

SOLID WASTE, FLOW CONTROL & RECYCLING ORDINANCE

TOWN OF GRAY, MAINE

Adopted March 3, 1992

Amended January 19, 1993

SECTION 503.1 - 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 producers of Solid Waste in the Town of Gray.

SECTION 503.2 - DEFINITIONS

The following words and terms as used in the Ordinance shall have the meaning ascribed thereto, unless the context indicates a different meaning. Further definitions may be found in Bureau of Solid Waste Management, 06-096 C.M.R. 400.1.

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:

1. No longer used for the purpose originally intended,
2. Has not been converted to another commercial, business, private or recreational vehicular use,
3. Is not exempted or regulated by existing State or Federal Laws, or
4. Has been left out in the elements to deteriorate.

It includes, but is not limited to, automobiles, trucks, buses, campers, trailers, boats, snowmobiles, jet skis and ATV's.

Acceptable Waste: Shall mean ordinary household, municipal, institutional, commercial and industrial Solid Waste including, but not limited to, the following:

1. Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, refrigerators, washing machines, bicycles, baby carriages and automobiles or small vehicle tires, to the extent that Regional Waste Systems, Inc. (RWS) determines that the air emission criteria and standards applicable to and at the RWS disposal facility are not violated; and
2. Processable portions of commercial and industrial Solid Waste; and
3. Wood and lumber, tree limbs, branches, ties, logs and trees, if no more than four and one-half (4.5) feet long and eight (8) inches in diameter; and leaves, twigs, grass and plant cuttings, provided that the Municipality shall not be obligated to deliver, or

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cause to be delivered, any items listed in this Subpart 3 to the RWS disposal facility, and further provided that such items may be delivered to the RWS disposal facility by, or on behalf of, the Municipality on an irregular basis only and represent an insignificant portion of the total waste delivered to the RWS disposal facility by, or on behalf of, the Municipality within any Calendar Year; and, notwithstanding any provisions to the contrary, Unacceptable Waste, including Hazardous Waste, shall not be "Acceptable Waste" and is explicitly excluded therefrom. Furthermore, any substances, which as of the date of a certain Waste Handling Agreement between the Municipality and Regional Waste Systems, Inc. (RWS), are included as "Acceptable Waste"; by which are later determined to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction, shall not be "Acceptable Waste" under the terms of this Ordinance. However, any substances, which as of the date of said Waste Handling Agreement, are not included within the definition of "Acceptable Waste", because they are considered harmful, toxic, dangerous or hazardous and which are later determined not to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall be considered "Acceptable Waste", unless a contrary determination has been, or is made, by any other governmental agency or unit having appropriate jurisdiction; or unless such substances are otherwise considered "Unacceptable Waste" or "Hazardous Waste."

Agricultural Waste: (This is also referred to as "waste resulting from agricultural activities" in Title 38, M.S.R.A., Section 1303 (16) means "Wastes which results from agricultural activities" defined in Section 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 departmental rules 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 567 of the Department's Regulations.

Ashes: The residue remaining after the combustion of a material such as wood, coal, coke or other combustible material.

Brown Goods: Small household appliances including, but not limited to, radios, televisions, sound systems and other small electric or electronic appliances or devices.

Commercial Hauler: Any person, firm, partnership, association, municipality, co-operation or other legal entity who collects, transports and disposes of Solid Waste for a fee as herein prescribed.

Commercial Waste: Solid Wastes generated by stores, offices, restaurants, warehouses and other non-manufacturing, non-processing activities; but this does not include residential, household, processed, industrial or special wastes.

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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. It includes, but is not limited to, building materials, asphalt, wallboard, pipes, metal conduits, mattresses, household furniture, fish nets, rope, hose, wire and cable, fencing, carpeting and underlay. It excludes asbestos, gypsum board, asphalt shingles, plastics, cans, containers which stored asphalt, paint thinner or other similar materials, and material that contains or is combined with residential refuse, rubbish, garbage, hazardous or special wastes, as that term is defined by Chapter 400 of the Maine Department of Environmental Protection's Solid Waste Rules.

Demolition Debris: See Construction/Demolition Debris.

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 land structures, including dumps, recycling centers, and transfer stations used for storing, salvaging, reducing, incineration 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.

Garbage: All table refuse, animal and vegetable matter, offal from meat, fish and fowls, vegetables and fruits and parts thereof, and other article 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 substance or material, in any physical state, designated as hazardous by the Board under M.R.S.A. 38, Section 1303-A et seq. The fact a hazardous waste or a part or a constituent may have value or other use or may be sold or exchanged does not exclude it from his definition.

