an order to permit such monitoring.
- c. If testing indicates that the groundwater has been contaminated to fifty (50) percent or greater of the Maximum Contaminant Level (MCL) as published in the National and State Primary and Secondary Drinking Water Standards, as amended, then the source of that contamination shall be determined by further testing at the sole cost of the Gray Water District.
- d. If it is determined by further testing that the current owner or occupant of the property is responsible for all of the contamination of the groundwater to fifty (50) percent or greater of the Maximum Contaminant Level (MCL) as published in the National and State Primary and Secondary Drinking Water Standards, as amended, then the owner or occupant shall reimburse the Town or the Water District, as appropriate, for expenses incurred in testing and remediation.
- e. The owner or occupant of the property shall not be required to pay for the expense of testing, prevention, or remediation of contamination that originates on another property.

3. Enforcement

If any use causes or contributes to groundwater contamination of fifty (50) percent or greater of the Maximum Contaminant Level (MCL) as published in the National and State Primary and Secondary Drinking Water Standards, as amended, within, or at the boundary line of, a Wellhead Protection District designated by this Ordinance, the Code Enforcement Officer may require the owner or occupant of the property on which the contaminating use occurs to cease activity, install or construct mechanisms, or enact appropriate procedures to reduce the contamination.

402.8.5 Agritourism

A. Agritourism Center

1. The minimum lot size for an Agritourism Center in the RRA District shall be one hundred (100) acres. Development shall follow a master plan approved by the Planning Board that includes:

A minimum of:

- a. 30 percent dedicated to passive open space and trails
- b. 20 percent dedicated to agriculture

And a maximum of:

- c. 25 percent dedicated to active recreational fields & facilities
- d. 25 percent dedicated to Agritourism Facility & office development

2. A minimum buffer of one hundred (100) feet shall be maintained along any public roadway. A minimum buffer of fifty (50) feet shall be maintained along a property line in the location of an abutting residence and yard. If existing vegetation does not provide adequate screening as determined by the Planning Board, additional plantings may be required.
3. An Agritourism Center may be built in phases subject to a schedule approved by the Planning Board.

N. Agritourism Facility

The minimum lot size for an Agritourism Facility in the RRA District shall be fifty (50) acres. An existing residential building as of January 1, 2006 on a parcel of land that meets the minimum lot size for an Agritourism Facility may be converted to an Agritourism Facility and maintained, repaired and replaced notwithstanding that it does not meet the street frontage, height, and setback standards set forth in this ordinance, provided that such structure shall not be expanded in a manner that increases the non-conformity.

402.8.6 Watershed Protection Measures in the Lake District (LD)

A. Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features in the Lake District.

1. Roads and driveways shall be set back at least seventy-five (75) feet from the normal high-water line of tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Code Enforcement Officer. If no other reasonable alternative exists, the Code Enforcement Officer may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
3. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection P.
5. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
6. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.

- c. On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.
 - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

O. Stormwater Runoff

9. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
10. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

P. Erosion and Sedimentation Controls

11. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Code Enforcement Officer for approval and shall include, where applicable, provisions for:
- a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
12. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
13. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
14. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
- a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

15. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

Q. Erosion and Sedimentation Controls

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

402.8.7 Medical Marijuana Cultivation Facilities and Dispensaries

A. Location Criteria

Medical Marijuana Cultivation Facilities or Dispensaries shall only be located consistent with Table 402.5.3 of this Ordinance. In addition, no Medical Marijuana Cultivation Facility or Dispensary shall be sited within two hundred and fifty feet (250') of the lot lines of any of the following:

1. A church, synagogue, or other house of religious worship;
2. A school;
3. A lot zoned Residential or Medium Density prior to the application for the Medical Marijuana Cultivation Facility or Dispensary;
4. An athletic field, park, playground, or recreational facility;
5. Any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation treatment center;
6. A licensed day care facility; or
7. A lot on which another Medical Marijuana Cultivation Facility or Dispensary is sited. The distance cited in this subsection shall be measured between the lot line of the proposed site and the lot line of the site of the uses listed in numbers one (1) through seven (7) above at their closest points.

B. Hours of Operation

Medical Marijuana Dispensaries and Medical Marijuana Cultivation Facilities may be open for business only between the hours of 8:00 AM and 8:00 PM, local prevailing time.

C. Signage and Advertising

All signage and advertising for a Medical Marijuana Dispensary or a Medical Marijuana Cultivation Facility shall comply with the standards of Chapter 406, the Sign Ordinance. In addition, no signage

or advertising shall use the word “marijuana”, “cannabis”, or any other word, phrase, or symbol commonly used or understood to refer to marijuana unless such word, phrase, or symbol is immediately preceded by the word “medical” in type and font that is at least as readily discernable as all other words, phrases, or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for registered medical marijuana patients and registered primary caregivers.

D. Security Measures

Security measures at a Medical Marijuana Dispensary and a Medical Marijuana Cultivation Facility shall include, at a minimum, the following:

1. Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, and the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts, loitering and nuisance activities occurring at the premises;
2. Door and window intrusion robbery and burglary alarm systems with audible and law enforcement notification components that are professionally monitored and maintained in good working condition;
3. A locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the premises;
4. Exterior lighting that illuminates the exterior walls of the premises and complies with applicable ordinances of the Town;
5. Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g. windows); and
6. All security recordings shall be preserved for at least seventy-two (72) hours by the Medical Marijuana Cultivation Facility or Dispensary. The Medical Marijuana Cultivation Facility or Dispensary shall provide local law enforcement or its designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town or local law enforcement may provide notice of any operating problems associated with the Medical Marijuana Cultivation Facility or Dispensary.

E. Qualified Caregivers and Patients

Processing, possession, and/or manufacturing of medical marijuana in any zoning district other than a zoning district that allows such uses as Medical Marijuana Cultivation Facilities and Medical Marijuana Dispensaries shall be limited to registered patients and registered primary caregivers.

F. On-site Consumption of Medical Marijuana

The consumption, ingestion, or inhalation of medical marijuana on, or within the premises of, a Medical Marijuana Dispensary or Cultivation Facility is prohibited.

G. Visibility of Activities; Control of Emissions; and Disposal Plan

1. All activities of Medical Marijuana Dispensaries and Cultivation Facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.
2. No marijuana or paraphernalia shall be displayed or kept in a Medical Marijuana Dispensary or Cultivation Facility so as to be visible from outside the premises.

3. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.
4. All Medical Marijuana Dispensaries shall have in place an operational plan for proper disposal of marijuana and related byproducts.

H. Quiet Enjoyment

The cultivation of marijuana shall not adversely affect the health or safety of residences or nearby properties through the creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or create a hazardous condition due to the use or storage of material, processes, products or waste.

I. Code Compliance

The Medical Marijuana Cultivation Facility and/or Dispensary must be in compliance with all State adopted codes applicable to municipalities, including, without limitation, National Electrical Code, Uniform Plumbing Code, National Fire Prevention Association (NFPA) Codes and Standards, and Maine Uniform Building and Energy Code.

J. Sale of Edible Products

No food products shall be sold, prepared, produced or assembled by a Medical Marijuana Dispensary, except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area, and all marijuana must be labeled with a list of all chemical additives, such as non-organic pesticides, herbicides, and fertilizers used in the cultivation and production.

K. Other Laws Remain Applicable

A Medical Marijuana Dispensary shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control. Nothing in this Section 402.8.7 is intended to prohibit any lawful use, possession or conduct pursuant to the Marijuana Legalization Act (7 M.R.S.A. §§ 2441 – 2454, as may be amended from time to time), unless otherwise prohibited by this Chapter.

L. Maximum Number Permitted

The maximum number of Medical Marijuana Dispensaries permitted in the Town is one (1). No more than three (3) Medical Marijuana Cultivation Facilities may be located in the Town. No Medical Marijuana Cultivation Facility can be located on the same site as another cultivation facility nor can a Medical Marijuana Cultivation Facility be located on the same site as a Medical Marijuana Dispensary.

M. Planning Board Review Required

Application(s) for a Medical Marijuana Cultivation Facility and/or Dispensary shall be considered a Major Development, as defined in this Ordinance, and shall be reviewed in accordance with all

applicable standards including those contained in Article 10 (Site Plan Review) Section 402.10.4.A which requires Planning Board Review.

402.8.8 Business Development District 2 Standards

- A. Accessory Uses. Drive through and drive-in facilities are allowed as an accessory use to the permitted and conditional uses in the Business Development 2 District.
- B. Uses per Principal Structure. Notwithstanding Section 402.6.2(D), no more than five permitted or conditional uses are allowed in any principal structure in the Business Development 2 District. No more than one (1) principal structure and its accessory buildings may be located on any one lot unless all applicable space and dimensional standards are met separately for each principal structure on the lot, subject to the conditions that apply to new principal structures in Section 402.6.2(D).
- C. Sign Standards. Signage in the Business Development 2 District is subject to the standards in Chapter 406, the Sign Ordinance, except that: (i) the maximum aggregate sign area may not exceed two percent (2%) of the area of the building footprint per lot; and (ii) one freestanding sign and one freestanding directory sign are permitted per frontage, with up to 100 square feet maximum sign area allowed per sign; and (iii) the maximum sign area for wall, projecting and roof signs is 10% of the wall area or roof area on which they are located and/or attached.

402.8.9 Light Manufacturing Overlay District Standards (LMO)

- A. Applicability
 - 1. All uses that are either Permitted or Conditionally Permitted in the Light Manufacturing Overlay District (LMO) shall conform to applicable standards in this section 402.8.9 including any referenced standards such as Design Standards.
 - 2. Article 10 of this Ordinance contains the applicable Site Plan Review (SPR) thresholds, the reviewing authority, and standards.
 - 3. Subject to SPR thresholds and standards, LMO uses for buildings up to 10,000 sq. ft. of footprint area and/or total sq. ft. area shall be "Permitted" uses.
 - 4. Subject to SPR thresholds and standards, LMO uses for buildings from 10,000 sq. ft. to 20,000 sq. ft. of footprint area and/or total sq. ft. area shall be "Conditionally Permitted" uses.
 - 5. Individual buildings larger than 20,000 sq. ft. of footprint area and/or total sq. ft. for uses allowed in the LMO are not permitted in the LMO.
 - 6. In addition to applicable SPR and Conditional Permitted use review(s), the applicant shall submit written documentation detailing how each applicable LMO standard will be met and maintained.
 - 7. The reviewing authority and CEO shall ensure that all LMO uses meet and maintain the review criteria and applicable standards.
 - 8. All uses and standards that are applicable in the underlying Commercial Zoning District shall be applicable except those specifically stated in the Ordinance to be applicable in the LMO.
- R. Review Criteria: In addition to other applicable review standards, the reviewing authority shall ensure that uses on the property are consistent with this Ordinance and that the following criteria are addressed:

9. Applicable standards established in Sections 402.8.9.C through 402.8.9.E of this Ordinance.
10. The applicant shall submit a detailed description of all proposed uses on the property including the timing of such uses.
11. Proposed hours of operation shall be submitted by the applicant.
12. All areas proposed for outdoor storage, including temporary storage, shall be shown on the submitted plan. The applicant shall submit written documentation of the proposed uses, the proposed frequency for each area of the site, and how these uses meet the Outdoor Performance Standards in Section 402.8.9.E of this Ordinance.
13. All areas proposed to be utilized for any outdoor manufacturing, fabrication, or processing that is/are clearly ancillary to other allowed uses on the property shall be submitted as well as a detailed description of the maximum frequency of such uses.
14. The applicant shall submit the maximum anticipated traffic generation with specific attention to volumes during non-traditional business hours, the type of vehicular traffic (i.e. GVWR), and the sources of these estimates. The reviewing authority may require a peer review of these estimates at the applicant's expense.
15. The applicant shall submit documentation regarding the maximum estimated emissions and noise generated on the property for all proposed uses. The reviewing authority may require a peer review of these estimates at the applicant's expense.

S. Design Standard Applicability

16. All uses and/or structures, or change of use for uses that are either Permitted or Conditionally Permitted in the LMOD that are within two hundred and fifty (250) feet of the edge of a publically maintained road or right-of-way shall conform to Gray's Business Transitional District Standards & Design Guidelines as determined by the reviewing authority.
17. Parking for all vehicles:
 - a. Strongly encouraged to be located behind building(s)
 - b. Discouraged close to the edge of a publically maintained road
 - c. Discouraged to be visible from a publically maintained road to avoid the prominence of impervious surfaces.
 - d. Shared parking is encouraged
18. The internal layout of the site should anticipate possible future use(s) and/or other building(s) or improvement(s) on the site.
19. The property should be designed from the initial development forward to be able to be served by one (1) curb cut on a publically maintained road even when future use(s) or building(s) are added over time.
20. The property should be designed from the initial development forward to provide vehicular accessways to adjacent properties.

T. District Performance Standards

21. Noise inherently and recurrently generated shall not exceed 65 Dba between the hours of 7:00 AM and 7:00 PM and 55 Dba between 7:00 PM and 7:00 AM as measured at the property line

using a frequency weighting network and fast response on a sound level meter manufactured according to standards prescribed by the American Standards Association.

22. No use(s) shall occur on the property that constitute a high-hazard storage or occupancy as determined by the 2015 International Building Code as determined by the CEO.
23. Trucking Terminals are specifically prohibited.
24. Only one curb cut on a publically maintained road shall be permitted for each property. For properties that contain more than four hundred (400) feet of frontage, the reviewing authority may permit one curb cut for each 400 feet provided that the applicant demonstrates the practical need.
25. All building, improvements, and parking areas for uses allowed in the LMOD shall be subject to outdoor performance and design standards in this Ordinance.
26. For all uses allowed in the LMOD, a buffer at least fifty (50) feet in width is required from the front lot line or edge of a publically maintained right-of-way and any property located in a residential Zoning District.
27. Where no natural buffering can be maintained, landscaping for the purposes of these standards including tree plantings, hedges, fencing, walling, and combinations thereof may be required by the reviewing authority.
28. The 20,000 sq. ft. maximum footprint area and/or total sq. ft. established in Section 402.8.9.A.5 shall not allow multiple LMOD uses on the same parcel or immediately adjacent when the aggregate footprint and/or total sq. ft. area exceeds the 20,000 sq. ft. The objective is to encourage multiple uses and/or structures on the same parcel utilizing the same shared access in accordance with applicable standards.
29. The proposed use(s) shall not create unsafe traffic conditions nor excessive traffic. Traffic generation during non-traditional business hours shall be kept to a minimum to avoid unnecessary adverse impacts to abutting properties.
30. All vibrations, smoke, heat or glare, fumes, dust, or odors noticeable at the property line shall be kept to a minimum and not be objectionable as determined by the Reviewing Authority.

U. Outdoor Performance Standards

31. Outdoor manufacturing, fabrication, or processing shall not occur regularly and shall only be permitted when, in aggregate, it is clearly ancillary to the principal use(s) occurring on the property and shall only be allowed to occur intermittently. The reviewing authority shall review detailed documentation submitted by the applicant to ensure this standard is met and that sufficient measures have been taken to provide sufficient screening, buffering to minimize adverse impacts to abutting properties and/or a publically maintained road.
32. No outdoor storage of any type is permitted within any minimum zoning setback applicable for structures.
33. All outdoor storage areas shall be adequately fenced or screened as determined by the reviewing authority. The reviewing authority shall have the ability to require sufficient landscaping in addition to fencing when the storage area is located in a location that is visually prominent from a publically maintained road or an adjacent property.

