

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.