

GRAY STREET CONSTRUCTION ORDINANCE UPDATE
DRAFT APRIL 7, 2010
PROPOSED CHAPTER 400 AMENDMENTS

Final Street Ordinance with Excavations & Activities in Road Right of Way

ADDITIONS INDICATED BY UNDERLINE TEXT,
DELETIONS BY ~~STRIKETHROUGH~~

Note: This draft contains the residual sections of the Gray Street Construction Ordinance after removing parking & commercial driveway standards (moved to Zoning Ordinance) and new street construction standards (moved to Subdivision Ordinance). A new section for excavations in streets owned by the Town or under public easement has been added, as has a section controlling activities in the right of way (e.g., mailboxes, foundation drains).

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Section 1 General Administration

Section 1.1 Purpose: [Amended - -2011]

~~The Purposes of this ordinance is are to promote public health, safety, and welfare for the residents of the Town of Gray by establishing construction standards for public and private streets, roads, highways, avenues, boulevards, ways, lanes, alleys, driveways, etc. 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: [Amended _ - __-2011]

~~The effective date of this revision of this Ordinance shall be July 3, 2003 _____, 2011.~~

Section 1.3 Applicability [Adopted - -2011]

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 1.3 Administration:

~~1.3.1 For purposes of the administration of this Ordinance, all applications for construction of public and private streets, roads, highways, avenues, boulevards, ways, lanes, alleys, driveways, etc. shall be submitted to the Code Enforcement Officer.~~

~~1.3.1.A Exception:~~

~~For streets that are part of an application for a subdivision, the Code Enforcement Officer shall administer only the technical aspects of the construction of the streets in coordination with the Planning Board in accordance with Section 3.2.2.1 of this Ordinance.~~

~~1.3.1.B Pre-Application Conference:~~

~~The applicant shall arrange with the Code Enforcement Officer to schedule a pre-application conference with the Code Enforcement Officer and the Town Engineer. An application will not be considered to be complete until a pre-application conference has been conducted with the Code Enforcement Officer and the Town Engineer.~~

~~1.3.2 The procedures and the schedule for review of proposed new construction, lengthening, or modification of streets shall be as follows:~~

~~1.3.2.A Complete Application. Within ten (10) working days from the date~~

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~~of receipt of an application, the Code Enforcement Officer shall notify the applicant in writing that either the application is complete or, if not complete, the specific additional material needed to make it complete. A determination by the Code Enforcement Officer that the application is complete in no way commits or binds the Town of Gray as to the adequacy of the application to meet the requirements of this Ordinance.~~

~~1.3.2.A.1 Within five (5) working days from the date of determining that an application is complete, the Code Enforcement Officer shall forward the application to the Town Engineer to begin the process of considering whether to grant or deny approval of the application.~~

~~1.3.2.A.2 The Code Enforcement Officer shall also forward copies of the application to the Town Manager, the Public Works Director, and the Fire Chief for their information. If any of those individuals wish to offer unsolicited comments on the application to the Town Engineer, their comments are to be delivered to the Town Engineer within ten (10) working days of their receipt of a copy of the application.~~

~~1.3.2.A.3 In consideration of the purpose of this Ordinance as stated in Section 1.1 Purpose, it shall be entirely at the discretion of the Town Engineer to choose whether or not to request comments on the application from the Town Manager, the Public Works Director, or the Fire Chief.~~

~~1.3.2.A.4 In consideration of the purpose of this Ordinance as stated in Section 1.1 Purpose, it shall be entirely at the discretion of the Town Engineer whether or not to hold a Public Hearing on the application. If the Town Engineer decides to hold a Public Hearing, the hearing must be held within thirty (30) working days of having received a complete application from the Code Enforcement Officer and the Town Engineer shall cause notice of the date, time, and place of such hearing to be given to the applicant and all abutting property owners and to be published in a newspaper of general circulation in the Town of Gray at least seven (7) days prior to the hearing.~~

~~1.3.2.B Application Approval. Within thirty (30) working days of a Public Hearing, or within forty-five (45) working days of having received a complete application, or within such other time limit as may be mutually agreed to, the Town Engineer shall grant or deny approval on such terms and conditions as may be deemed advisable to satisfy this Ordinance and to preserve the public health, safety, and welfare. In all instances, the burden of proof shall rest upon the applicant. In issuing the decision, the Town Engineer shall make a written finding of fact establishing that the application does or does not meet the provisions of this Ordinance. If the Town Engineer finds that~~

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~~the application does not meet the provisions of this Ordinance, the Town Engineer shall provide a written statement of the exact reasons for the negative finding.~~