ARTICLE 9 – ADMINISTRATION AND ENFORCEMENT

402.9.1 Duties and Authority of the Code Enforcement Officer

- A. Code Enforcement Officer: It shall be the duty of the Code Enforcement Officer of the Town of Gray to enforce the provision of this Ordinance. If the code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, building, or structures, removal of illegal building or structures or of additions, alternations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. The Code Enforcement Officer may employ such independent, recognized consultant necessary, at the expense of the applicant, to assure compliance with performance standards of this code and abatement of nuisances.
- B. Legal Action and Violation: When any violation of any provision of this Ordinance shall be found to exist, the Code Enforcement Officer shall notify the Town Council who shall then initiate any and all actions to be brought in the name of the Town.
- C. Fines: Any person, firm or corporation being the owner of or having contact or use of any building or premises who violates any of the provisions hereof, shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than twenty-five (25) dollars nor more than one-hundred (100) dollars. Each day such a violation is permitted to exist after notification thereof shall constitute a separate offense. All fine collected hereunder shall insure to the Town of Gray.
- D. Building Permits: No building or other structure shall be erected, moved, added to or structurally altered without a permit thereof issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Appeals. A Building Permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within six (6) months of the date on which the permit is granted, and if the work or change is not substantially completed within one (1) year of the date on which the permit is granted. All building permits heretofore issued shall be subject to the provisions of this paragraph.
- E. Application for Building Permit: All applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Code Enforcement Officer to determine conformance with and provide for the enforcement of this Ordinance.
- F. Certificate of Occupancy:
1. New Buildings: No building hereafter erected shall be used or occupied in whole or in part until the certificate of use and occupancy shall have been issued by the Code Enforcement Officer.
 2. Building hereafter altered: No building hereafter enlarged, extended or altered to change from one use group to another, in whole or in part, and no building hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall be occupied or used until the certificate shall have been issued by the building inspector, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work of alteration, shall be discontinued

within thirty (30) days after the completion of the alteration unless the required certificate is secured from the Code Enforcement Officer.

3. Existing Buildings: Upon written request from the owner of an existing building, the Code Enforcement Officer shall issue a certificate of use and occupancy provided there are no violations of law or orders of the building officials pending, and it is established after inspection and investigation that the alleged use of the building has heretofore existed. Nothing in the Zoning Ordinance shall require the removal, alteration or abandonment of, or prevent the continuance of the use and occupancy of a lawfully existing building, unless such use is deemed to endanger public safety and welfare.
4. Changes in Use and Occupancy: After a change of use has been made in a building, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless all the applicable provisions of the Basic Code are complied with. A change from one prohibited use, for which a permit has been granted, to another prohibited use shall be deemed a violation of the Zoning Ordinance

G. Plumbing Permit: Must be obtained prior to issuance of a building permit. The State of Maine Plumbing Code standards will be used. The application shall also furnish the Code Enforcement Officer with reliable information relating to soils tests conducted in the sewage disposal area, in accordance with any applicable state or Local law, code, or regulation and must demonstrate that soil conditions are suitable for the absorption of waste materials from septic tanks. The results of the soil tests shall be submitted on the HHE 200 form or Maine Department of Environmental Protection, whichever is applicable.

402.9.2 Duties and Authority of the Board of Zoning Appeals

A. Appointment and Composition:

1. The Zoning Board of Appeals shall be appointed by the Town Council of the Town of Gray, and shall consist of five (5) members and two (2) associates, all of whom shall be legal residents of the Town of Gray. Terms of members shall be for three (3) years except that initial appointments shall be such that the terms of office of no more than two (2) members shall expire in any single year. The board shall elect annually a chair and vice-chair from its membership. A recorder shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall consist of three (3) members.
2. Town Council members and/or their spouses may not serve as members or associate members of the Board.
3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
4. A member of the Board may be dismissed for cause by the Town Council upon written charges and after public hearing.

B. Powers and Duties:

Appeals shall lie from the decision of the Code Enforcement Officer to the Board of Appeals and from the Board of Appeals to the Superior Court according to the provision of Maine Revised Statutes. The Board of Appeals shall have the following powers and duties:

1. Administrative Appeals: To hear and decide where it is alleged there is an error in any order, required, decision, or determination by the Code Enforcement Officer in the enforcement of this Ordinance. The actions of the Code Enforcement Officer may be modified or reversed by the Board of Appeals, by concurring vote of at least three (3) members of the Board. Decisions of the Code Enforcement Officer may be reversed only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance.
2. Variance Appeals: To hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A variance may be granted by the Board only where strict application of the Ordinance, or a provision thereof, to the petitioner and his/her property would cause undue hardship. The words "undue hardship" mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.

Establishment or expansion of a use or structure otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts. The Board of Appeals shall grant a variance only by concurring vote of at least three (3) members and in so doing may prescribe conditions and safeguards as are appropriate under this Ordinance.

3. Practical Difficulty Variance: The Board may grant a variance from the dimensional standards of the Zoning Ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:
 - a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
 - b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
 - c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
 - d. No other feasible alternative to a variance is available to the petitioner;
 - e. The granting of a variance will not unreasonably adversely affect the natural environment; and
 - f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

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

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

4. Variance Review Criteria: In hearing variance appeals under this section, the Board of Appeals shall determine that the applicant has demonstrated that all of the undue hardship or practical difficulty criteria in sub-Sections 2 and 3 above have been met. Additionally, the Board shall consider the following criteria in its decision to grant any variances or impose conditions:
 - a. What effect will be proposed variance have on the prevailing character of the area?
 - b. Does the proposed variance require special screening or fencing to separate or protect the property of abutting owners?
 - c. Will the proposed variance create drainage, erosion or flooding problems?
 - d. Will the proposed variance increase water pollution?
 - e. Will the proposed variance generate vehicular traffic, access circulation or parking conditions which create hazardous situations?
 - f. Will granting of the variance violate any of the performance standards of this Ordinance apart from the specific relief authorized by this Section?
 - g. Will the proposed variance create to any degree nuisances to abutting property owners?
 - h. Is the variance request the least modification of the Zoning Regulations necessary to afford relief?
 - i. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

C. Appeal Procedure:

1. In all cases, persons aggrieved by decision of the Code Enforcement Officer shall commence their appeal within thirty (30) days after a decision is made by the Code Enforcement Officer. The appeal shall be filed with the Board of Appeals on forms approved by the Board and aggrieved person shall specifically set forth on the form the grounds for the appeal
2. In appeals involving variances, the applicant shall include as part of the appeal application, information demonstrating that the criteria listed in Section 402.9.2 B above are met for the applicant's situation.
3. The fee to cover the administrative costs of an appeal shall be set by the Council annually.
4. Following the filing of an appeal, and before taking action on any appeal, the Board of Appeals shall hold a public hearing on the appeal within thirty (30) days. The Board of Appeals shall notify the Code Enforcement Officer and the Planning Board, at least twenty (20) days in advance, of the time and place of the hearing, and shall publish notice of the hearing at least ten (10) days in advance in a newspaper of general circulation in the area.
5. In the case of administrative or variance appeals, the Board of Appeals shall notify by mail the appellant and only the owners of property abutting that property for which an appeal is taken at least ten (10) days in advance of the hearing, of the nature of the appeal and of the time and place

- of the public hearing thereon. For the purpose of this section, abutting properties shall include property directly across the street from the property for which the variance is requested.
6. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing nor invalidate any action by the Board of Appeals.
 7. At any hearing, a party may be represented by agent or attorney. Hearing shall not be continued to other times except for good cause.
 8. The Code Enforcement Officer or his/her designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he or she deems appropriate for an understanding of the appeal.
 9. The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. All parties shall have the right to present their case of defense by oral or documentary evidence, to submit rebuttal evidence and to conduct cross-examination as may be required for a full and true disclosure of the fact.
 10. The transcript of testimony, if any, and exhibits, together with all papers, and requests filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed to the petitioner or his/her representative or agent within seven (7) days of their decision.
 11. In reviewing appeals involving variances the Board of Appeals shall follow the criteria outlined under "Variance Review Criteria" of this section before reaching a decision. In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.
 12. If the Board grants a variance under this Section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval.
 13. Upon submission of a recorded certificate of variance approval, the Code Enforcement Officer may issue a Building Permit in accordance with the conditions of the approval.
 14. A right of appeal under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within six (6) months of the date of which the appeal is granted and if the work or change is not substantially completed within one (1) year of the date on which such appeal is granted.
 15. If the Board of Appeals shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board within one (1) year from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board, substantial new evidence shall be put

forward or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of fact shall have been made.

16. Any party may take an appeal within forty five (45) days of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Article 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury.
17. The Board of Appeals may reconsider any decision reached under this section within forty-five (45) days of its prior decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

402.9.3 Duties and Authority of the Planning Board for Approval of Conditional Permitted Uses and Site Plan Review Permits

- A. Authorization: The Planning Board is hereby authorized to hear and decide upon applications for Conditional Permitted Use Permits and Site Plan Review Permits, in accordance with the provisions of this ordinance. The Planning Board shall approve, approve with modifications or conditions, or disapprove an application for a Conditional Permitted Use Permit in accordance with the criteria of this Section 402.9.3. No Conditional Permitted Use Permit shall be authorized unless specific provision for such Conditional Permitted Use is made in this Ordinance. The Planning Board shall also approve, approve with modifications or conditions, or disapprove an application for a Site Plan Review Permit in accordance with the criteria of Section 402.10.
- B. Existing Conditional Permitted Use or Structure: A Conditional Permitted Use which existed prior to the effective date of this ordinance may not be changed to another Conditional Permitted Use nor substantially expanded or altered except in conformity with all regulations of this ordinance pertaining to Conditional Permitted Uses. Substantial expansion shall be defined as:
 1. Floor space increase of twenty-five (25%) percent; or,
 2. New materials or processes not previously associated with the existing use.No changes shall be made in any approved Conditional Permitted Use without approval of the change by the Planning Board.
- C. Application Procedure: A person informed by the Code Enforcement Officer that a proposed use requires a Conditional Permitted Use permit shall file an application for the permit with the Planning Board on forms provided for the purpose. The applicant shall be responsible for a filing fee, which covers administrative and legal advertisement costs. All plans for Conditional Permitted Uses presented for approval under this section shall be drawn at a scale of not smaller than one (1) inch equals fifty (50) feet and show the following information unless the Planning Board waives these requirements:
 1. The name and address of the applicant (or his authorized agent) plus the name of the proposed development, and a copy of the deed or record of ownership, the assessor's map and lot number.
 2. Total floor area, ground coverage, and location of each proposed building, structure, or addition.

3. Accurate depiction of the property in question. In most cases a mortgage survey will be adequate, but the Board may request a perimeter survey of the parcel made and certified by a registered land surveyor licensed in Maine, relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage.
 4. The appropriate fees as established by the Town Council.
- D. Public Hearing: Within ten (10) days of the filing of an application, the Planner shall determine whether the application is complete. If the application is not complete, the Planner shall notify the applicant in writing of the information needed to make the application complete. The Planning Board shall hold a public hearing on the application within thirty (30) days of determining that the application is complete.
1. The Planner shall notify by regular U.S. mail, first class, postage prepaid, the applicant and the owners of all abutting property involved at least ten (10) days in advance of the hearing, of the nature of the application and of the time and place of the public hearing. Notice shall also be advertised at least seven (7) days in advance in a newspaper of general circulation in the area
 2. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
 3. The Planner, Code Enforcement Officer, or a designated assistant shall attend all hearings and may present to the Planning Board all plans, photographs or other material deemed appropriate for an understanding of the application.
 4. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
- E. Decision
1. Within thirty (30) days of the public hearing the Planning Board shall reach a decision on the Conditional Permitted Use application and shall inform, in writing, the applicant and the Code Enforcement Officer of its decision and shall prepare detailed finding and conclusions. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Board, or deny a Building Permit.
 2. A Conditional Permitted Use Permit secured under the provisions of this ordinance by vote of the Planning Board shall expire if the work or change involved is not substantially started within two (2) years of the date on which the Conditional Permitted Use is authorized.
 3. Any party may take an appeal within forty five (45) days of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Article 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury.
 4. The Planning Board may reconsider any decision reached under this section within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

F. Standards Applicable to Conditional Permitted Uses: It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met:

1. Will be compatible with the general character of the neighborhood with regard to design, scale, and bulk of proposed structures;
2. Will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, light or glare.
3. Will not have a significant adverse effect on adjacent or nearby property values;
4. Will not result in significant hazards to pedestrian or vehicular traffic or significant traffic congestion;
5. Will not result in significant fire danger;
6. Will not result in significant flood hazards or flood damage, drainage problems, ground or surface water contamination, or soil erosion;
7. Will be served adequately by, but will not overburden, existing public services and facilities, including fire protection services, roads, water and storm drainage systems.

Upon a showing that a proposed use is a Conditional Permitted Use in the district where it is to be located, a Conditional Permitted Use permit shall be granted unless the Board determines that the proposed use will not meet one of the standards set forth in paragraphs 1. through 7. of this subsection, due to unique or distinctive characteristics or effects associated with the proposed use or its location which differ substantially from the characteristics or effects which would normally occur from such a use in that district. In order to have “significant” impacts adequate to deny a permit, a proposed Conditional Permitted Use must have impacts that are measurable by objective standards and are readily apparent to disinterested parties.

G. Conditions Attached to Conditional Permitted Uses: Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those specifically required in this Ordinance that it finds necessary to further the purposes of this ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to specifications for:

1. Type of vegetation used for buffering;
2. Increased setbacks and yards;
3. Specified sewage disposal and water supply facilities;
4. Landscaping and planting screens;
5. Period of operation;
6. Operational controls;
7. Professional inspection and maintenance;
8. Deed restrictions, restrictive covenants;
9. Locations of parking and signs; type of construction; or
10. Any other conditions necessary to fulfill the purposes of this ordinance.

In evaluating each application the Board may request the assistance of the County Soil and Water Conservation District, a State or Federal agency, or consultant which can provide technical assistance.

H. Projects needing Site Plan Review

When an applicant needs Site Plan Approval from the Planning Board due to the scale of the project, the Conditional Permitted Use review shall be conducted and completed prior to commencing deliberations and determination of compliance with the Site Plan Review criteria and standards. In such cases, the time frames and procedures of Article 10 for Site Plan Review shall apply to both applications, which shall be combined into a single, two-step proceeding (conditional use review & site plan review). The applicant may, however, choose to submit a separate application for Conditional Permitted Use review in order to get a preliminary determination on the Conditional Use criteria prior to fully designing the project.

I. Review Fees & Consultant Escrows: The Town Council shall annually set the amount of all fees required by this Ordinance. The fee structure shall include for Conditional Permitted Use applications the following fees for the Planning Board to use in hiring independent consulting services to review the application.

1. The applicant shall pay into a special account the cost to the Town of hiring independent consulting services according to the schedule set by the Town Council. If the balance in the special account is drawn down by seventy-five (75%) percent of the required escrow fund, the Board shall notify the applicant and require an additional amount. Any balance in the account remaining after a final decision on the application shall be returned to the applicant.
2. In the event that an application involves both Conditional Permitted Use Review and Site Plan Review, the applicant shall establish a single review escrow account sufficient to cover review costs.

402.9.4 Severability of Individual Ordinance Sections and Provisions

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

402.9.5 Conflicts with Other Ordinances

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rules, regulation, bylaw, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures the provision of this Ordinance shall control.

402.9.6 Planning Board Rules of Procedure

In order to provide for the efficient management of its duties and the fair hearing of items coming before it, the Planning Board may adopt and amend written rules governing the conduct of its meetings, provided such rules shall not conflict with this Ordinance or the provisions of any other Ordinance or Charter requirement. Such rules may include a provision that the Town Planner, in conjunction with the Planning Board Chair, may refuse to schedule an item for the Planning Board agenda unless and until the application in question is complete, including all Town staff reports. The Planning Board has the right to postpone a decision on an application to the Board if a significant amendment or additional information is proposed after the initial completed submission.

402.9.7 Effects of New Ordinance Enactment

The Zoning Ordinance of the Town of Gray originally adopted March 1, 1958, and as subsequently amended through January of 2008, is hereby repealed as of the effective date of this new Zoning Ordinance. The Town of Gray Shoreland Zoning Ordinance shall remain unaffected by the adoption of the Ordinance.

402.9.8 Amendments to the Zoning Ordinance and Zoning Map

All amendments to the Town of Gray Zoning Ordinance and Map must be in conformance with the Comprehensive Plan. Amendments which affect the Wellhead Protection or Business Transitional 2 Districts must be reviewed by the Gray Water District.

402.9.9 Conditional or Contract Zoning

Addition of 402.9.9 adopted: November 15, 2011 / Effective December 15, 2011 (Note: Refer to Policy adopted by Town Council October 16, 2012 for process)

Pursuant to 30-A M.R.S.A. § 4352.8 conditional or contract zoning is hereby authorized where, for reasons such as the unusual nature or unique location of the development proposed, the Town Council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions not generally applicable to other properties similarly zoned. All rezoning under this section shall establish rezoned areas which are consistent with the existing and permitted uses within the original zones. Nothing in this section shall authorize a rezoning, or an agreement to change or retain a zone, which is inconsistent with the Town's Comprehensive Plan.