Industrial Waste: Solid Wastes generated by manufacturing or processing activities; but it does not include residential, household, commercial or special wastes.

Inert Fill: A clean soil material, rocks, bricks, and cured concrete which are not mixed with other Solid or Liquid Waste, and which are not derived from an ore mining activity.

Infectious Waste: Those waters so defined by the Solid Waste Management Regulations promulgated by the Department of Environmental Protection pursuant to Title 38 M.R.S.A., Section 1304.

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Land Clearing Debris: Solid Wastes resulting from the clearing of land and consisting solely of brush, stumps, soil material and rocks.

Landscape Refuse: Grass, leaves, shrubs, branches, trees and wood, whether finished or unfinished; but it does not include construction/demolition debris, land clearing debris, plastic bags or other plastic containers used to collect, store or transport landscape refuse.

Landscape Refuse: Grass, leaves, shrubs, branches, trees and wood, whether finished or unfinished; but it does not include construction/demolition debris, land clearing debris, plastic bags or other plastic containers used to collect, store or transport landscape refuse.

Person: Any individual, partnership, association, firm, company, corporation, department, agency, group (including a City, Town, County, State, Federal or other governmental unit) or any other entity responsible in any way for an activity subject to these rules.

Recyclable Waste: Waste, which when properly segregated, can be recovered, reused or recycled. This shall include (with limitation) newspapers, corrugated box material, glass and metal containers, scrap metal, waste oil, mixed paper, automotive batteries, white goods, brown goods and other materials deemed recyclable by the Town.

Recycling Center: A portion of the Transfer Station set aside for the collection, segregation, processing, storage and distribution of recyclable and reusable Solid Waste.

Refuse: All combustible refuse and incombustible refuse referred to collectively.

RWS or Regional Waste Systems, Inc.: Shall mean Regional Waste Systems, Inc. or RWS, a non-capital stock, non-profit corporation created pursuant to Title 30, Chapter 203, and Title 13, Chapter 81 of the Maine Revised Statutes.

Residential Waste: Solid Waste generated by a residence during normal household activities; but it does not include commercial, process, industrial, landscape, construction/demolition debris or special wastes.

Resource Recovery: The recovery of materials or substances that still have useful physical or chemical properties, after serving a specific purpose and can be reused or recycled for the same or other purposes.

Rubbish: All miscellaneous waste material, not otherwise included herein, resulting from the ordinary conduct of business or housekeeping.

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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 materials, junk, refuse, inert fill material and landscape refuse. Solid Waste shall in no case include sludge from air or water pollution control facilities, septic tank sludge or agricultural waste. The fact a Solid Waste, or a part of or consistent of the waste, may have value or other use, or may be sold or exchanged, does not exclude it from the definition of Solid Waste.

Special Wastes: As defined in Title 38, M.R.S.A., Section 1303(10-B), means any non-hazardous waste generated by sources other than domestic and typical commercial establishments that exist 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. Special waste includes, but is not limited to:

- a. Oil, coal, wood and multi-fuel broiler and incinerator ash;
- b. Industrial and industrial process 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 board, by rule.

Town: The Town of Gray, Country of Cumberland, State of Maine.

Transfer Station: Transfer Station means any waste facility constructed and managed for storage and placement of municipal solid waste in large containers or vehicles for movement to another waste facility.

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.

Waste: Items, materials or substances delivered to a disposal facility by the Town, its employees, agents or contractors.

White Goods: All large appliances, including, but no limited to: stoves, refrigerators, freezers, washing machines, clothes dryers, dishwashers, air conditioners and metal artifacts such as swing sets, bicycles and lawnmowers, free to all oil and gasoline. White goods shall not include white goods generated by an owner or operator of a commercial or industrial use or activity.

SECTION III - DISPOSAL FACILITY

A. To preserve and protect environmental resources, to protect the health, safety, and welfare of the public, to enhance the quality and character of life in the Town and to improve efforts to recover and re-use valuable resources currently being wasted; it shall be unlawful to dispose of acceptable waste generated within the Town at any location other than the Town Transfer Station, RWS facility at 64 Blueberry Road in Portland, Maine, or other licensed facility designated by the Town Council.

B. 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 materials, reusable materials, white goods, brown goods, landscape refuse, construction/demolition debris, land-clearing debris, tires, ashes, spent motor oil and all other Solid Wastes.

C. Property Rights: Any Solid Waste deposited within the boundary of the Town shall become the property of the Town or Regional Waste Systems, Inc., pursuant to the terms of a "Waste Handling Agreement" entered into between RWS and the Town, and amendments thereto. No one shall salvage, remove or carry off any such deposited Solid Waste without prior approval of the Public Works Director or his designee.