- ~~1.3.2.C—The decision of the Town Engineer shall be delivered to the Code Enforcement Officer within five (5) working days of the decision. The Code Enforcement Officer will forward the information to the applicant within ten (10) working days of receipt from the Town Engineer.~~
- ~~1.3.3—Building permits that are associated with any new construction of public or private streets shall not be issued until the Code Enforcement Officer has determined that the applicant's street construction application is complete in accordance with Section 1.3.2.A of this Ordinance.~~
- ~~1.3.3.A—The applicant may choose to begin street construction as soon as the Code Enforcement Officer has determined that the applicant's street construction application is complete and one or more building permits have been issued; with the caution of Section 1.3.3.B below. Before beginning work on a street, the applicant is required to participate in a pre-construction meeting with the Town Engineer, the Public Works Director, the Code Enforcement officer, and other Town Staff as may be appropriate. Upon notification by the applicant, the Town Engineer will arrange for the pre-construction meeting to be held within five (5) working days.~~
- ~~1.3.3.B—Any street construction work that the applicant may choose to begin before the formal approval of the applicant's street construction application shall be entirely at the applicant's own risk. The Town of Gray shall not be liable for any costs if the applicant's street construction application is not finally approved upon full and proper consideration and review. Notification that an application is complete is not assurance of approval.~~
- ~~1.3.4—Certificates of occupancy that are associated with any new construction of public streets, private streets, or private driveways shall not be issued until either the construction of the streets or driveways is completed or the applicant has provided an acceptable form of surety to cover the estimated cost to complete the construction. The estimated cost to complete the construction shall be determined on the basis of usual and customary costs for similar construction. The applicant may 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 Municipal Officers, the Town Engineer, and the Town Attorney as to sufficiency, manner of execution, and amount. The amount of surety shall be reduced incrementally upon recommendation of the Town Engineer or the Municipal Officers as construction progresses and shall be discharged completely within ten (10) working days after the Town Engineer certifies in writing that the construction is complete.~~

Section 1.4—Waivers

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~~1.4.1 The Town Engineer, upon the concurrence of the Public Works Director, may grant waivers to provide relief from one or more of the requirements of this Ordinance so that substantial justice may be done and the public interest secured where extraordinary and unnecessary hardships may result from strict compliance provided that such waivers will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or Zoning Ordinances.~~

~~1.4.2 The Town Engineer, upon the concurrence of the Public Works Director, may grant waivers to provide relief from one or more of the requirements of this Ordinance due to special circumstances of a particular plan or specifications if those requirements are not in the best interest of the public health, safety, or general welfare, or are otherwise inappropriate in the particular circumstance presented.~~

~~1.4.3 If at any time before or during construction, it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable, consistent with the purpose of this Ordinance, to modify the location or design of the construction, the Town Engineer, upon the concurrence of the Public Works Director, may authorize such modifications provided that these modifications are within the spirit and intent of the original approval and do not amount to a waiver or substantial alteration of the function of any of the requirements imposed under either this Ordinance or the approval previously granted. The Town Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Code Enforcement Officer.~~

~~1.4.4 In granting waivers and modifications of the requirements of this Ordinance, the Town Engineer shall require such conditions as will nonetheless substantially secure the objectives of the requirements so varied or modified.~~

~~1.4.5 All such approved waivers and modifications of the requirements of this Ordinance shall be noted on "As Built" plans filed at the Town office.~~

Section 1.4 Appeals:

~~1.5.1 Decisions of the Planning Board under this Ordinance shall be appealed to the Superior Court in accordance with Rule 80 B of the Maine Rules of Civil Procedure.~~

~~1.5.2 Decisions of the Town Engineer or 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 Rules of Civil Procedure.~~

- ~~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:

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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 [Amended Dec 7, 2010]

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).

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- 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

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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. 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.

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

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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 [Amended - -2011]

Section 3.1 Administration

All streets and roads shall be named pursuant to the Town of Gray Administrative Code, Section 20 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 Town Manager or his designee~~ Street Addressing Committee shall be responsible for maintaining the following official records of this ordinance:

- A. 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 in Gray that serve two or more addresses 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 100 (one hundred) 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.

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- 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 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 ~~Town Manager or his designee~~ 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 anytime. 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 ___-___-2010 & moved to Subdivision Ordinance]

Section 4 Excavations [Adopted - -2011]

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.

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- 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. 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.

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- 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 <u>residential</u>	6 percent
<u>Maximum grade w/in 60 feet of street travel way surface commercial</u>	<u>3 percent</u>
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

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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 exiting 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).

Table 5.2 Private Driveway Entrance Sight Distance Standards

Posted Speed (MPH)	Sight Distance (Feet)	<u>Mobility Sight Distance¹</u> (Feet)
20	155	<u>225</u>
25	200	<u>300</u>
30	250	<u>380</u>
35	305	<u>480</u>
40	360	<u>580</u>
45	425	<u>710</u>
50	495	<u>840</u>

- 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.

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- 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)~~ 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.

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 [Adopted - - 2011]

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.