- A. The Planning Board shall conduct a public hearing prior to any property being rezoned under this section. Notice of this hearing shall be posted in the town clerk's office at least thirteen (13) days prior to the public hearing and shall be published in a newspaper of general circulation within the town at least two (2) times, the date of the first publication must be at least twelve (12) days prior to the hearing and the second notice at least seven (7) days prior to the hearing. Notice shall also be sent to the owners of all property abutting the property to be rezoned at their last-known address. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.
- B. Conditions and restrictions imposed under the authority of this section shall relate only to the physical development and operation of the property and may include, by way of example:
 1. Limitations on the number and types of permitted uses;
 2. Restrictions on the scale and density of development;
 3. Specifications for the design and layout of building and other improvements;
 4. Schedules for commencement and completion of construction;
 5. Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
 6. Preservation of open space and buffers, and protection of natural areas and historic sites;
 7. Contributions toward the provision of municipal services required by the development; and,
 8. Provisions for enforcement and remedies for breach of any condition restriction.

ARTICLE 10 – SITE PLAN REVIEW

402.10.1 Purposes of Site Plan Review

The site plan review provisions set forth in this Section are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multi-family construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

402.10.2 Applicability of Site Plan Review

A person who has right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:

- A. The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures, if such buildings or structures have a total area for all floors of one thousand (1,000) square feet or more.
- B. The expansion of an existing nonresidential building or structure, including accessory buildings, if the enlargement increases the total area for all floors within a five (5) year period by more than twenty (20%) percent of the existing total floor area or one thousand (1,000 sq. ft.) square feet, whichever is greater.
- C. The conversion of an existing building in which one thousand (1,000 sq. ft.) or more square feet of total floor area are converted from residential to nonresidential use.
- D. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as, cemeteries, golf courses, and other nonstructural nonresidential uses.
- E. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review.
- F. The construction of a residential building containing three (3) or more dwelling units.
- G. The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.
- H. The conversion of an existing nonresidential building or structure, in whole or in part, into three (3) or more dwelling units within a five (5) year period.
- I. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than two thousand five hundred (2,500 sq. ft.) square feet within any three (3) year period.

402.10.3 Exempt Activities

The following activities shall not require site plan approval. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:

- A. The construction, alteration, or enlargement of a single family or two-family dwelling, including accessory buildings and structures.
- B. The placement, alteration, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.
- C. Agricultural activities, including agricultural buildings and structures, unless located in a Wellhead District or the Business Transitional 2 District.
- D. Timber harvesting and forest management activities.

402.10.4 Review and Approval Authority

The review and approval authority for site plans shall depend on the classification of the project:

A. Major Developments

The Planning Board is authorized to review and act on all site plans for major developments. In considering site plans under this section, the Planning Board may act to approve, disapprove, or approve the project with such conditions as are authorized by this Section.

B. Minor Developments

The Staff Review Committee is authorized to review all site plans for minor developments and may approve, disapprove, or approve the project with such conditions as are authorized by this Section. In addition, the Committee may reclassify a minor development as a major development and forward it to the Planning Board with its recommendations for Planning Board action.

402.10.5 Staff Review Committee

A. Staff Review Committee Established

There is hereby created a Staff Review Committee. The Staff Review Committee shall consist of the Planner, Code Enforcement Officer, and Planning Board Chairman or his/her designee.

B. Operation of the Staff Review Committee

The Planner shall serve as Chair of the Staff Review Committee and shall be responsible for calling meetings of the Committee, presiding at its meetings, and maintaining the records of the Committee. The Staff Review Committee shall meet biweekly or on an as-needed basis.

C. Authority of the Staff Review Committee:

1. In addition to reviewing Minor Developments for Site Plan Review projects as authorized in Section 402.10.4, the Staff Review Committee is also authorized to review the establishment of or expanding a new use(s) that requires Staff Review Committee approval as expressly stated in this Ordinance within the thresholds for a minor development.
2. In addition to the powers granted to the Committee under the Zoning Ordinance, it shall have the authority to conduct business and make such recommendations as shall be expressly delegated to it by any other ordinance or Town Council order.

402.10.6 Classification of Projects

The Planner shall classify each project as a major or minor development. Minor developments are smaller scale, less complex projects for which a less complex review process is adequate to protect the

Town's interests. Major developments are larger, more complex projects for which a more detailed review process and additional information are necessary.

A. Minor Developments

Projects meeting one or more of the thresholds listed below shall be considered a Minor Development. For calculation purposes, the baseline for meeting these threshold standards shall consider all changes during the five (5) year period prior to the date of application for Site Plan Review:

1. Construction or addition of 2,500 square feet or fewer of gross non-residential floor area.
2. Converting the use of an existing structure and/or property from one (1) lawfully existing non-residential use to another single non-residential use provided that a building permit is not required for 50% or more of the structure.
3. Addition of one (1) non-residential use to a structure that is currently utilized for one (1) lawfully existing non-residential use.
4. Adding less than 10,000 square feet of impervious surface and associated infrastructure, such as drainage, to one parcel. Existing impervious surfaces shall be counted to determine the 10,000 sq. ft. calculation. Any increase in impervious cover that exceeds 10,000 sq. ft. constitutes a Major Development for Site Plan Review purposes.
5. Establishing or expanding a municipal use on one (1) Town-owned parcel within the thresholds stated above for a Minor Development.
6. Components of a Major Development for Site Plan Review specifically delegated by the Planning Board subject to Planning Board appear per 402.10.7.D.
7. Establishing or expanding a new use(s) that requires Staff Review Committee approval as expressly provided in this Ordinance within the thresholds for a minor development.

B. Major Developments

Projects meeting any one of the following require Site Plan Review approval by the Planning Board:

1. Construction or addition of more than 2,500 square feet of gross non-residential floor area in the previous five years including square footage duly approved by the Staff Review Committee as a minor development.
2. Change of use of a structure and/or property principally used for residential purposes to one (1) or more non-residential uses
3. Addition of two (2) or more non-residential uses within the previous five years
4. Construction of impervious surfaces exceeding 10,000 square feet. Existing impervious surfaces shall be counted to determine the 10,000 sq. ft. calculation.
5. Projects than involve two (2) or more parcels/properties.
6. Projects that trigger Conditional Use review in addition to Site Plan Review.
7. Any Site Plan Review project(s) which is/are not classified as Minor Developments

402.10.7 Site Plan Review Procedure for Minor Developments

A. Preapplication Conference

Applicants for site plan review of a minor development are encouraged to schedule a preapplication conference with the Planner. The purpose of this meeting is to familiarize the applicant with the review procedures and submission requirements, and approval criteria, and to familiarize the Planner with the nature of the project. Such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decisions relative to the plan may be made at this meeting.

In connection with the preapplication review, the Planner may determine that an on-site inspection be held to familiarize the Staff Review Committee with the project site. The on-site inspection shall be scheduled by the Planner and shall be attended by the applicant and/or the applicant's representative and members of the Staff Review Committee. All abutters to the property shall be notified, in writing, of the time and date of the site inspection.

B. Application Process for Minor Developments

The property owner or his/her representative must submit a formal minor development application for review and approval to the Planner.

1. Receipt of Application and Review for Completeness

Upon receipt of the application, the Planning Office shall provide the applicant with a dated receipt showing the nature of the application and the fees paid. Within five (5) working days of receipt of an application for a minor development, the Planner shall review the application and determine if the application meets the submission requirements. The Planner shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application. If the application is incomplete, the Planner shall notify the applicant in writing of this determination, specify what additional materials or information are required to complete the application, and advise the applicant that the revised application package will be re-reviewed for completeness when it is resubmitted.

2. Notifications of Pending Application

Once the application is deemed to be complete, the Planner shall notify the applicant and the Chair of the Planning Board in writing of this determination and the action on any waivers and shall provide copies of the application to the Code Enforcement Officer, and Department Heads. The Planner shall notify all abutters to the site as shown on the assessor's records, by first-class mail that an application has been filed. This notice shall contain a brief description of the proposed activity and the name of the applicant. It shall advise the party that a copy of the application is available for inspection and that written comments on the application will be received and considered by the Staff Review Committee, and provide the date, time, and place of the Committee meeting at which the application will be considered. Failure of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

C. Staff Review Committee Meetings

Within ten (10) working days of the application being determined to be complete, the Staff Review Committee shall consider the application at a regular meeting of the Committee. The Planner shall notify the applicant, Chair of the Planning Board, and abutters, in writing of the date, time, and place of the meeting.

The Staff Review Committee shall consider if the application complies with the Site Plan Review standards and criteria and any specific Ordinance requirements for the use proposed. If the Committee finds that the application conforms to these requirements, it shall make written findings of fact and it shall vote to approve, approve with conditions, or deny the application. Approval by the Committee shall require the affirmative vote of a majority of the members of the Committee. The applicant, Chair of the Planning Board, and abutters shall be notified in writing of the Committee's action.

For uses listed in Table 402.5.3 as Conditional Permitted Uses, compliance with Site Plan Review Criteria and approval by the Staff Review Committee as a minor development shall be considered satisfactory demonstration of compliance with the Conditional Use Criteria of Section 402.9.3.G.

D. Appeal of Staff Review Committee Decisions to the Planning Board

Any party aggrieved by a decision of the Staff Review Committee, including the applicant, may seek an appellate review by the Planning Board. The appellant shall have ten (10) working days in which to file such an appeal with the Chair of the Planning Board. The appeal must be in writing and must specify why the appellant believes the action of the Staff Review Committee was in error.

If an appeal is filed, the application shall be placed on the agenda of the next regular meeting of the Planning Board subject to notification requirements. The appellant, applicant, and abutters shall be notified in writing of the Board meeting on the appeal. The Planner shall provide members of the Board with copies of the application, supporting material, staff review comments and decision of the Committee.

The Board shall review the existing record of materials on an appellate basis and shall determine if the application conforms to the approval criteria and standards. If the Board finds that the application conforms to the standards, it shall approve the application; otherwise it shall deny the same.

The Planner shall notify the appellant, applicant, and abutters who participated in the review of the action of the Planning Board.

E. Application Fees for Review of Minor Developments

Application fees and technical review fees shall be the same as for major developments and shall be set by the Town Council.

F. Submission Requirements for Review of Minor Developments

Site Plan applications for Minor Developments shall contain the submissions indicated in Sections 402.10.10 A (Site Inventory) and 402.10.10 C (Site Plan Submissions) unless waived by the Planner and/or Site Plan Review Committee.

402.10.8 Site Plan Review Procedure for Major Developments

A. Pre-application Conference

Applicants for site plan review of a major development are required to schedule a pre-application conference with the Planning Board. The purpose of this meeting is to familiarize the applicant with the review procedures and submission requirements, and approval criteria, and to familiarize the Planning Board with the nature of the project. Such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decisions relative to the plan may be made at this meeting.

B. Procedure and Information Required for Pre-Application Conferences

Applicants for site plan review of a major development are required to provide fourteen (14) copies of a packet ready for distribution to the Planning Board containing the submittals detailed in this section. The Town Planner shall have the authority to determine if the pre-application submittal is complete to place the item on the next Planning Board agenda.

The applicant's oral presentation and submitted materials regarding the present conditions and scope and nature of the project must provide adequate information to allow the Planning Board to understand the project, identify possible concerns, and provide meaningful input and to determine whether the approval standards have been met.

The submittal shall consist of following three components:

1. Narrative and site photographs

The applicant shall provide an accurate narrative outlining the present on-site conditions as well as the nature of the proposed development. In addition to aerial and/or on-site photographs (color 11" x 17") that accurately depict present on-site conditions, the narrative must include the following:

- a. Description of existing development constraints and implications on the proposed development;
- b. The proposed use of the parcel including conceptual zoning use classification(s);
- c. Initial estimate of the traffic generation for the proposed use;
- d. Estimates of water use and wastewater generation;
- e. Initial input, as appropriate, from State of Maine regulatory agencies, such as the DEP, DOT and the Department of Public Safety;
- f. List of ordinance waivers (as opposed to Zoning Ordinance variances) requested;
- g. Any unusual or hidden site characteristics that relate to the approval standards; and
- h. Any other matters with regard to which the applicant seeks comments from the Planning Board.

2. Initial Site Inventory Plan

The applicant shall provide one or more scaled plans containing readily available information including the following:

- a. Basic parcel information, i.e., boundaries, size, zoning district(s), north arrow, etc.;
- b. Surrounding land uses and accesses to street;
- c. Significant site features, both natural and developed, including significant trees, rock outcroppings, any developed portions;
- d. Estimated sight distance in both directions entering the street;
- e. Readily available soils information, such as the 1974 Cumberland County Medium Intensity Soils maps and soil descriptions for the requisite site;
- f. Topographic information, such as USGS maps delineating site;

- g. Wetland information that is readily apparent on-site or available through National Wetland Inventory Maps;
- h. Location and size/extent of any stormwater measures on site, such as culverts; and
- i. Location and features on site that may be subject to State regulatory agency review.

3. Conceptual Site Development Plan

The applicant shall provide a plan, to a readable scale, containing the following information:

- a. Overall site layout including access in, out, and within the parcel;
- b. Approximate location of water supply and wastewater disposal;
- c. Estimate of the size, extent, and location of impervious surfaces;
- d. Anticipated stormwater measures and their location;
- e. Buffering and screening that is proposed to be retained and/or added;
- f. Site elements to be retained; and
- g. Location and size of anticipated structures.

C. Application Process for Major Developments

1. Receipt of Application

Upon receipt of a formal site plan review application, the Planner shall give a dated receipt to the applicant.

2. Determination of Completeness

Within ten (10) working days of the receipt of a formal development review application, the Planner shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Planner shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Board. These steps, except the notification requirements, shall be repeated until the application is found to be complete.

3. Placement on the Planning Board Agenda

When the Planner determines that the application is complete, the Planner shall notify the applicant in writing of this finding, and place the item on the agenda of the Planning Board for substantive review at the next available meeting subject to the notification requirements of subsection 4 below.

4. Meeting Notice Requirements

The Planner shall give written notice of the date, time, and place of the meeting at which the application will be considered by the Planning Board to the applicant and all abutters of the property involved at least ten (10) days in advance of the meeting. For major developments, a notice of the hearing shall be published in a newspaper of general circulation in the community at least once; the date of publication shall be at least seven (7) days prior to the hearing (Note: This generally requires that an application be submitted a minimum of twenty-one (21) days before the meeting).

5. Planning Board Site Inspection

The Board may hold an on-site inspection of the site to field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the public hearing. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the Board will request that the applicant agree to extend the review period to allow an on-site inspection. The inability of the Board to hold a site inspection due to snow cover shall be sufficient grounds for denial of an application. If the Board decides to hold a site walk, the Board shall establish the day and time of the site inspection at its duly advertised meeting during their review of the application or written notice of the site inspection shall be provided to all abutters receiving notice of the pending application.

D. Public Hearing on Major Development Applications

1. Conduct of the Public Hearing

The Chairman or Vice Chairman of the Planning Board shall chair the public hearing. The Chairman shall open the public hearing by identifying the application and explaining the purpose of the hearing and the procedures to be followed.

2. Purpose of the Public Hearing

The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards and other regulations and requirements of this Ordinance or other municipal ordinances. The Planning Board is not a policy-making body and must apply the Ordinance as it has been enacted.

3. Process of Public Hearing Input

The Chairman shall provide the applicant or his/her representative with an opportunity to make any statement or presentations at the beginning of the hearing. The Planner shall then present any comments or recommendations from the staff and Department Heads. The Chairman shall then allow the members of the Board to ask questions of the applicant and/or the Planner. Following Board questions, the Chairman shall open the public hearing to the public for statements, information submissions, or questions about the project. At the close of the public comment period, the Chairman shall afford the applicant an opportunity to answer any questions raised by the public and rebut any statements or information submitted. The Chairman may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed.

4. Final Action on the Application

The Planning Board shall take final action on said application within thirty (30) days of the public hearing. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval and performance standards of this Ordinance for Zoning Districts, Conditional Permitted Uses, and for projects requiring Site Plan Review. In

issuing its decision, the Board shall make written findings of fact that establish whether the proposed development does or does not meet the requirements of this Ordinance.

The Board shall notify the applicant and abutters who requested to be notified of the action of the Board including the findings of fact and any conditions of approval.

5. Extension of Time Limits

All time limits provided for in this section may be extended by mutual agreement of the applicant and Board.