D. From and after the effective date of this Ordinance, it shall be unlawful for any person or firm 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 or reusable material or other Solid Waste generated within said Town, excepting inert fill material, compost and other material for which specific permission has been granted by the Town. Failure to remove any existing accumulation of garbage, refuse, recyclable materials, rubbish, abandoned vehicles or other Solid Waste Materials within thirty (30) days after the effective date of this Ordinance shall be deemed in violation of this section of the Ordinance.

E. Nothing in this subsection shall prohibit any person from composting vegetable and plant materials on his/her property for non-commercial use.

F. The owner of any lot, or any other person with the permission of the lot owner and Code Enforcement Officer, may deposit or dump inert substances such as earth, rocks, concrete or similar material for fill purposes only, subject to State and/or local Land Use Regulations.

G. Certain materials may be excluded by Town Council regulation from the Solid Waste Materials which may be deposited at the Transfer Station. These excluded materials may include white goods, brown goods, tires, ashes, ties, spent motor oil, commercial waste, industrial waste, land clearing debris, landscape refuse, construction/demolition debris, abandoned vehicles and bulky or special waste which may require special processing prior to disposal.

H. Except for licensed disposal of hazardous, special or infectious wastes, it shall be unlawful for any person to burn or incinerate any Solid Waste within the Town other than wood products, trees, tree limbs, branches, ties, logs, leaves, twigs, grass and plant cuttings, other than in an approved incinerator. Reference: "State of Maine Rules and Guidelines for Open Burning," Title 38, M.R.S.A., Section 599 and the "Department of Conservation, Bureau of Forestry," M.R.S.A. 12, Sections 9301 and 9324.

SECTION IV: AUTHORIZED USE OF THE TRANSFER STATION

A. The availability and use of the portions of the Transfer Station located within the Town shall be limited to the residents of the Town, both permanent and seasonal, for the sole purpose of disposing of Solid Waste generated within the Town. As a means of use control, the Town may distribute vehicles permits to authorized users which shall be affixed to use vehicles. Failure to exhibit such permit shall result in denial of use of the facilities.

B. Waste generated at a commercial activity which has been segregated into recyclable, reusable and non-recyclable categories and is hauled by the generator of the waste, may be deposited at the Transfer Station.

SECTION V - TRANSFER STATION USER CHARGES

Upon reviewing recommendations made by the Town Manager and Public Works 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 residents of the Town, business located within the Town and commercial refuse haulers collecting Solid Waste within the Town and may include different schedules for disposal or disposal of different kinds of Solid Waste. All schedules to be on file in the Town Clerk's office.

SECTION VI - RESTRICTIONS

A. Hazardous Waste cannot 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 cannot 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. Infectious Waste cannot be deposited at the Transfer Station. The Town shall not be responsible for any costs or liabilities incurred with the disposal of Infectious Waste.
- D. Agricultural Waste cannot 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. Commercial Waste, hauled by the generator of the waste, which has not been segregated into recyclable, reusable and non-recyclable categories shall be deposited at RWS or other licensed facility designated by the Town Council. The Town shall not be responsible for any costs incurred with the disposal of non-segregated Commercial Waste hauled by the generator.
- F. Construction/Demolition debris can be deposited at the Transfer Station or other location designated by the Town until an alternate Construction/Demolition Debris site is in operation. The Town shall not be responsible for any costs or liabilities incurred with the collection, storage, transport, or disposal of Construction/Demolition Debris.
- G. Land Clearing Debris can be deposited at the Transfer Station or other location designated by the Town until an alternate Construction/Demolition site is in operation. The Town shall not be responsible for any costs or liabilities incurred with the collection, storage, transport, or disposal of Land Clearing Debris.
- H. Landscape Refuse can be deposited at the Transfer Station or other location designated by the Town until an alternate Construction/Demolition Site is in operation. The Town shall not be responsible for any costs or liabilities incurred with the collection, storage, transport or disposal of Landscape Refuse.
- I. Owners or operators of a commercial or industrial use of activity cannot deposit white goods or brown goods at the Transfer Station. The Town shall not be responsible for any costs or liabilities incurred with the collections storage, transport or disposal of white goods or brown goods from a commercial use or activity.
- J. Industrial Waste cannot 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.
- K. 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 materials, rubbish, white goods or other Solid Waste materials during, or outside of the hours of the day and the days of the week which the Town Council has determined those facilities open for the disposal of Solid Waste Materials.

