

TOWN OF GRAY, MAINE
PROPOSED AMENDMENTS TO THE GRAY ZONING ORDINANCE
TO ADD A BUSINESS TRANSITIONAL ZONING DISTRICT

First Reading by Town Council	October 16, 2007
Review by Ordinance Review Committee	October 17, 2007
Review by Gray Water District	
Public Hearing by Planning Board	October 25, 2007
Public Hearing by Town Council	November 13, 2007
Second Reading by Town Council	November 13, 2007
Vote by Town Council	November 13, 2007
Effective Date	December 13, 2007

The Town of Gray hereby ordains that the Gray Zoning Ordinance be amended as follows:

Note: In all sections of these ordinance amendments, new language is indicated by underlined text, and language to be removed is indicated by ~~strike through text~~.

Section 1. Amend Section 402.16 of the Gray Zoning Ordinance by adding a new “Business Transitional-1” and “Business Transitional-2” to the list of districts created by the Ordinance.

Section 2. Amend the Gray Zoning Map by adding a new Business Transitional-1 and Business Transitional-2 as shown on the attached Exhibit A.

Section 3. Amend the Gray Zoning Ordinance by adding a new Section 402.23 to read as follows.

SECTION 402.23 – BUSINESS TRANSITIONAL DISTRICT – “BT-1” and “BT-2”:

A. Purpose:

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. While this zone may have more auto intensive uses, such development will be subject to close scrutiny to reduce strip development.

Gray Zoning Ordinance Amendments
Proposed Business Transitional District
Adopted November 13, 2007
Page 2 of 8

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.

B. Permitted Uses in BT-1: *

1. Accessory Uses and Structures (2,000 sq. ft. and under)
2. Bed and Breakfast Establishments to a maximum of five (5) guest rooms.
3. Day Care Facilities for Five (5) or fewer clients.
4. Farm Stands (Subject to the provisions of Article V, Section 402.28-7)
5. Garage Sales
6. Home Occupations
7. Mobile Vendor (Subject to the provisions of Chapter 212)
8. Single-Family Dwelling
9. Two-Family Dwelling

* Some permitted uses may require Planning Board approval for Site Plan Review i.a.w. Section 402.19.A&B of the Zoning Ordinance and Hazardous Material review i.a.w. Chapter 204 of the Hazardous Materials Control Ordinance

C. Allowed Uses in BT-1 Requiring Site Plan Review:

1. Commercial Recreation, Indoor and Outdoor
2. Day Care Facilities for Six (6) or more clients
3. Drive Through and Drive-In Facility
4. Expansion of Non-conforming Uses, provided that no non-conforming mineral exploration, excavation or other use permitted by this paragraph shall be extended to other land or parts of the land unless that other land or parts of the land were manifestly arranged or designed for such use prior to 7/4/85, the effective date of Section 402.29.
5. Hotels and Motels
6. Medical Facilities
7. Multiple-Family Dwelling
8. Municipal Uses and Buildings
9. Nursing and Convalescent Homes
10. Offices
11. Public Utilities
12. Schools
13. Mini-Warehousing
14. Personal Services, provided Personal Services requiring the use of hazardous material, as defined in 38 M.R.S.A. Section 1362(1), such as, but not limited to, dry cleaning,

**Gray Zoning Ordinance Amendments
Proposed Business Transitional District
Adopted November 13, 2007
Page 3 of 8**

photographic studios, including on-site development, beauty shops and barber shops are not permitted within this zone.

15. Planned Unit Development (subject to provisions of Article II, Section 402.12.1)
16. Retail Trade
17. Redemption Center

D. Space Standards in BT-1:

- | | |
|---|--|
| 1. Minimum Lot Size: | 40,000 sq. ft. |
| 2. Minimum Street Frontage: | 150 ft. |
| 3. Maximum Building Height: | As defined in Article I, Section 402.4 |
| 4. Minimum Setback | Front: 25 ft from lot line |
| | Side: 15 ft., or 10 ft. from non-residential abutter |
| | Rear: 20 ft. |
| 5. Maximum Floor Area/Lot Area Ratio: | 50% Ground Floor |
| 6. Maximum Lot Coverage with impervious surfaces: | 50% |
| 7. Minimum Land Area per Dwelling Unit: | |
| With Town Water | 20,000 sq. ft. |
| Without Town Water | 40,000 sq. ft. |

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 any structure, and also showing the sewage disposal area.

The applicant 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 soils tests shall be submitted on the HHE 200 form or Maine Department of Environmental Protection Permit, whichever is applicable.