6. Final Approval and Filing

Upon completion of the requirements of this Article and an approval vote by the majority of the Planning Board members, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and must be filed by the applicant with the Code Enforcement Officer. Any plan not so filed within thirty (30) days of the date upon which such plan is approved and signed by the Board as herein provided shall become null and void. The Planning Board may by vote extend the filing period for good cause.

402.10.9 Application and Technical Review Fees for Site Plan Review

A. Application Fee

An application for site plan review must be accompanied by an application fee. This fee is intended to cover the cost of administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee must be paid to the municipality, and evidence of payment of the fee must be included with the application.

B. Technical Review Fees

In addition to the application fee, the applicant for site plan review must also pay a technical review fee to defray the technical costs of the application review. This fee must be paid to the Town and must be deposited in the Development Review Account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until this fee is paid. The Board may reduce the amount of the technical review fee or waive it if it determines that the scale or nature of the project will require little or no outside review.

The technical review fees may be used by the Board to pay for reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, planning consultant reviews, consulting engineering or other professional fees.

The applicant shall pay into a special account the cost to the Town of hiring independent consulting services according to the schedule set by the Town Council. If the balance in the special account is drawn down by seventy-five (75%) percent of the required escrow fund, the Board shall notify the applicant and require an additional amount.

The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with condition of the application.

C. Establishment of Fees

The Town Council may, from time to time and after consultation with the Board, establish the appropriate fees following posting of the proposed schedule of fees and conducting a public hearing.

402.10.10 Required Submissions for Site Plan Review

Site Inventory and Analysis: The site inventory and analysis is intended to provide both the applicant and the Planning Board with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. This analysis will result in a development plan that reflects the conditions of the site; ensuring that those areas most suitable for the proposed use will be utilized, while those that are not suitable or present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the site and an analysis of that information.

A. Site Inventory Plan

The site inventory must contain, at a minimum, the following information:

1. The names, addresses, and phone numbers of the record owner and the applicant.
2. The names and addresses of all consultants working on the project.
3. Evidence of right, title, or interest in the property.
4. Three (3) copies of an accurate scale inventory plan of the parcel at a scale of not more than one hundred (100) feet to the inch, one universally accessible digital format e.g. PDF, and twelve (12) 11 x 17 inch copies showing as a minimum:
 - a. The name of the development, north arrow, date and scale.
 - b. The boundaries of the parcel and existing zoning.
 - c. The relationship of the site to the surrounding area (i.e., access roads and abutting uses).
 - d. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site (in many instances, submittal of the U.S.G.S. contours will be adequate);
 - e. The major natural features of the site and within five hundred (500) feet of the site, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state).
 - f. Existing buildings, structures, or other improvements on the site (if none, so state).
 - g. Existing restrictions or easements on the site (if none, so state).
 - h. The location and size of existing utilities or improvements servicing the site (if none, so state).
 - i. Mapping of all wetlands and/or potential vernal pools on site regardless of size.
 - j. A Class B high intensity soil survey if any portion of the site is located in a resource protection district or has wetlands covering more than ten (10%) percent of the site.
 - k. A Class D medium intensity soil survey if vernal pools and/or significant wetlands are not present.

B. Site Analysis Plan

The site analysis must contain, at a minimum, the following information:

1. Twelve (12) copies of a site analysis plan at the same quantity, size, and scale as the inventory plan highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to identify:
 - a. Portions of the site that are unsuitable for development or use;
 - b. Portions of the site that are unsuitable for on- site sewage disposal;
 - c. Areas of the site that have environmental limitations (steep slopes, flat poorly drained areas, wetlands, vernal pools, aquifers, wildlife habitat, floodplains, drainage, etc.) that must be addressed in the development plan;
 - d. Areas that may be subject to off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.); and which areas are well suited to the proposed use.
2. Twelve (12) copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.
3. Any requests for waivers from the submission requirements for the site plan review application.

C. Site Plan Review Application Submission Requirements

Applications for site plan review must be submitted on application forms provided by the Town. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Planner. In addition to the site inventory and analysis, the submission must contain at least the following exhibits and information, unless specifically waived in writing:

1. A fully executed and signed copy of the application for development review.
2. Evidence of payment of the application and technical review fees.
3. Twelve (12) copies of written materials plus twelve (12) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under approval criteria. Three (3) full sets of plans or drawings shall be submitted that are not more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development. The remaining nine (9) full sets shall be 11 x 17 inch copies. One (1) universally accessible digital format e.g. PDF of all plans shall also be submitted.
4. The bound report and maps or drawings shall contain the following general information (Note: asterisks (*) following an item indicate information to be included on the approved Site Plan):
 - a. Record owner's name, address, and phone number and applicant's name, address and phone number, if different.*
 - b. The location of all required building setbacks, yards, and buffers.*
 - c. Names and addresses of all property owners within five hundred (500 ft.) feet of any and all property boundaries.

- d. Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.
 - e. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
 - f. The tax map and lot number of the parcel or parcels on which the project is to be located.*
 - g. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
 - h. The name, registration number and seal of the person who prepared the plan, if applicable.*
 - i. Evidence of the applicant's technical and financial capability to carry out the project as proposed.
5. The bound report and maps and drawings shall contain the following information pertaining to existing conditions of the site:
- a. Zoning classification(s), including overlay and/or sub-districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or sub-districts or abuts a different district.*
 - b. The bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.*
 - c. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed and on abutting streets or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.
 - d. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.*
 - e. The location and dimensions and photographs of all existing buildings on the site.
 - f. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
 - g. Location of intersecting roads or driveways within two hundred (200) feet of the site.
 - h. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.
 - i. The direction of existing surface water drainage across the site.
 - j. The location, front view, dimensions, and lighting of existing signs.

- k. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
- l. The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.
6. The bound report and maps and drawings shall contain the following information pertaining to proposed development of the site:
 - a. Estimated demand for water supply and sewage disposal, together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data for on-site sewage disposal.
 - b. The direction of proposed surface water drainage across the site, and from the site, with an assessment of impacts on downstream properties.
 - c. Provisions for handling all solid wastes, including hazardous and special wastes, and the location and proposed screening of any on-site collection or storage facilities.*
 - d. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.*
 - e. Proposed landscaping and buffering.
 - f. The location, dimensions, ground floor plan, and architectural elevations of all proposed buildings or building expansion proposed on the site.*
 - g. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign(s).
 - h. Location and type of exterior lighting.*
 - i. The location of all utilities, including fire protection systems.
 - j. A general description of the proposed use or activity.
 - k. An estimate of the peak hour and daily traffic to be generated by the project.
 - l. Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection, if the project is located in the Wellhead Protection or Business Transitional 2 Districts, or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.
7. One drawing of the plan set shall be labeled as the Site Plan and shall contain the following information:
 - a. All mapping information contained in subsections 4, 5, and 6 above that are followed by an asterisk (*).
 - b. Space provided on the plan drawing for the signatures of the Planning Board and date, together with the following words, "Approved: Town of Gray Planning Board."

D. Additional Engineering Information Required for Major Developments

In addition to the information required for all applicants, an application for a major development must contain the following additional information:

1. A narrative and/or plan describing how the proposed development plan relates to the site inventory and analysis.
2. A grading plan showing the existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine.
3. A stormwater drainage and erosion control program showing:
 - a. The existing and proposed method of handling stormwater runoff.
 - b. The direction of flow of the runoff, through the use of arrows.
 - c. The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.
 - d. Engineering calculations used to determine drainage requirements based upon the twenty-five (25) year twenty-four (24) hour storm frequency; this is required only if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.
 - e. Methods of controlling erosion and sedimentation during and after construction.
4. A groundwater impact analysis prepared by groundwater hydrologist for projects involving on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.
5. The name, registration number, and seal of the architect, engineer, landscape architect and/or similar professional who prepared the plan.
6. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, cable TV, and any other utility services to be installed on the site.
7. A planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the site, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.
8. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets, if the project or expansion will provide parking for fifty (50) or more vehicles or generate more than one hundred (100) trips during the a.m. or p.m. peak hour based upon the latest edition of the trip generator manual of the Institution of Traffic Engineers.
9. A written statement from the Gray Water District as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, if public water will be utilized.
10. Estimated cost of the proposed development and evidence of the applicant's financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed or available, and individual's or institution's interest in financing the project or in the form of a letter from a certified accountant or annual report indicating that the applicant has adequate cash flow to cover anticipated costs.

E. Waiver of Submission Requirements

The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the preapplication conference or at the initial review of the application if no preapplication conference is held. A waiver of any submission requirement may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria. Provisions for waivers of the performance standards of the following Sections 402.10.11 through 402.10.14 are contained in Section 402.10.15.

402.10.11 Site Development Standards for Site Plan Review

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. Utilization of the Site

The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

B. Traffic Access and Parking

1. Adequacy of Road System - Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development.

Levels of service rankings are similar to the academic ranking system where an ‘A’ represents little control delay and an ‘F’ represents extensive delay. A level of service ‘D’ and higher is desirable for a signalized intersection, although in urban areas, specific movements often operate at a level of service ‘E’ or ‘F’. [Adopted 1/19/10]

The following tables summarize the relationship between control delay and level of service: [Adopted 1/19/10]

Table 1A - Level of Service Criteria for Signalized Intersections	
Level of Service	Control Delay per Vehicle (sec)
A	Up to 10.0

B	10.1 to 20.0
C	20.1 to 35.0
D	35.1 to 55.0
E	55.1 to 80.0
F	Greater than 80.0
Table 1B - Level of Service Criteria for Unsignalized Intersections	
Level of Service	Control Delay per Vehicle (sec)
A	Up to 10.0
B	10.1 to 15.0
C	15.1 to 25.0
D	25.1 to 35.0
E	35.1 to 50.0
F	Greater than 50.0

If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service. This requirement may be waived by the Planning Board if the project is located within a growth area designated in the Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

A development not meeting this requirement may be approved if the applicant demonstrates that:

A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or

The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality.

2. Access into the Site - Vehicular access to and from the development must be safe and convenient.
 - a. Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible and per the following requirements:
 - (i) Minimum sight distance requirements for all subdivision accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the subdivision access. On roads that are designated by the Maine Department of Transportation as Mobility or Retrograde Arterials, the third column in Table 1C shall apply:

Table 1C – Required Access Safe Sight Distances		
Posted Speed (MPH)	Sight Distance (Feet)	Mobility Site Distance ¹ (Feet)
20	155	225
25	200	300
30	250	380
35	305	480
40	360	580
45	425	710
50	495	840
55 & over	570	990

¹ Mobility or Retrograde Arterials are critical travel corridors identified by MDOT. In Gray, the only such designated corridor is Route 26 from Cumberland through to New Gloucester.

- (ii) The measurement of sight line distances shall be from a point at a distance of ten (10) feet from the edge of the travel way at a height of three and one half (3.5) feet above the level of the surface of the travel way to the top of an object four and one quarter (4.25) feet above the surface of the travel way in the center of the approach lane.
 - (iii) Where sight line distances cannot be met at proposed new intersections, portions of the right of way as well as portions of abutting lots under the control of the applicant may be cleared of all growth (except isolated trees) and obstructions to achieve required sight distances. The applicant shall provide documentation that areas cleared to improve sight distances will be maintained in that condition. If approved by the Town Engineer and Public Works Director, the grade of the approach road may be modified to achieve improved visibility.
- b. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
 - c. The grade of any proposed drive or street must be not more than $\pm 3\%$ for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
 - d. The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

- e. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.
 - f. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
 - g. Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
 - h. The following criteria must be used to limit the number of driveways serving a proposed project:
 - (i) No use which generates less than one hundred (100) peak hour vehicle trips shall have more than a single two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
 - (ii) No use which generates one hundred (100) or more peak hour vehicle trips shall have more than two points of entry from and two points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.
3. Accessway Width - Accessways must meet the following width standards:
- a. The dimensions of driveways shall be designed to accommodate adequately the volume and character of vehicles anticipated to be attracted daily to the development for which a site plan is prepared. The required minimum dimensions for driveways are indicated below. Driveway entrances and exits serving traffic of over fifteen percent (15%) truck traffic shall be designed with adequate width to avoid a turning vehicle from tracking into the opposing travel lane. [Adopted 6/21/11]



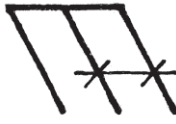

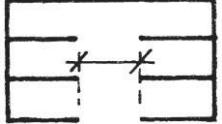
TABLE 1D – REQUIRED MINIMUM ACCESS DRIVE WIDTHS		
	One-Way Operation Driveways * Width (feet)	Two-Way Operation Driveways* Width (feet)
3 to 10 dwelling units	10	18
10 dwelling units or over	12	20
Commercial, Industrial, and Institutional	16	24
*All driveways shall be five (5) feet wider at the curblin, and this additional width shall be maintained for a distance of twenty (20) feet into the site.		

4. Accessway Construction Standards: [Adopted 6/21/11]

- a. Apart from the traffic access provisions of Sections 402.10.11 B.1 to 4. above, all access roads and drives for commercial, industrial, institutional, and multi-family development shall meet the standards of the Subdivision Ordinance for stormwater design (Section 401.13.16 B.3), closed drainage systems (Section 401.13.16 B.4), curbing (Section 401.13.16 B.5), construction Section 401.13.16 C), and sidewalks Section 401.13.16 E),
 - b. Internal roads for commercial, industrial, institutional, and multi-family development are not required to have a defined right of way if the project is a condominium and/or has no individual lots that require street frontage on the access drive.
5. Accessway Location and Spacing - Accessways must meet the following standards:
- a. Private entrances/exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
 - b. Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.
6. Internal Vehicular Circulation - The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.
- a. Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of WB-40 vehicles.
 - b. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
 - c. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
 - d. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.
7. Parking Layout and Design - The goals of the parking standards are to provide safe and adequate parking while avoiding construction of excess parking that is expensive to build and maintain. Applicants are encouraged to consider shared parking arrangements (Subsection 7. a below), off-site parking (Subsection 7. b), and reserve parking areas (Subsection 7.e) in meeting these goals. Off-street parking must conform to the following standards:
- a. Parking areas with more than two parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
 - b. All parking spaces, access drives, and impervious surfaces must be located at least five (5 ft.) feet from any side or rear lot line, except where standards for buffer yards require a greater

distance. No parking spaces or asphalt type surface shall be located within the required front setback unless a visual barrier to screen views of vehicle tire wells is approved by the Planning Board. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24 ft.) feet in width.

- c. Parking stalls and aisle layout must conform to the following standards:

Table 2 – Minimum Parking Space & Aisle Standards				
Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
				
90 degrees	9'-0"		18'-0"	24'-0" two way
60 degrees	8'-6"	10'-6"	18'-0"	16'-0" one way
45 degrees	8'-6"	12'-9"	17'-6"	12'-0" one way
30 degrees	8'-6"	17'-0"	17'-0"	12'-0" one way

- d. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
 - e. Parking areas for nonresidential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit and in non-residential uses for designated employee parking.
 - f. Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.
 - g. Except as provided in Subsection 7.b. below, off-street parking spaces shall be provided on the same lot occupied by the use. [Adopted 1/19/10]
 - h. The closest boundary of the parking area shall be within 300 ft. of the principle use for which the spaces are required. [Adopted 1/19/10]
8. Calculation of Required Number of Parking Spaces [Adopted 1/19/10]
- a. All areas pertinent to the use, except those listed in Subsection 6. b. below shall be included in the calculation of gross floor area.
 - b. Floor area of rooms occupied by mechanical, electrical, communications, and security equipment shall be deducted from the floor area for the purpose of calculating parking

requirements.