SECTION VII - REGULATION OF COMMERCIAL HAULERS

A. It shall be unlawful for any person to haul, transport, collect, remove and dispose of garbage, refuse, recyclable/reusable materials, rubbish, white goods, brown goods, or other acceptable waste generated with the Town for a fee without first securing a Commercial Hauler's License. The Town, upon application and after investigation may issue a Commercial Hauler's License for a period of one (1) year.

B. The fee for a hauler's license shall be established by Town Council Order. 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 Public Works Director and Public Safety Officer, and after approval by the Town Council.

C. An application for an annual or a limited commercial hauler's license shall contain the following information:

1. The name of the applicant.
2. The applicant's residence.
3. The address of the applicant's place of business.
4. A description of equipment to be used.
5. A collection route and schedule.
6. Place(s) of deposit of Solid Waste.
7. A Certificate of Insurance for:
 - a. Workers' Compensation Insurance covering all employees.
 - b. Vehicle liability for a minimum of \$1,000,000.
 - c. Comprehensive General Liability for a minimum of \$1,000,000.

D. The Commercial Hauler shall deposit all residential, commercial and industrial acceptable waste generated within the boundaries of the Town at the Regional Waste Systems, Inc. (RWS) facility or at any other licensed Solid Waste Facility or facilities as may be designated by the Town Council. The Town shall not be responsible for the collection, transport or disposal of any residential, commercial or industrial acceptable or non-acceptable waste.

E. Trucks or other vehicles used for the transportation of garbage or other garbage mixed with refuse shall be of the compactor type; water tight, with an enclosed cargo space. Collection of dry refuse, rubbish, recyclable and other Solid Waste material is permitted in open trucks which shall be covered. No trucks or other vehicles shall be permitted to scatter any of the contents on any of the streets, highways, or roads of the Town. Trucks used to haul garbage refuse, recyclable materials, rubbish or other Solid Waste materials over the streets of the Town must be maintained in a clean and sanitary condition and shall meet all the requirement of the Town or appropriate State agency where applicable. The trucks may be inspected at any time during normal collection hours by the Public Works Director or his designee. Any deficiencies must be corrected within forty-eight

(48) hours by the commercial Hauler. Trucks must be cleaned before handling recyclable materials.

F. With prior notice and hearing, licenses and renewals of license 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 the Ordinance, or with any of the regulations of the State of Maine, Department of Environmental Protection, relating to the collection and disposal of garbage, refuse, recyclable materials, rubbish, white goods, or any other Solid Waste materials. License fees are nonrefundable. An aggrieved party may appeal a license denial or revocation to Superior Court, pursuant to Rule 80-B, within 30 days of such denial or revocation.

G. Any agreement for the collection, transportation and disposal of residential, commercial or industrial Solid Waste and recyclable materials shall be by private contract between the Person and the Commercial Hauler licensed for the purpose of collecting, removing, hauling and disposal of such garbage, recyclable materials, refuse, rubbish, white goods, brown goods, and other Solid Waste materials.

H. Any agreements for the removal and collection of recyclable materials must provide that the materials will be received by the Town or its designee in marketable condition.

SECTION VIII - DISPOSAL OF THE CONSTRUCTION/DEMOLITION DEBRIS, LAND CLEARING DEBRIS AND LANDSCAPE REFUSE

A. Only residents of the Town and owners of property located within the Town may dispose of Construction/Demolition Debris, Land-clearing Debris and Landscape Refuse at the Transfer Station or at any other licensed location designated by the Town.

B. Disposal 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 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 IX - ADMINISTRATION

A. The Town Council may establish by order 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 which may have jurisdiction. It shall be the duty of the Director of Public Works to enforce the provisions of this Ordinance.

SECTION X - PENALTIES FOR VIOLATION

Any person or firm 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; which fine 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; and 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 RWS; 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.
- C. Pay for any damages to the Town's facilities or equipment caused by said violation.
- D. Be prohibited from using the Transfer Station, after notice and hearing for a period of six (6) months by the Town Manager, upon recommendation of the Director of Public Works or his/her designee. An appeal to 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 80-B.
- E. The fine for violation of said Ordinance is Six Hundred Dollars (\$600.).

SECTION XI - SEVERABILITY

If any sentence, clause, or 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, or section or part 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 part thereof, not been included herein.

SECTION XII - AMENDMENTS

This Ordinance may be amended as provided by vote of the Town Council.

SECTION XIII

This Ordinance shall become effective April 3, 1992 and immediately upon becoming effective, the Town's current Flow Control Ordinance shall be repealed.