Except for maximum impervious surfaces, building height, minimum lot size, street frontage and land area per dwelling unit, the Board of Appeals may vary the above space standards by an amount not to exceed 10% upon an applicant's satisfaction of the miscellaneous appeal standards contained in Section 402.32(B)(3).

E. Permitted Uses in BT-2:

1. Same as Section 402.25 D. permitted uses in WH2.

F. Allowed Uses in BT-2 Requiring Site Plan Review:

1. Same as Section 402.25 E. allowed uses requiring site plan review in WH2.

H. Prohibited Activities:

(Not to imply that such activities are permitted elsewhere)

1. Disposal of solid waste (except brush and stumps), leachable wastes (except subsurface disposal of domestic sewage) and sludge.
2. Storage of leachable wastes or solid wastes, provided that operation of a properly functioning and otherwise lawful septic system shall not be prohibited hereby.
3. Mining or Excavation in excess of ten (10) cubic yards other than excavation for permitted uses or approved special exception.
4. There shall be no spraying of pesticides and herbicides and no application of salt or de-icing chemicals except sand with a salt content of no more than 10 percent, provided that de-icing chemicals or sand with a salt content of greater than 10 percent may be used in the BT-1 district only, where an applicant for site plan review submits a stormwater management plan satisfying the Maine Department of Environmental Protection's Chapter 500 standards and prepared by a Maine licensed professional engineer. The application of pesticides and herbicides to farmland and utility easements for maintenance of undergrowth shall be in compliance with State regulations. Homeowners undertaking normal gardening activities are exempt from this provision.
5. Animal feedlots and manure and manure sludge application to land other than in accordance with the "Maine Guidelines for Manure and Manure Sludge Disposal on land" (Maine Soil and Water Conservation Commission) as amended from time to time.
6. Storage of petroleum or gasoline in excess of fifty (50) gallons except for such storage necessary for petroleum use on site as a fuel. All underground tanks shall be covered by leakage/spill insurance. Only double containment tanks shall be used when new and/or replacement tanks are installed.
7. Storage of bulk quantities of any chemicals or materials, the discharge of which to the environment could pose an unreasonable threat to the quality of the public water supply, excepting: (i) storage for purposes of retail sale to the consumer of any such chemicals or materials in quantities intended for typical household use; (ii) storage of chemicals and materials for routine cleaning purposes in amounts considered typical for the operation of uses permitted in the district; and (iii) storage in accordance with best management practices of small quantities of chemicals or products necessary for the routine operation of permitted uses within the district.

I. Special Performance Standards:

In addition to the applicable performance standards in Section 402.28 of the Zoning Ordinance, the following standards apply in the Business Transitional District to those uses requiring site plan review by the Planning Board:

1. All development shall conform to the Town's Business Transitional District Design Guidelines, adopted November 13, 2007.

Gray Zoning Ordinance Amendments
Proposed Business Transitional District
Adopted November 13, 2007
Page 6 of 8

2. 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.)
3. 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 Town's Chapter 400 standards, but must instead conform to the parking standards contained in the Town's Business Transitional District Design Guidelines, adopted November 13, 2007.
4. 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.
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 storm water control system.
7. 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.
8. The development must satisfy the following noise standards:
 - (a) Sound From Routine Operation of Developments. Hourly sound levels resulting from routine operation of the development shall not exceed the following limits:
 - (i) 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.

Gray Zoning Ordinance Amendments
Proposed Business Transitional District
Adopted November 13, 2007
Page 7 of 8

(ii) At any protected location in an area outside the Business Transitional zoning districts:

60 dBA between 7:00 a.m. and 7:00 p.m. (the "daytime hourly limit"), and
50 dBA between 7:00 p.m. and 7:00 a.m. (the "nighttime hourly limit").

(iii) At any protected location also located within a Business Transitional zoning district:

70 dBA between 7:00 a.m. and 7:00 p.m. (the "daytime hourly limit"), and
60 dBA between 7:00 p.m. and 7:00 a.m. (the "nighttime hourly limit").

(iv) 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:

55 dBA between 7:00 a.m. and 7:00 p.m. (the "daytime hourly limit"), and
45 dBA between 7:00 p.m. and 7:00 a.m. (the "nighttime hourly limit").

(v) 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.

(vi) 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.

(b) Sound From Construction of Developments

(i) 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.

(ii) 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 Hourly Sound Level Limit

**Gray Zoning Ordinance Amendments
Proposed Business Transitional District
Adopted November 13, 2007
Page 8 of 8**

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

(c) Exemptions:

(i) 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.

(ii) Snow removal, landscaping and street sweeping activities.

(iii) Warning signals and alarms.

(d) For purposes of this section, 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.