TABLE 3 – MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential	
Dwelling: Single Family, Duplex	2 per dwelling unit
Multifamily:	
Studio	1.25 per dwelling unit
One Bedroom	1.5 per dwelling unit
Two or More Bedrooms	2 per dwelling unit
Accessory/In-Law Dwelling Unit	1 per dwelling unit
Hotel/Motel	1.25 per guest room, plus 10 per 1000 sq. ft. restaurant/lounge, plus 30 per 1000 sq. ft. meeting/banquet room.
Senior Citizen Housing, Independent Living	0.6 per dwelling unit
Senior Citizen Housing, Assisted Living	0.4 per dwelling unit
Boarding Homes for Sheltered Care and Nursing Homes	1 per room
Rooming House:	
Single-Occupancy Unit	1 per dwelling unit
Double-Occupancy Unit	2 per dwelling unit
Employees	1 per employee
Visitors	As needed
Day Care, Facility (any type)	.35 per client of licensed capacity plus staff
Hospital/Medical Center	0.4 per employee, plus 1 per 3 beds, plus 1 per 5 average daily outpatient visits, plus 1 per 4 medical staff, plus 1 per student/faculty/staff
Retail/Service	
Retail Sales (not in shopping center)	3.5 per 1000 sq. ft. of gross floor area (GFA)
Supermarket (Freestanding)	4.5 per 1000 sq. ft. of GFA
Discount Superstore/Clubs	3.5 per 1000 sq. ft. of GFA
Home Improvement Superstore	2.5 per 1000 sq. ft. of GFA
Other Heavy/Hard Goods (Furniture, Appliances, Buildings Materials, etc.)	3.0 per 1000 sq. ft. of GFA
Shopping Centers	4.0 per 1000 sq. ft. of GFA,
Service Business, Personal	
Beauty Shops/Barber Shops	2 per treatment station, but not less than 4.3 per 1000 sq. ft. customer service area.

Coin-Operated Laundry/Dry Cleaning Services	3.5 per 1000 sq. ft. of GFA
Other	3.5 per 1000 sq. ft. of GFA
Fitness Center/Health Club	1 per 3 persons of permitted capacity
Retail Sales, Automobile Sales	2.7 per 1000 sq. ft. of interior sales area GFA, plus 1.5 per 1000 sq. ft. of interior area
Automobile Repair Services, Major or Minor	4 per service bay
Convenience Store	.25 per pump plus 1 per employee plus 4 per 1000 sq. ft.
Food and Beverage	
Restaurant	1 per 3 seats
Office and Business Services	
Business and Professional Office	4.5 per 1000 sq. ft. of GFA
Service Business, Commercial	4 per 1000 sq. ft. of GFA
Medical Office Building	5.5 per 1000 sq. ft. of GFA
Bank	5.5 per 1000 sq. ft. of GFA
Industry, Heavy	2 per 1000 sq. ft. of GFA
Industry, Light	1.5 per 1000 sq. ft.
Warehouse	0.7 per 1000 sq. ft. of GFA
Other Retail, Commercial or Business	4 per 1000 sq. ft. of GFA
Education	
Preschool/Nursery Schools	.35 per student plus 1 per employee
Elementary and Middle Schools	Per parking study specific to institution
High Schools	Per parking study specific to institution
College and University	Per parking study specific to institution
Cultural/Recreational/Entertainment	
Convention Center	0.25 per person of permitted capacity
Library	4.5 per 1000 sq. ft. of GFA
Place of Worship	1 for every 3 seats
Theater	1 for every 3 seats

9. Special Parking Conditions [Adopted 1/19/10]

- a. Shared Parking. Where multiple uses occur on a single site, the required number of off-street parking spaces shall be provided for each use. The Planning Board or Staff Review Committee may reduce the required number of parking spaces where the applicant can show, through a parking study performed by a Maine Licensed Professional Engineer, that the peak period parking demand of the uses is non-conflicting.
- b. Off-Site Parking. Parking spaces may be located off-site if the spaces will adequately serve the principal use for which the spaces are required. In making this determination the Planning Board, Staff Review Committee, or Code Enforcement Officer, as applicable, shall consider the following factors:
 - (i) Proximity of the off-street parking,
 - (ii) Ease of pedestrian access to the off-site parking,

- (iii) Provision of sidewalks or paths between the off-site parking and the principle use,
 - (iv) The applicant has sufficient legal interest in the land on which the off-site parking is provided to establish control as long as the use exists.
 - (v) Adequate lighting shall be installed to provide for safe pedestrian movement.
- c. Storage of Automobiles. The minimum off-street parking space requirements of Subsection 6. above do not apply to the storage of automobiles for repair or sale where the operator of the use has control over the movement of all stored vehicles on the property.
- (i) The applicant shall demonstrate that adequate area is provided for the storage of all automobiles on the property within any applicable yard setbacks.
 - (ii) The aisle width requirements in Table 2 above shall apply to the storage of automobiles.
 - (iii) The applicable parking requirements in Table 3 apply to all other cars on the property (e.g. customers and employees).
- d. Similar Uses. For any structure or use not specifically provided for, the Planning Board shall base the required number of parking spaces by selecting the use(s) most similar in the ordinance or by requiring a parking study to determine the appropriate number to be provided based on projected use.
- e. Waiver of Parking and Loading Requirements. If any applicant can clearly demonstrate to the Planning Board that, because of the nature of the operation or use, the parking and/or loading and unloading requirements of this ordinance are unnecessary or excessive, the Planning Board shall have the power to approve a site plan showing less paved parking or unloading area than is required by this section; provided, however, that a landscaped area of sufficient size to meet the deficiency shall be set aside and reserved for the purpose of meeting future off-street parking or unloading requirements in the event that a change of use of the premises shall make such additional off-street facilities necessary.
- f. Handicapped Accessible Spaces. All parking shall be designed in compliance with the requirements of the Americans with Disabilities Act and shall provide for accessible spaces in accordance with Table 4 below:

TABLE 4 – ACCESSIBLE PARKING REQUIREMENTS	
Total Parking in Area/Lot or Structure	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6

201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000
In addition, one in every eight accessible parking spaces (but not less than one) must be served by an access aisle at least 96 inches wide and must be designated "van accessible."	

10. Off-Street Loading. [Adopted 1/19/10]

- a. The minimum off-street loading standards of Table 5 in this Subsection shall be met:

TABLE 5 – REQUIRED OFF-STREET LOADING BAYS				
Type of Use	Gross Floor Area in Thousands of Square Feet			
	12-24	25-100	101-250	Each 250+
Retail or Industrial	2	3	4	1
Business and Professional Offices, Hotels	1	1	3	1
Distribution Facilities, Warehousing 15 bays per 100,000 s.f. of gross floor area				

- b. Size of loading areas.
- c. Each loading bay shall be between 12 and 14 feet wide depending on conditions of ingress and egress.
- d. Access to the bay shall include a minimum maneuvering area of 125 feet in length, or more where required.
- e. The bay area shall be long enough to accommodate standing trucks so as to remove them from the flow of traffic.
- f. Areas shall be provided for trucks to park when waiting for loading activities.
- g. All loading bays and waiting areas shall be screened.

C. Pedestrian Access

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the

neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

D. Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

1. To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
2. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
3. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
4. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
5. The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
6. The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.
7. Except in Wellhead Districts and Business Transitional-2, submission of a MDEP stormwater permit shall constitute prima facie evidence of compliance with the stormwater standards of this Ordinance. The Board may, however, require additional documentation to address any existing or potential concerns for flooding problems.
8. Surficial or subsurface stormwater control and/or treatment infrastructure shall be located in appropriate locations on the project site. Stormwater measures shall not adversely affect required buffering and screening. In the event that buffering/screening will be materially compromised due to the placement of surficial infiltration areas, the Planning Board shall have the authority to require alternative measures including subsurface infrastructure for the purpose of ensuring the integrity of applicable buffering and screening.

E. Erosion Control

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991 or the latest version.

F. Water Supply Provisions

The development must be provided with a system of water supply that provides each use with an adequate supply of water.

If the project is to be served by the Gray Water District, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

G. Sewage Disposal Provisions

The development must be provided with a method of disposing of sewage which is in compliance with the Maine State Plumbing Code.

When two or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

Cluster septic systems shall be constructed with dual filtration beds to provide for continuing operation while service or rejuvenation is being conducted. Cluster systems shall also be provided with an area for expansion and/or replacement of the system.

H. Utilities

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

I. Natural Features

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

J. Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

K. Water Quality Protection

All aspects of the project must be designed so that:

1. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness,

toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

2. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.
3. If the project is located within the direct watershed of a 'body of water most at risk from development' or 'a sensitive or threatened region or watershed' as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a stormwater permit from the DEP, the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous. If the project does not require a stormwater permit from the DEP, it must be designed to minimize the export of phosphorous from the site to the extent reasonable with the proposed use and the characteristics of the site.

L. Hazardous, Special, and Radioactive Materials

The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies.

No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

M. Technical and Financial Capacity of the Applicant

The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

N. Solid Waste Management

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

O. Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

P. Critical Areas Program

For all uses requiring Town site plan approval, the CEO or Planner will submit, where applicable, the site plan to the State's Critical Areas Program for review. Comments from the State regarding Critical Areas Program shall be submitted to the Planning Board for their consideration.

Q. Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

402.10.12 Good Neighbor Standards for Site Plan Review

A. Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during periods of darkness when the site is utilized.

1. Lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 footcandles at the lot line or upon abutting residential properties.
2. All exterior lighting, except security lighting, must be turned off between 11 P.M. and 6 A.M. unless located on the site of a commercial or industrial use which is open for business during that period with Planning Board approval.
3. Wiring to light poles and standards must be underground.

B. Buffering of Adjacent Uses

The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for screening of mechanical equipment and service and storage areas.

1. Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof.
2. A development must provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need to:
 - a. Shield neighboring properties from any adverse external effects of the development, or
 - b. Shield the development from the negative impacts of adjacent uses.
3. The width of the buffer may vary depending on the treatment of the area. Within densely built-up areas, a buffer with dense plantings, fencing, or changes in grade may be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width. In suburban and rural settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, fencing, or a combination thereof with a width of a minimum of five (5) feet.

C. Noise

1. The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity on the site shall be limited by the time period and by the abutting land use as listed below. Sound levels shall be measured at least four (4) feet above ground at the property boundary of the source.

2. Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4- 1961) ‘American Standards Specification for General Purpose Sound Level Meters.’
3. No person shall engage in construction activities, on a site abutting any residential use between the hours of 10 p.m. and 6 a.m.

D. Storage of Materials

1. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.
2. All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.
3. Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

402.10.13 Site Design Standards for Site Plan Review

A. Landscaping

Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

Landscaping may include plant materials such as trees, shrubs, groundcovers, perennials, and annuals, and other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture.

B. Building Placement

1. The site design should avoid creating a building surrounded by a parking lot. In built-up areas and in villages, buildings should be placed close to the street, in conformance with existing, adjacent setbacks. Parking should be to the side or preferably in the back.
2. In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.
3. Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site.
4. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

C. Building Illumination

1. Building facades may be illuminated with soft lighting of low intensity that does not draw inordinate attention to the building. The light source for the building facade illumination must be concealed.
2. Building entrances may be illuminated using recessed lighting in overhangs and soffits, or by use of spotlighting focused on the building entrances with the light source concealed (e.g., in landscaped areas). Direct lighting of limited exterior building areas is permitted when necessary for security purposes.

D. Building Entrances

1. The main entrance to the building should be oriented to the street unless the parking layout or the grouping of the buildings justifies another approach, and should be clearly identified as such through building and site design, landscaping, and/or signage.
2. At building entrance areas and drop-off areas, site furnishings such as benches and sitting walls and, if appropriate, bicycle racks shall be encouraged. Additional plantings may be desirable at these points to identify the building entrance and to complement the pedestrian activity at this point.

E. Setback and Alignment of Buildings

Where there is a reasonably uniform relationship between the front walls of buildings and the street, new buildings must be placed on a lot in conformance with the established relationship. For buildings on corner lots, the setback relationship of both streets should be maintained. The creation of 'empty corners' should be avoided through the placement of the building and other site features.

F. Sidewalks

Where an existing or planned public sidewalk is interrupted by a proposed project driveway, the sidewalk material must continue to be maintained across the driveway, or the driveway must be painted to distinguish it as a sidewalk. Further, if street trees exist on an adjacent property, street trees must be planted, in a like manner, on the new site.

G. Location of Off-Street Parking

1. Within built-up areas, parking lots should be located to the side or rear of the building. Parking should not be located between the building and the street. The use of shared parking, shared driveways and the cross-connection of parking lots is encouraged.
2. In suburban and rural areas, smaller uses that may need public visibility from the street should be sited as close to the street as possible. In this case, not more than one row of parking shall be allowed between the building and the street, with the balance of the parking located at the side and/or rear of the building. Larger scale uses and uses which do not require visibility from the road may be located further from the road with a landscaped buffer between the building and the street.

H. Landscaped Roadside Buffers

Whenever the area between the street and the front of the building is used for parking or vehicle movement, a vegetated buffer strip must be established along the edge of the road right-of-way. This buffer strip must soften the appearance of the site from the road and must create defined points of

access to and egress from the site. The width of the buffer strip must increase with the setback of the building as follows:

Table 5 – Required Off-Street Loading Bays				
Type of Use	Gross Floor Area in Thousands of Square Feet			
	12-24	25-100	101-250	Each 250 add.
Retail or Industrial	2	3	4	1
Business and Professional Offices, Hotels	1	1	3	1
Distribution Facilities, Warehousing 15 bays per 100,000 s.f. of gross floor area				

I. Landscaping of Parking Lots

Landscaping around and within parking lots shades hot surfaces and visually "softens" the hard surface look of parking areas. Parking areas must be designed and landscaped to create a pedestrian-friendly environment. A landscaped border must be created around parking lots. Any parking lot containing twenty (20) or more parking spaces must include one or more landscaped islands within the interior of the lot. There must be at least one island for every forty (40) spaces. Landscaping must screen the parking area from adjacent residential uses and from the street.

J. Building Orientation

New buildings within a built-up area should be compatible with the neighborhood such that they reflect the overall building bulk, square footage, dimensions, placement of the building on the lot, and rhythm of buildings and spaces along the street edge and minimize the visual impact on the neighborhood. The visual impact of a building shall be measured by its relationship to other buildings on the lot, design of the front of the building, and the rhythm of buildings and open spaces along the street.

K. Building Scale

When large new buildings or structures are proposed in built-up areas where their scale (size) and other features may be significantly different from that which already exists in the immediate neighborhood, care must be taken to design the new building or structure so that it is compatible with its neighbors. This may include making the building appear smaller, using additions and/or vertical and horizontal building extensions, traditional materials, styles and/or proportions.

L. Design of Drive-Through Facilities

Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the site adjacent to a residential use or residential zone. Communication systems must not be audible on adjacent properties in residential use. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing within normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street,

within the entry from the street, or within designated parking areas. The drive-through must not interfere with any sidewalk or bicycle path. Only one drive-through is permitted per building, although banks can have multiple lanes.

402.10.14 Standards for Multi-Family Housing

In addition to the prior provisions of Section 10 for Site Plan Review, multi-family housing in all Districts shall meet the following standards:

A. Perimeter Buffer Strip

A buffer strip of at least fifty (50) feet in width shall be required around the perimeter of the land area for which the multi-family project is proposed. The required buffer strip shall consist of undisturbed vegetation provided that the existing vegetation consists of mature trees and acts as an effective screen. If existing vegetation provides a poor visual screen, a mix of new landscaping including trees, shrubs and grasses shall be planted.

B. Driveways and Parking

The scale and surface area of parking areas, driveways and paved areas shall be compatible with adjacent structures, must be properly screened and must provide for parking in accordance with the requirements of Section 402.10.11. B.

C. Internal Road Access to all Units

Access to all housing units within the multi-family development shall be located on the new interior road system constructed as part of the development.

D. Orientation and Scale of Buildings

Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for site development. Buildings shall be compatible in terms of physical size, visual impact, intensity of use, proximity to other structures and density of development with other permitted uses within the District. In addition:

1. Individual lots, buildings, streets and parking areas shall be designed and situated:
 - a. To minimize alterations of the natural site;
 - b. To avoid the adverse effects of shadows, noise and traffic on the residents of the site;
 - c. To relate to surrounding properties, to improve the view from and of a building;
 - d. So that all dwelling units may take advantage of points of solar access.
2. Diversity and originality in lot layout and individual building, street, parking and lot layout shall be encouraged.

E. Number of Units per Building

The maximum number of attached dwelling units per structure shall be six (6) and the average number of attached dwelling units per structure shall be four (4). The distance between the foundations of any two principal structures shall be no less than the height of the taller of the two buildings, but in no event shall a building separation of less than thirty (30) feet be permitted.

F. Utilities

All dwelling units in the development shall be connected to a common water supply and distribution system (either public or private) in accordance with any policies of the Gray Water District, unless the developer shall clearly demonstrate to the Planning Board that such a system is not feasible and, in addition:

1. That the costs of providing a common water supply and distribution system are prohibitive;
2. That adequate ground water is available at all locations proposed for individual water systems;
3. That the ground water source(s) proposed for individual water systems is safe from both on-site contamination; and
4. That the source proposed is adequate for installation of life-safety sprinkler systems for the entire development.

402.10.15 Planning Board Waivers of Site Plan Review Performance Standards

- A. Unless otherwise specifically indicated, the Planning Board may grant waivers from the performance standards contained in this Article 10, Sections 402.10.11 through 402.10.14. In granting any waivers, the Planning Board shall make findings that:
1. The need for a waiver is based on unique circumstances relating to the specific site and development application and that these conditions would not be expected to be encountered elsewhere;
 2. The application of the standards is not requisite to public health, safety, and general welfare;
 3. The waiver would not qualify for relief granted by the Board of Appeals under Article 9.
 4. The granting of the waiver in other situations would not have the effect of amending the ordinance requirements; and,
 5. Appropriate conditions are applied.

402.10.16 Negotiated Exactions

- A. Purpose: Negotiated Exactions are intended to serve the following purposes:
1. Ensure that publically owned facilities and infrastructure are not adversely affected by new residential and/or commercial development
 2. Provide the administrative steps to establish a process to quantify the cumulative effects of a development proposal
 3. Establish mechanisms to minimize and ideally eliminate the necessity to expend public funds to address implications of private development on public infrastructure
 4. Ensure that new private development provided the same level of service available to existing development
 5. Establish a fair process to ensure that adequate public facilities are available to serve new growth and development
 6. Provide new growth and development that bears a proportional share of the cost new public facilities needed to serve them
 7. Accommodate orderly growth and development in a safe and fair manner

8. Protect the public health, safety, and welfare of the citizens of Gray and those who utilize public infrastructure in the Town

B. Authority:

1. In accordance with 30-A, M.R.S.A. Section 4352 (Zoning), 30-A, M.R.S.A. Sections 1911 to 1916 (Home Rule), and 30-A M.R.S.A. 4354 (Fees), the Town of Gray Planning Board shall have the authority to administer and require Negotiated Exactions as established in this Section 402.10.16 of the Town's Zoning Ordinance.
2. The Planning Board shall have the authority to require the owner or applicant of a development proposal meeting one or more of the thresholds established in Section 402.10.16.D to complete one or more of the following as part and/or all of the Negotiated Exaction:
 - a. Roadway and/or intersection improvements to maintain existing capacity and/or retain the current level of service
 - b. In order to maintain existing capacity and/or retain the current level of service, make necessary improvements to public infrastructure or provide the necessary surety for such improvements to occur
 - c. Donate land to the Town of Gray and/or State of Maine as necessary to complete public infrastructure such as currently proposed and/or future road widening, intersection improvements, or similar improvements
 - d. Acquire and/or purchase land or easement rights to be transferred to the Town of Gray and/or State of Maine necessary to complete public infrastructure
 - e. Posting a bond, cash, or other financial sureties as established in this Section 402.10.16.
3. As established in Section 402.10.16.G.1, the fair value of any land area donated, acquired, or purchased shall be duly considered by the Planning Board, Town Council and the Town as an integral component in determining the Negotiated Exaction.

C. Administrative Procedure:

1. As an integral part of the Planning Board's review of a development proposal, prior to final approval, the Board shall have the authority to require the applicant to submit a written summary of the cumulative anticipated implications of the proposed development upon public infrastructure as established in this Section 402.10.16.D and F. The purpose of providing this summary for the Board's review is to ensure that the Planning Board has sufficient information upon which to make an informed decision to require a full assessment as detailed in Section 402.10.16.F below.
2. The Planning Board shall review the summary and determine if any aspects warrant obtaining further information and/or if elements need to be verified by a duly qualified independent third party chosen by the Board with input from Town Staff at the applicant's expense.
3. After the summary and necessary information is received, the Planning Board shall have the authority to determine if a full assessment will be required.
4. In the event that the Planning Board determines that a full assessment is warranted based on the standards in this Section 402.10.16, the applicant shall compile and submit this for the Board's

consideration using the requirements detailed in Section 402.10.16.F below and in accordance with professionally accepted practices.

5. Once the Town Planner has determined that the assessment is sufficiently complete, the Planning Board shall review the assessment and determine if further information and/or if elements need to be verified by a duly qualified independent third party chosen by the Board with input from Town Staff at the applicant's expense.
 6. With input as necessary from duly qualified professionals to quantify the implications of the proposed development, the Planning Board shall determine the cumulative responsibilities of the applicant/developer in accordance with the options established in Section 402.10.16.G below.
 7. Upon establishing a negotiated exactions agreement for an infrastructure improvement project, the Planning Board shall describe an improvement benefit area(s) within which subsequent development is likely to benefit from the required improvements. The proposed benefit area(s) and the methodology to be used in assessing future allocation cost sharing and carrying cost reallocation shall then be referred to the Town Council for enactment. Benefit area(s) enacted by the Town Council shall be effective for the agreed upon period, not to exceed three (3) years from the date of enactment.
 8. Within each negotiated exactions benefit area enacted by the Town Council, all subsequent development applications for site plan and/or subdivision approval shall be required to participate in cost sharing and/or carrying costs for the infrastructure improvement project unless the Planning Board determines that no benefit has been derived from the prior improvement project.
 9. If the improvement is not completed within the agreed upon period, the fee, plus interest, must be returned to the applicant. If the improvement is made at a cost less than was anticipated, the remaining portion shall be returned to the applicant(s) at amounts equal to their fair share of the improvement.
 10. The Town shall segregate the funds received from exaction agreements from the general revenue fund and shall expend those funds solely for the purpose that was intended.
 11. Prior to final approval for the project, the Planning Board and/or Town Staff shall solicit input from the Town's Counsel to ensure that the necessary legal assurances have been established and formally executed to ensure the completion of the improvements, payments, etc. as finally determined by the Planning Board in accordance with this Section 402.10.16.
- D. Applicability: Except as specifically exempted in Section 402.10.16.E, development proposals that adversely effects existing public infrastructure by creating demand(s) upon, or the need for, public facilities causing one or more of the following, as determined by the Planning Board, are required to comply with this Section 402.10.16:
1. Project(s) that lower the level of service (LOS) nearby intersection(s) including but not limited to the following:
 - a. Adjusting signal timing and/or upgraded signals
 - b. Adding turn lane(s)
 - c. Widening portions of the intersection

- d. Constructing roadway portions adjacent to intersections for proper alignment i.e. taper lanes, etc.
 - e. Adding length to existing turn lane(s)
 2. Project(s) that reduce the capacity of a roadway segment
 3. Project(s) that place additional demand upon publically owned stormwater facilities
 4. Project(s) that create additional stormwater that adversely affects publically owned land or facilities
 5. Project(s) that require extending, upgrading, or increasing the water main size of a public water supply
 6. Project(s) that add additional wastewater to a publically owned and/or operated treatment facility
 7. Project(s) that place special demands upon the Gray Public Safety Department such as a requirement for special equipment to serve the project
 8. Project(s) that increase the workload on the Gray Public Works Department excepting winter maintenance as established in the Gray Street Ordinance (Chapter 400)
 9. Project(s) that increase the demand for police or law enforcement
 10. Project(s) that place additional demands on publically owned recreational facilities
 11. Project(s) that place demands on publically owned bicycle and/or pedestrian infrastructure specifically including sidewalks and bicycle lanes
 12. Project(s) that involve a new use, change of use, or expansion of an existing use
- E. Exemptions: The following developments are specifically exempt from this Section 402.10.16:
1. Existing, proposed, or expanded public facility(ies) owned by the Town of Gray
 2. Reconstruction of a building or structure located on property which was damaged or destroyed by fire or other casualty or which was voluntarily demolished during the past year provided that all of the following are met:
 - a. No additional dwelling unit(s) are created.
 - b. The use is not changed.
 - c. The use is not expanded.
 3. Alteration, remodeling rehabilitation, and/or reconstruction of any existing legal nonresidential structure where none of the following are associated with the proposed development:
 - a. No net increase in square footage of the structure
 - b. The use is not changed
 - c. There is not an expansion of an existing use
 - d. No new use(s) are proposed
- F. Conducting the Assessment:
1. The Planning Board may require the applicant to participate in municipally or state-owned, off-site capital improvements. In accordance with 402.10.16.D where it appears that the proposed

development will result in a negative impact or decline in the level of service of any existing off-site capital improvement, the Planning Board shall assess and establish the applicant's level of participation in the off-site capital improvement.

2. In conducting the assessment, the Planning Board shall consider the following:
 - a. The status of the system and service as a result of the analysis and any potential relationship to items noted and scheduled in the comprehensive plan and capital improvement program.
 - b. The net effect of the proposed development on the capacity of the capital improvement, indicating the percentage share caused by the development.
 - c. A cost estimate for this capital improvement so as to meet the increased demand, a breakdown of the applicant's share of that cost, and an estimate of the remaining capacity and post improvement capacity available to developments other than the applicant.

G. Improvement Responsibilities:

1. The fair value of any land area donated, acquired, or purchased by the owner/applicant shall be duly considered by the Planning Board, Town Council and the Town as an integral component in determining the Negotiated Exaction.
2. Once the applicant's share of capital improvement impact has been established by the Planning Board, the Board shall select the method in which the applicant must participate in the capital improvement. The following alternatives are available:
 - a. The applicant makes the improvement:
 - (i) The applicant must agree to make the necessary infrastructure improvements, providing all initial financial carrying costs, establish a construction schedule, and post a performance guarantee to cover all associated costs. The applicant may recover the improvement costs (including engineering and design, construction, and financing expenses) within ten (10) years after improvements are made and in accordance with a specified level of service range associated with the improvement.
 - (ii) For the applicant to recover these costs, subsequent developments must realize a benefit by using the infrastructure improvements financed by the applicant. Cost reimbursement for the applicant shall be established as subsequent developments go through the subdivision or site plan review process.
 - (iii) Calculations shall include adjustments for time-price differentials using the coupon issue yield equivalent of 52-week United States Treasury Bills (1-year Treasury Rate) as an index. Payments shall be made prior to the release of the signed final plan for recording purposes or the building permit where no recording mylar is involved.
 - b. Cost Sharing for Subsequent Development:
 - (i) Allocation Cost Sharing for Subsequent Development(s). In arriving at the appropriate cost share for subsequent development, applicants shall use the same methodology as that utilized by the initial applicant. In applying the methodology, subsequent applicants shall establish their cost based on the percentage utilization of the improvements in terms of post-construction level of service.

- (ii) Reallocation of Carrying Costs. At the request of the developer and at the discretion of the Planning Board, the Town may also require subsequent developments to share in the initial financial carrying costs of the necessary infrastructure improvements. If so determined, the carrying costs shall be shared between the initial and subsequent development(s) in direct proportion to their relative impact on the capital improvement. Once apportioned, the initial and subsequent development(s) are eligible for cost reimbursement from subsequent development(s) as described above.
- c. Town makes improvements: The Town may agree to complete the improvements. The applicant shall pay the required share of the cost to the Town prior to the release of the signed final plan or building permit, said payment to be held in a reserve fund until the improvement is completed. Subsequent developments that realize a benefit by using the infrastructure improvements financed by the Town shall also pay a fair share contribution.
- d. Cost Sharing agreement between Applicant and/or Town and/or MDOT to complete infrastructure improvements and/or partial contribution toward future Town infrastructure Improvement related to development application and/or land acquisition.

402.10.17 Post Site Plan Approval Activities

A. Time Limit on Approval

Substantial construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months and substantially completed within twenty-four (24) months of the date upon which the approval was granted. If construction has not been substantially commenced within the specified period, the approval shall be null and void. If construction has not been substantially commenced within the specified period substantially completed the project shall be in violation of the Ordinance.

The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two, one-year extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

B. Improvement Guarantees

1. The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection C below as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.
2. Upon substantial completion of all required improvements, the developer must notify the Planner and Code Enforcement Officer of the completion or substantial completion of improvements. The staff shall inspect or seek qualified professionals to conduct inspections to verify the proper construction of all required improvements and shall file a report indicating approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.
3. If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

C. Form of Guarantee

Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Town Attorney:

1. Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state. The bond must be issued in the name of the developer receiving site plan approval and not any contractors working for the developer.
2. Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
3. Escrow Account. The applicant may deposit cash or other instruments readily convertible into cash at face value, either with the Town, or in escrow in the name of the Town with a bank. A written agreement will be entered between the developer and the Town indicating the release of funds as work is completed and the return of all remaining funds with any interest accrued to the developer upon successful completion of the project.

D. Submission of As-Built Plans

Any project involving the construction of more than twenty thousand (20,000 sq. ft.) square feet of gross floor area or fifty thousand (50,000 sq. ft.) square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These "as-built" plans must be submitted prior to the issuance of a certificate of occupancy for the project or occupancy of the building.

E. Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the Planner.

F. Other Changes to Approved Plans

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval by the Planning Board or Staff Review Committee.

G. Appeals

1. Appeal of any actions taken by the Staff Review Committee shall be taken to the Planning Board in accordance with the provisions of Section 402.10.7 D.
2. Any party may take an appeal within thirty (30) days of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Article 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury.
3. The Planning Board may reconsider any decision reached under this section within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

ARTICLE 11 – GRAVEL PITS AND QUARRIES

Revision of Article 11 adopted by Town Council on: February 5th 2013

402.11.1 Purpose

The purpose of the standards in this Article 11 are the following:

- A. Regulate in an environmentally sound manner the extraction, removal, processing, and storage of topsoil, loam, rock, sand, gravel, clay, and other similar non-metallic earth materials in order to create an excavation for the purpose of obtaining gravel, rock, sand, fill, or clay.
- B. Protect the quantity and quality of the groundwater and other water bodies.
- C. Prevent a lowering of the average water table.
- D. Control erosion.
- E. Regulate access to excavations to and from public and private streets or roads.
- F. Provide for the safety of the public.

402.11.2 Applicability

- A. After the effective date of this revision of this Ordinance, March 7th 2013, all excavations within the Town of Gray shall be operated and maintained in accordance with the requirements of this Article 11 and this Ordinance except for those excavations with previously issued valid permits that specifically allow otherwise. Examples of exceptions include, but are not limited to, previously issued site location of development permits or other arrangements that have been approved by the State of Maine Department of Environmental Protection.
- B. Definitions: Terms for standards included in and associated with this Article 11 are located in Article 2 (Definitions) of this Ordinance. Terminology utilized by the Maine Department of Environmental Protection for the purposes of regulating Gravel Pits, Quarries, and Extractive Operations shall be applicable for the purposes of standards in this Article 11.
- C. Reclamation Requirements: Any area that has not been disturbed or modified since July 4, 1985 is not subject to reclamation requirements specified in Excavation Regulations in this Article (Section 402.11.7) of this Ordinance.
- D. This Ordinance does not apply to the following types of excavations or activities (formerly identified as Class C excavations):
 - 1. Any excavation with the sole purpose to determine the nature or extent of mineral resources accomplished by hand sampling, test boring, or other methods which create minimal disturbance with test holes filled in immediately after use.
 - 2. The removal of less than two hundred (200) cubic yards of material (except topsoil) in any one (1) year, provided that such removal does not disturb more than one (1) acre of land. The removal of any amount of topsoil or loam from a site is not an exempt activity unless it is undertaken as part of an approved construction project, is part of normal farm operations, or the topsoil or loam is being moved to a contiguous site having the same ownership.
 - 3. Any excavation or grading which is undertaken as part of and subordinate to an approved construction project such as a subdivision, permitted structure, or road.

4. Any excavation that has not expanded the limits of extraction beyond those that existed on the site prior to the initial adoption of this Ordinance on July 4, 1985.

402.11.3 Permitted Zoning Districts

- A. Excavation and earth-moving activities requiring a permit in accordance with this Ordinance shall be considered allowed uses in the RRA, BD-1, BD-2, MD, C, LD, and MH Zoning Districts.
- B. Excavation and earth-moving activities which require a permit but which were not in operation as of July 4, 1985 shall be prohibited in the, WH-1, WH-2 and BT-2 Zoning Districts.
- C. Excavation and earth-moving activities in RP, SP and LR Zoning Districts are covered separately under the Shoreland Zoning Ordinance.

402.11.4 Permit Requirements

- A. Regulations for permits distinguish between seven classifications as specified below in Section 402.11.5 (Classification). In addition to standards required for the respective classification, all operations shall comply with the standards in Permit Requirements in this Article (Section 402.11.4).
- B. For all classifications that require a Town permit, the owner or operator shall pay a fee to the Town of Gray as set forth in the Schedule of Fees adopted by the Town Council upon filing an application for an excavation under this Ordinance.
- C. For classifications that do not require a Town permit, the standards established in this Ordinance, including Administrative Requirements (Section 402.11.8) and Excavation Regulations (Section 402.11.7) in this Article are applicable unless specifically exempted.
- D. The reviewing authority's scope of review is limited to the permit requirements for the respective classifications. The applicant shall be responsible for ensuring that necessary provisions have been established to meet and maintain Excavation Regulations specified in Excavation Regulations (Section 402.11.7) and Administrative Requirements (Section 402.11.8) of this Article including but not limited to reclamation standards, an acceptable form of surety for reclamation when applicable, expansions of non-conforming uses, inspections, annual reports, and change in owner/operator.
- E. Renewal of an excavation permit shall not be required while the operation of an excavation remains within the boundaries of the existing permit, provided that the owner or operator complies with all the requirements of this Ordinance.

402.11.5 Classification

There shall be seven (7) classifications of excavations:

- A. New Class A Excavations. Class A excavations are those of five (5) acres or more in area that are required to have a permit from the Maine Department of Environmental Protection. See 402.11.6.A below.
- B. Expansion of a Class A excavation beyond the permitted excavation area and within the perimeter of the property which includes the proposed expansion without any change in access. See 402.11.6.B below.
- C. Expansion of a Class A excavation beyond the permitted excavation area and within the perimeter of the property which includes the proposed expansion, with a proposed change in access. See 402.11.6.C below.

- D. Expansion of a Class A excavation beyond the permitted excavation area and beyond the perimeter of the property which includes the existing excavation without any change in access. See 402.11.6.D below.
- E. Expansion of a Class A excavation beyond the permitted excavation area and beyond the perimeter of the property which includes the existing excavation and which also includes a change in access. See 402.11.6.E below.
- F. New Class B excavations and expansions of Class B excavations beyond the permitted excavation area that will have a proposed total working excavation area of less than five (5) acres. Class B excavations are those of less than five (5) acres in area that are not required to have a permit from the Maine Department of Environmental Protection, but are required to have a permit from the Town of Gray. See 402.11.6.F below.
- G. Expansion of a Class B excavation that will have a proposed total working excavation area of five (5) acres or more. See 402.11.6.G below.

402.11.6 Requirements for Classifications

In addition to Permit Requirements specified in 402.11.4 above, the following standards are applicable for the respective type of classification:

A. New Class A excavations

1. Any proposed new Class A excavation that is entirely within the Town of Gray is required to obtain a permit from the Town of Gray in accordance with the requirements of this Ordinance. For any proposed new Class A excavation that crosses municipal boundaries, this requirement for a permit applies only to that portion that lies within the Town of Gray.
2. The applicant is required to file a notice of intent to comply with the Maine Department of Environmental Protection and to file an application for a new excavation permit with the Town of Gray.
3. Planning Board approval is required before a permit is issued by the Town of Gray. A public hearing shall be held by the Planning Board within thirty (30) days of the date that the Code Enforcement Officer determines that an application is complete.
4. An application for a proposed new Class A excavation permit shall be submitted to the Code Enforcement Officer. The following information shall be included with the application for a new permit:
 - a. Name, address, telephone number, fax, and email address of current owner of the property.
 - b. Name, address, telephone number, fax, and email address of operator if different from owner.
 - c. If the applicant for an excavation has received a Maine Department of Environmental Protection permit or any other State or Federal permits that may be required, then copies of those permits shall be included with the application.
 - d. Assessor's Tax Map and lot number(s), a copy of the most recently recorded deed for the parcel and, if the applicant is not the owner, verification of right, title, or interest in the property by purchase and sales agreement, option to purchase the property, or some other proof of interest.
 - e. A site plan that includes the following information:

- (i) A boundary survey of the parcel proposed for excavation, or if a portion of the parcel is proposed for excavation, a survey of the portion of property proposed for excavation shall be submitted.
 - (ii) Date, North arrow, legend, and scale.
 - (iii) Owner of record name and address.
 - (iv) All consultants working on the project.
 - (v) Location of structures, wells, streams, springs, intermittent streams, wetlands, and test borings on the parcel or within one hundred (100) feet of the parcel.
 - (vi) Contours of the parcel around the area of proposed excavation and within one hundred (100) feet of the parcel at five (5) foot intervals.
 - (vii) Existing and proposed buffering of the parcel or the excavation site from surrounding properties.
 - (viii) Location of any proposed material storage sites including proximity to abutters.
 - (ix) Location of all proposed accesses to and from public or private streets with plans for controlling access to the excavation site such as fencing, gates, or signs.
 - (x) Rehabilitation plans for closing out the site.
 - (xi) If a site plan has been accepted by the Maine Department of Environmental Protection, then a copy of that site plan shall be included with the application.
- f. The depth to groundwater at the site of the proposed excavation as determined by test boring to substantiate that the groundwater will not be disturbed.
 - g. A description of any existing or planned security provisions which might include warning signs, fencing, and lighting.
 - h. A narrative description of the operations including methods of extraction, uses of on-site processing equipment, type and location of any structures, stockpiled materials, disposition of stumps, brush, or other materials, and on-site storage of any hazardous materials.
 - i. Present uses of abutting and nearby properties.
 - j. A statement clearly specifying any known easements that could potentially affect the property to be excavated or the rights of the owners of the easements. If no such easements exist, a statement to this effect shall be submitted.
 - k. Sufficient information for the Planning Board to make a determination that the standards contained in Section 402.11.6.A.7 below will be met and maintained.
 - l. A signed statement attesting that, to the best of the knowledge of the applicant for an excavation, the information contained in the application is true, accurate, and complete.
5. When the Code Enforcement Officer has verified that the application is complete, the Code Enforcement Officer shall notify the Planning Board that an application for a new Class A excavation has been received and that the Planning Board is required to hold a Public hearing within thirty (30) days.

6. No permit shall be issued for any new Class A excavation until the abutting property owners have been notified as specified in this Section.
 - a. Within seven (7) days of the receipt of an application for a new excavation permit, the Code Enforcement Officer, or designee, shall notify in writing by First Class Mail all owners of abutting property that an application for an excavation permit has been received.
 - b. For purposes of this section, abutting property owners shall be owners of property within five hundred (500) feet of the nearest boundary of the property which includes the proposed excavation.
 - c. For purposes of this section, the owners of abutting property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed.
 - d. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Planning Board.
 - e. The letter notifying the abutting property owners shall state that an application has been received, where/how to view additional information, the specifics of the next step in the Town's review of the application (date, place, time), and the options available to ask questions, raise concerns, and provide input to the Town's review process.
7. The Planning Board shall have jurisdiction over the following matters that may have effects outside of the perimeter of the property and shall determine that adverse impacts to the public are minimized:
 - a. Provisions to deal with any noise, dust, runoff, or other environmental considerations that may affect the public.
 - b. Appropriate mitigation measures to minimize negative impacts of the project on surrounding or nearby properties or public facilities including, but not limited to public roads.
 - c. Appropriate security provisions which might include warning signs, fencing, and lighting.
 - d. Safe entrances and exits in accordance with the provisions of the Traffic Access and Parking section of Site Development Standards for Site Plan Review of this Ordinance.
 - e. Appropriate buffer strips in accordance with the requirements of the Excavation Regulations of this Ordinance.
 - f. Proximity of proposed material storage sites to abutters.
- B. Expansion of a Class A excavation beyond the permitted excavation area and within the perimeter of the property which includes the proposed expansion without any change in access.
 1. The applicant is required to file the appropriate documents with the Maine Department of Environmental Protection and to supply two (2) complete copies of those documents to the Code Enforcement Officer of the Town of Gray.
- C. Expansion of a Class A excavation beyond the permitted excavation area and within the perimeter of the property which includes the proposed expansion, with a proposed change in access
 1. The applicant is required to file the appropriate documents with the Maine Department of Environmental Protection and to include copies of those documents with an application for an expansion of an excavation permit with the Code Enforcement Officer of the Town of Gray

2. Planning Board approval is required before a permit is issued by the Town of Gray. The Planning Board shall hold a public hearing within thirty (30) days of the date that the Code Enforcement Officer determines that the application is complete.
3. The following information shall be included with the application for a permit:
 - a. Name, address, telephone number, fax, and email address of current owner of the new property.
 - b. Name, address, telephone number, fax, and email address of operator if different from owner of the new property.
 - c. A sketch of the area proposed for expansion of an excavation. The sketch shall include, at a minimum:
 - (i) Date, North arrow, legend, and scale.
 - (ii) Owner of record name and address.
 - (iii) All consultants working on the project.
 - (iv) Locations of structures, wells, streams, springs, intermittent streams, wetlands, and test borings on the area proposed for expansion or within one hundred (100) feet of the area proposed for expansion.
 - (v) Existing and proposed buffering of the area proposed for expansion from surrounding properties.
 - (vi) Any proposed material storage sites, including proximity to abutters, in the area proposed for expansion.
 - (vii) Detailed drawings of the proposed change in access including contours.
 - d. A description of any existing or planned security provisions which might include warning signs, fencing, and lighting.
 - e. A narrative description of the operations including methods of extraction, uses of on-site processing equipment, type and location of any structures, stockpiled materials, disposition of stumps, brush, or other materials, and on-site storage of any hazardous materials.
 - f. Present uses of abutting and nearby properties.
 - g. A statement clearly specifying any known easements that could potentially affect an excavation. If no such easements exist, a statement to this effect shall be submitted.
 - h. Sufficient information for the Planning Board to make a determination that the standards contained in Section 402.11.6.C.6 below will be met and maintained.
 - i. A signed statement attesting that, to the best of the knowledge of the applicant for an expansion of an excavation, the information contained in the application is true, accurate, and complete.
4. When the Code Enforcement Officer has verified that the application is complete, the Code Enforcement Officer shall notify the Planning Board that an application for an expansion of an excavation with a change of access has been received and a Public hearing is required to be held within thirty (30) days.

5. No permit shall be issued for expansion of a Class A excavation that includes a change in access until the property owners abutting the property which includes the expansion have been notified as specified in this Section that an application for an expansion of an excavation with a change of access has been received.
 - a. Within seven (7) days of the receipt of an application for a permit for the expansion of the excavation, the Code Enforcement Officer, or designee, shall notify in writing by First Class Mail all owners of abutting property that an application for an expansion of an excavation permit has been submitted.
 - b. For purposes of this section, abutting property owners shall be owner(s) of property within five hundred (500) feet of the nearest boundary of the area to be permitted for the proposed expansion of an excavation.
 - c. Owners of abutting property shall be those listed in the most recent tax records of the Town of Gray.
 - d. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.
 - e. The letter notifying the abutting property owners shall state that an application for an expansion of an excavation beyond the permitted excavation area, but within the perimeter of the property which includes the proposed expansion, with a proposed change in access has been received, where/how to view additional information, the specifics of the next step in the Town's review of the application (date, place, time), and the options available to ask questions, raise concerns, and provide input to the Town's review process.
 6. The Planning Board shall have jurisdiction over the following matters that may have effects outside of the perimeter of the property and shall determine that adverse impacts to the public are minimized:
 - a. Provisions to deal with any noise, dust, runoff, or other environmental considerations that may affect the public.
 - b. Appropriate mitigation measures to minimize negative impacts of the project on surrounding or nearby properties or public facilities including, but not limited to public roads.
 - c. Safe entrances and exits in accordance with the provisions of the Traffic Access and Parking section of Site Development Standards for Site Plan Review of this Ordinance.
 7. All requirements of the existing permit shall remain in effect unless specifically altered in the permit for an expansion.
- D. Expansion of a Class A excavation beyond the permitted excavation area and beyond the perimeter of the property which includes the existing excavation without any change in access.
1. The applicant is required to file the appropriate documents with the Maine Department of Environmental Protection and to include copies of those documents with an application for an expansion of an excavation permit with the Code Enforcement Officer of the Town of Gray.
 2. The following information shall be included with the application for a permit:
 - a. Name, address, telephone number, fax, and email address of current owner of the new property.

- b. Name, address, telephone number, fax, and email address of operator if different from owner of the new property.
 - c. A sketch of the area proposed for expansion of an excavation. The sketch shall include, at a minimum:
 - (i) Date, North arrow, legend, and scale.
 - (ii) Owner of record name and address.
 - (iii) All consultants working on the project.
 - (iv) Location of structures, wells, streams, springs, intermittent streams, wetlands, and test borings on the area proposed for expansion or within one hundred (100) feet of the area proposed for expansion.
 - (v) Existing and proposed buffering of the area proposed for expansion from surrounding properties.
 - (vi) Any proposed material storage sites, including proximity to abutters, in the area proposed for expansion
 - d. A description of any existing or planned security provisions which might include warning signs, fencing, and lighting.
 - e. A narrative description of the operations including methods of extraction, uses of on-site processing equipment, type and location of any structures, stockpiled materials, disposition of stumps, brush, or other materials, and on-site storage of any hazardous materials.
 - f. Present uses of abutting and nearby properties.
 - g. A statement clearly specifying any known easements that could potentially affect the property to be excavated or the rights of the owners of the easements. If no such easements exist, a statement to this effect shall be submitted.
 - h. A signed statement attesting that, to the best of the knowledge of the applicant for an expansion of an excavation, the information contained in the application is true, accurate, and complete.
3. When the Code Enforcement Officer has verified that the application is complete, the Code Enforcement Officer shall issue a permit for the expansion.
 4. Within seven (7) days of the verification by the Code Enforcement Officer that the application is complete, the Code Enforcement Officer, or designee, shall notify in writing by First Class Mail the abutting property owners of the new property which includes the expansion that a permit for an expansion of an excavation without any change in access has been issued.
 - a. For purposes of this section, abutting property owners shall be owner(s) of property within five hundred (500) feet of the nearest boundary of the area to be permitted for the proposed expansion of an excavation.
 - b. Owners of abutting property shall be those listed in the most recent tax records of the Town of Gray.
 - c. Failure of any property owner to receive a notice shall not necessitate any review or invalidate any action of the Code Enforcement Officer.

- d. The letter notifying the abutting property owners shall state that a permit for an expansion of an excavation that proposes to extend beyond the perimeter of the property which includes the existing excavation without any change in access has been received, where/how to view additional information, and the options available to ask questions, and raise concerns regarding applicable standards.
5. All requirements of the existing permit shall remain in effect unless specifically altered in the permit for an expansion.
- E. Expansion of a Class A excavation beyond the permitted excavation area and beyond the perimeter of the property which includes the existing excavation and which also includes a change in access
 1. The applicant is required to file the appropriate documents with the Maine Department of Environmental Protection and to include two (2) complete copies of those documents with an application for an expansion of an excavation permit with the Code Enforcement Officer of the Town of Gray.
 2. Planning Board approval is required before a permit is issued by the Town of Gray. The Planning Board shall hold a public hearing within thirty (30) days of the date that the Code Enforcement Officer determines that the application is complete.
 3. The following information shall be included with the application for a permit:
 - a. Name, address, telephone number, fax, and email address of current owner of the new property.
 - b. Name, address, telephone number, fax, and email address of operator if different from owner of the new property.
 - c. A sketch of the area proposed for expansion of the excavation. The sketch shall include, at a minimum:
 - (i) Date, North arrow, legend, and scale.
 - (ii) Owner of record name and address.
 - (iii) All consultants working on the project.
 - (iv) Locations of structures, wells, streams, springs, intermittent streams, wetlands, and test borings on the area proposed for expansion or within one hundred (100) feet of the area proposed for expansion.
 - (v) Existing and proposed buffering of the area proposed for expansion from surrounding properties.
 - (vi) Any proposed material storage sites including proximity to abutters.
 - (vii) Detailed drawings of the proposed change in access including contours.
 - d. The depth to groundwater at the site of the proposed expansion of the excavation as determined by test boring to substantiate that the groundwater will not be disturbed.
 - e. A narrative description of the operations including methods of extraction, uses of on-site processing equipment, type and location of any structures, stockpiled materials, disposition of stumps, brush, or other materials, and on-site storage of any hazardous materials.
 - f. Present uses of abutting and nearby properties.

- g. A statement clearly specifying any known easements that could potentially affect the property to be excavated or the rights of the owners of the easements. If no such easements exist, a statement to this effect shall be submitted.
 - h. Sufficient information for the Planning Board to made a determination that the standards is Sections 402.11.6.E.6 and 7 below will be met and maintained.
 - i. A signed statement attesting that, to the best of the knowledge of the applicant for an expansion of an excavation, the information contained in the application is true, accurate, and complete.
4. When the Code Enforcement Officer has verified that the application is complete, the Code Enforcement Officer shall notify the Planning Board that an application for an expansion of an excavation with a change of access has been received and a Public hearing is required to be held within thirty (30) days.
 5. No permit shall be issued for expansion of a Class A excavation that includes a change in access until the property owners abutting the property which includes the expansion have been notified as specified in this Section.
 - a. Within seven (7) days of the receipt of an application for a permit for the expansion of the excavation, the Code Enforcement Officer, or designee, shall notify in writing by First Class Mail all owners of abutting property that an application for a permit for an expansion of an excavation with a change of access has been received.
 - b. For purposes of this section, abutting property owners shall be owner(s) of property within five hundred (500) feet of the nearest boundary of the area to be permitted for the proposed expansion of an excavation.
 - c. Owners of abutting property shall be those listed in the most recent tax records of the Town of Gray.
 - d. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.
 - e. The letter notifying the abutting property owners shall state that an application for an expansion of an excavation that proposes to extend beyond the perimeter of the property which includes the existing excavation and also includes a change in access has been received, where/how to view additional information, the specifics of the next step in the Town's review of the application (date, place, time), and the options available to ask questions, raise concerns, and provide input to the Town's review process.
 6. The Planning Board shall have jurisdiction over the following matters that may have effects outside of the perimeter of the property and shall determine that adverse impacts to the public are minimized:
 - a. Provisions to deal with any noise, dust, runoff, or other environmental considerations that may affect the public.
 - b. Appropriate mitigation measures to minimize negative impacts of the project on surrounding or nearby properties or public facilities including, but not limited to public roads.
 - c. Safe entrances and exits in accordance with the provisions of the Traffic Access and Parking section of Site Development Standards for Site Plan Review of this Ordinance.

- d. Appropriate buffer strips in accordance with the requirements of the Excavation Regulations of this Ordinance.
 - e. Proximity of proposed material storage sites to abutters.
 7. The Planning Board shall determine that the following issues are met that are not more than fifty (50) feet inside of the perimeter of the property which includes the proposed expansion:
 - a. Appropriate buffer strips in accordance with the requirements of the Excavation Regulations of this Ordinance.
 - b. Proximity of proposed material storage sites to abutters.
 8. All requirements of the existing permit shall remain in effect unless specifically altered in the permit for an expansion.
- F. New Class B Excavations and Expansion of a Class B Excavation.
1. Any proposed new Class B excavation or expansion of a Class B excavation that is entirely within the Town of Gray is required to obtain a permit from the Town of Gray in accordance with the requirements of this Ordinance. For any proposed new Class B excavation or expansion of a Class B excavation that crosses municipal boundaries, this requirement for a permit applies only to that portion that lies within the Town of Gray.
 2. The Planning Board shall have jurisdiction over all permitting matters related to the excavation.
 3. Planning Board approval is required before a permit is issued by the Town of Gray. A public hearing shall be held by the Planning Board within thirty (30) days of the date that the Code Enforcement Officer determines that an application is complete.
 4. For a proposed new Class B excavation or expansion of a Class B excavation, the applicant is required to file an application for an excavation permit with Gray's Code Enforcement Officer. The following information shall be included with the application for a permit:
 - a. Name, address, telephone number, fax, and email address of current owner of the property.
 - b. Name, address, telephone number, fax, and email address of operator if different from owner.
 - c. For a Class B excavation, if the applicant for an excavation has received a Maine Department of Environmental Protection permit or any other State or Federal permits that may be required, then copies of those permits shall be included with the application.
 - d. Assessor's Tax Map and lot number(s), a copy of the most recently recorded deed for the parcel and, if the applicant is not the owner, verification of right, title, or interest in the property by purchase and sales agreement, option to purchase the property, or some other proof of interest.
 - e. A site plan that includes the following information:
 - (i) A boundary survey of the parcel proposed for excavation, or if a portion of the parcel is proposed for excavation, a survey of the portion of property proposed for excavation shall be submitted.
 - (ii) Date, North arrow, legend, and scale.
 - (iii) Owner of record name and address.

- (iv) All consultants working on the project.
 - (v) Location of structures, wells, streams, springs, intermittent streams, wetlands, and test borings on the parcel or within one hundred (100) feet of the parcel.
 - (vi) Contours of the parcel around the area of proposed excavation and within one hundred (100) feet of the parcel at five (5) foot intervals.
 - (vii) Existing and proposed buffering of the parcel or the excavation site from surrounding properties.
 - (viii) Location of any proposed material storage sites including proximity to abutters.
 - (ix) Location of all proposed accesses to and from public or private streets with plans for controlling access to the excavation site such as fencing, gates, or signs.
 - (x) Rehabilitation plans for closing out the site.
- f. The depth to groundwater at the site of the proposed excavation as determined by test boring to substantiate that the groundwater will not be disturbed.
- g. A description of any existing or planned security provisions which might include warning signs, fencing, and lighting.
- h. A narrative description of the operations including methods of extraction, uses of on-site processing equipment, type and location of any structures, stockpiled materials, disposition of stumps, brush, or other materials, and on-site storage of any hazardous materials.
- i. Present uses of abutting and nearby properties.
- j. A statement clearly specifying any known easements that could potentially affect an excavation. If no such easements exist, a statement to this effect shall be submitted.
- k. Sufficient information for the Planning Board to make a determination that the standards in Section 402.11.6.F.7 below will be met and maintained.
- l. A signed statement attesting that, to the best of the knowledge of the applicant for an excavation, the information contained in the application is true, accurate, and complete.
5. When the Code Enforcement Officer has verified that the application is complete, the Code Enforcement Officer shall notify the Planning Board that an application for a new Class B excavation or expansion of a Class B excavation has been received and that a Public hearing is required to be held within thirty (30) days.
6. No permit shall be issued for any new Class B excavations or expansion of a Class B excavation until the abutting property owners have been notified as specified in this Section.
- a. Within seven (7) days of the receipt of an application for an excavation permit, the Code Enforcement Officer, or designee, shall notify in writing by First Class Mail all owners of abutting property that an application for an excavation permit has been received.
 - b. For purposes of this section, abutting property owners shall be owners of property within five hundred (500) feet of the nearest boundary of the property which includes the proposed excavation.

- c. For purposes of this section, the owners of abutting property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed.
 - d. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.
 - e. The letter notifying the abutting property owners shall state that an application has been received, where/how to view additional information, the specifics of the next step in the Town's review of the application (date, place, time), and the options available to ask questions, raise concerns, and provide input to the Town's review process.
7. The Planning Board shall determine that the following issues that may affect the public are met by the proposed Class B excavation operation:
- a. Provisions to deal with any noise, dust, runoff, or other environmental considerations associated with the excavation operation.
 - b. Appropriate mitigation measures to minimize negative impacts of the project on surrounding or nearby properties or public facilities including, but not limited to public roads.
 - c. Appropriate security provisions which might include warning signs, fencing, and lighting.
 - d. Safe entrances and exits in accordance with the provisions of the Traffic Access and Parking section of Site Development Standards for Site Plan Review of this Ordinance.
 - e. Appropriate buffer strips in accordance with the requirements of the Excavation Regulations of this Ordinance.
 - f. Proximity of proposed material storage sites to abutters.
8. For applications involving expansions, all requirements of the existing permit shall remain in effect unless specifically altered in the permit for an expansion.
- G. Expansion of a Class B excavation that will have a proposed total working excavation area of five (5) acres or more will be subject to the requirements for expansion of Class A excavations.

402.11.7 Excavation Regulations

- A. In addition to Maine Department of Environmental Protection regulations, the standards in these Excavation Regulations (Section 402.11.7) are applicable for all operations in the Town of Gray.
- B. All excavation operations shall be in accordance with the excavation and reclamation requirements of the most current version of the Maine Department of Environmental Protection 38 MRSA Sections 490-D Performance Standards, 38 MRSA Sections 490-Z Performance Standards for Quarries, or excavations that have a Site Location of Development permit issued under 38 MRSA Section 481, and the requirements of the applicable Sections of this Ordinance except that any areas that have not been disturbed or modified since July 4, 1985 are not subject to reclamation requirements.
- C. Stockpiles: A minimum distance of one-hundred (100) feet shall be maintained between product stockpiles and any residence on an abutting property.

D. Buffers: If the owner or operator has permission from an abutter to reduce the width of a buffer in accordance with DEP regulations, then the written permission must be recorded in association with the deed of the affected abutting property at the Cumberland County Registry of Deeds.

E. Reclamation:

1. In addition to performing reclamation in accordance with DEP regulations, at the option of the owner reclamation may include, but is not limited to:
 - a. Stabilization of slopes.
 - b. Creation of safety benches.
 - c. Planting of forests.
 - d. Seeding of grasses and legumes.
 - e. Seeding for grazing purposes.
 - f. Planting of crops for harvest.
 - g. Enhancement of wildlife and aquatic habitat.
 - h. Enhancement of aquatic resources.
 - i. Enhancement of recreational resources.
2. An owner or operator may apply to the Maine Department of Environmental Protection for approval of plans for alternative forms of reclamation provided that any such activity is in accordance with the Zoning Ordinance of the Town of Gray.
3. When applicable, the site must be returned to its pre-construction natural condition as much as may be feasible. All above ground structures, equipment, foundations, utilities, and access roads or driveways shall be removed unless specifically designated for new or continuing use by the owner in writing to the Code Enforcement Officer.

F. Surety for Reclamation

The Town may require an acceptable form of surety to cover the estimated cost to complete the reclamation of excavations with a working pit larger than ten (10) acres in size, excluding any reclaimed areas, unless the operator demonstrates that a bond or similar financial assurance has been secured for the Maine Department of Environmental Protection pursuant to 38 MRSA Section 490-D or 490-Z. The estimated cost to complete the reclamation shall be determined on the basis of usual, customary, and reasonable costs for similar reclamation and shall be calculated by the same rules as used by DEP. The applicant for excavation shall provide surety in the form of cash, certified bank checks, insurance bonds, or irrevocable letters of credit all payable to the Town of Gray. Any such surety shall be satisfactory to the Town Council and to the Town Attorney as to sufficiency, manner of execution, and amount.

G. Expansions of Non-Conforming Excavations

No nonconforming mineral exploration, excavation, or removal of lands for the purpose of creating a sand, fill, or gravel pit shall be extended to other land or parts of land unless the other land or parts of land were designated for such use prior to July 4, 1985. On any land or parts of land that were not designated for such use prior to July 4, 1985, excavation shall be permitted only upon the submittal

and approval of an entirely new and separate application in accordance with the requirements of this Ordinance.

402.11.8 Administrative Requirements

A. Inspections

1. Inspections are required for all Class A and Class B excavations. The purpose of inspections is to determine or reaffirm that the excavation is in full compliance with the Excavation Regulations of this Ordinance.
2. Inspections of Class A excavations by the Maine Department of Environmental Protection shall be deemed sufficient provided that the owner or operator forwards a copy of the inspection report to the Code Enforcement Officer within thirty (30) days of receipt with payment of a fee as set forth in the Schedule of Fees adopted by the Town Council.
3. Annual inspections of Class B excavations shall be performed by persons who are qualified to determine the degree of compliance of the excavation with the requirements of this Ordinance. By submitting an application for a permit, or by submitting an Annual Report, the applicant for excavation agrees to authorize a properly escorted designated representative of the Town to enter the property including buildings, structures, or conveyances on the property at reasonable hours to determine compliance with the terms and conditions of a permit for a Class B excavation.
 - a. As set forth in the Schedule of Fees adopted by the Town Council, a fee for the inspection shall be paid by the owner or operator of the excavation.
 - b. The person performing the inspection shall be provided with an escort in accordance with the rules and regulations of the Federal Mining Safety and Health Administration (MSHA). Upon appropriate notice, the operator or a designee shall be the escort for inspection of the excavation.
 - c. The person performing the inspection shall determine the extent of the compliance of the excavation with the requirements of this Ordinance. If there are any instances of non-compliance, those instances shall be noted on the inspection form in accordance with subsection B. 4 of this Section.
 - d. The person performing the inspection shall complete the proper inspection form “Annual Inspection for Class B excavations”, with any appropriate comments, and deliver the completed form to the owner or operator.
 - e. The owner or operator shall forward a copy of the completed inspection report to the Code Enforcement Officer within thirty (30) days of receipt with payment of a fee as set forth in the Schedule of Fees adopted by the Town Council for the recording of the report.
4. If any additional inspection reports related to an excavation are received from any State or Federal Agency, the owner or operator shall forward a copy of the inspection report to the Code Enforcement Officer within thirty (30) days of receipt with payment of a fee of twenty-five (25) dollars for the recording of the report.

B. Annual Report required

The owner or operator of each Class A or Class B excavation shall submit a report for each separately permitted excavation to the Code Enforcement Officer of the Town of Gray no later than

March 15 of each year on a form specified by the Town of Gray. The report shall include the following information:

1. Name, address, telephone number, fax, and email address of owner.
2. Name, address, telephone number, fax, and email address of operator if different from owner.
3. Location of excavation with street address or directions to the excavation and Town of Gray Lot and Map designation.
4. Area in acres of working excavation.
5. Total area in acres that is currently permitted for excavation.
6. Total area in acres that is “grandfathered” in accordance with the provisions of this Ordinance.
7. Total area in acres that has been excavated.
8. Total area in acres that has been reclaimed.
9. An estimate of when the total area that is expected to be excavated will reach the limits of the area that has been permitted for excavation.
10. A statement of whether or not the Department of Environmental Protection has conducted an on-site inspection since the last report.
11. A signed statement attesting that the information submitted in the report is truthful, accurate, and correct to the best of the knowledge of the owner or operator and reaffirming that the excavation is in full compliance with the permit issued under this Ordinance.
12. A fee as set forth in the Schedule of Fees adopted by the Town Council shall be paid.

C. Change of Owner or Operator

Notice of a change of owner or operator shall be submitted to the Code Enforcement Officer of the Town of Gray in accordance with the following requirements:

1. For Class A excavations, the new owner or operator shall submit evidence to the Town that the excavation has either a valid Site Location of Development License or a valid borrow pit or rock quarry registration from the Maine Department of Environmental Protection.
2. For Class B excavations, the new owner or operator shall submit a notice of intent to comply with the requirements of this ordinance and any existing valid permit.
3. Where there is a change in ownership of an excavation operation for which a surety has been provided, the new owner shall be responsible for providing a new surety in accordance with the requirements of this Ordinance. Such surety shall be provided before the Town releases the original surety.

402.11.9 Waivers of Provisions

The Town of Gray shall accept waivers or variances granted by the Department of Environmental Protection as provided in the most current version of DEP Rules Chapter 378 Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products provided that such waivers or variances are in accordance with the provisions of the Town of Gray Zoning Ordinance and provided that the operator submits copies of the waivers or

variances to the Code Enforcement Officer prior to commencing activities requiring the waivers or variances.

402.11.10 Enforcement

Failure to comply with any of the terms of the excavation permit granted under this Ordinance shall constitute sufficient cause for the Town of Gray to terminate that permit or to undertake any other appropriate enforcement action or penalties.

If the Gray Code Enforcement Officer (CEO) becomes aware of an apparent violation of a Maine Department of Environmental Protection (Maine DEP) regulation(s), the CEO shall ensure that the Town's file contains sufficient documentation and shall notify the appropriate person(s) at Maine DEP. In the event that the CEO determines that Maine DEP's response is unreasonable, such as untimely action(s) or not sufficiently thorough, the CEO shall have the authority, but not the obligation, to enforce Maine DEP regulations regarding excavation operations and associated adverse impacts.

Failure to comply with any approval granted under this Ordinance or any other requirement of this Ordinance shall be considered a violation, which may be subject to enforcement under the provisions of 30-A M.R.S.A. § 4452.

Failure to file the required Annual Report with payment of the required Annual Fee by March 15 of each year shall instigate a penalty fee as set forth in the schedule of fees adopted by the Town Council.