CHAPTER 402
ZONING ORDINANCE
TOWN OF GRAY MAINE

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TABLE OF CONTENTS

ARTICLE 1 – AUTHORITY AND PURPOSES 5
402.1.1 Authority 5
402.1.2 Short Title 5
402.1.3 Purposes 5
402.1.4 Jurisdiction 5
ARTICLE 2 – DEFINITIONS 5
402.2.1 Construction of Language 5
402.2.2 Definitions 6
ARTICLE 3 – OFFICIAL ZONING MAP 21
402.3.1 Official Zoning Map 21
402.3.2 Certification of Zoning Map 21
402.3.3 Changes of the Official Zoning Map 21
402.3.4 Rules Governing District Boundaries 21
ARTICLE 4 – ZONING DISTRICTS 22
402.4.1 Zoning Districts Established 22
402.4.2 Zoning Districts Purposes 22
402.4.3 Applicability of Zoning Provisions to Districts 24
ARTICLE 5 – ZONING DISTRICT REGULATIONS 24
402.5.1 Basic Requirements for Compliance with Codes and Ordinances 24
402.5.2 Legal Rights and Responsibilities to Uses of Land and Property 24
402.5.3 District Regulations 25
402.5.4 Districts Dimensional Requirements 28
ARTICLE 6 – GENERAL PROVISIONS APPLICABLE IN ALL ZONING DISTRICTS 30

402.6.1 Land Use Requirements 30
402.6.2 Lots 30
402.6.3 Net Residential Area 30
402.6.4 Net Residential Density 32
402.6.5 Non-Conformance with the Requirements of this Zoning Ordinance 32
402.6.6 Special Permit Required for Temporary Events 34
402.6.7 Regulation of Signs 35
402.6.8 Regulation of Mobile Home Parks 35
402.6.9 Parking Requirements 35
ARTICLE 7 –STANDARDS APPLICABLE IN MOST ZONING DISTRICTS 36
402.7.1 Temporary Structures 36
402.7.2 Home Occupations 36
402.7.3 Flea Markets & Open Air Markets 37
402.7.4 Keeping of Large Animals 37
402.7.5 Back Lot Access Easements 38
402.7.6 Cluster Development 39
402.7.7 Planned Unit Development for Commercial Subdivisions 39
402.7.8 Mobile Homes, Motor Homes and Travel Trailers 40
402.7.9 Accessory Apartments 41
402.7.10 Private Landing Strips for Personal Aircraft & Helicopters 44
402.7.11 Campgrounds 44
402.7.12 Fire and Explosive Hazards 46
402.7.13 Lighting 46
402.7.14 Storage of Materials 47
402.7.15 Farm Stands 47
402.7.16 Bed and Breakfast Establishments 48
402.7.17 In-Home Offices 48
402.7.18 Boat Storage 48
ARTICLE 8 –STANDARDS ONLY APPLICABLE IN SPECIFIC DISTRICTS 50
402.8.1 Adult Businesses 50
402.8.2 Business Transitional District Standards 50
402.8.3 Village Center District Standards 52
402.8.4 Wellhead District Standards 53

402.8.5 Agritourism 60
402.8.6 Watershed Protection Measures in the Lake District (LD) 61
402.8.7 Medical Marijuana Cultivation Facilities and Dispensaries 64
402.8.8 Business Development District 2 Standards 67
ARTICLE 9 – ADMINISTRATION AND ENFORCEMENT 68
402.9.1 Duties and Authority of the Code Enforcement Officer 68
402.9.2 Duties and Authority of the Board of Zoning Appeals 69
402.9.3 Duties and Authority of the Planning Board for Approval of Conditional Permitted Uses and Site Plan Review Permits 73
402.9.4 Severability of Individual Ordinance Sections and Provisions 76
402.9.5 Conflicts with Other Ordinances 76
402.9.6 Planning Board Rules of Procedure 76
402.9.7 Effects of New Ordinance Enactment 76
402.9.8 Amendments to the Zoning Ordinance and Zoning Map 77
402.9.9 Conditional or Contract Zoning 77
ARTICLE 10 – SITE PLAN REVIEW 79
402.10.1 Purposes of Site Plan Review 79
402.10.2 Applicability of Site Plan Review 79
402.10.3 Exempt Activities 79
402.10.4 Review and Approval Authority 80
402.10.5 Staff Review Committee 80
402.10.6 Classification of Projects 80
402.10.7 Site Plan Review Procedure for Minor Developments 81
402.10.8 Site Plan Review Procedure for Major Developments 83
402.10.9 Application and Technical Review Fees for Site Plan Review 87
402.10.10 Required Submissions for Site Plan Review 87
402.10.11 Site Development Standards for Site Plan Review 92
402.10.12 Good Neighbor Standards for Site Plan Review 105
402.10.13 Site Design Standards for Site Plan Review 107
402.10.14 Standards for Multi-Family Housing 109
402.10.15 Planning Board Waivers of Site Plan Review Performance Standards 111
402.10.16 Post Site Plan Approval Activities 111
ARTICLE 11 – GRAVEL PITS AND QUARRIES 114

402.11.1 Purpose 114
402.11.2 Applicability 114
402.11.3 Permitted Zoning Districts 115
402.11.4 Permit Requirements 115
402.11.5 Classification 115
402.11.6 Requirements for Classifications 116
402.11.7 Excavation Regulations 126
402.11.8 Administrative Requirements 127
402.11.9 Waivers of Provisions 129
402.11.10 Enforcement 129

ARTICLE 1 – AUTHORITY AND PURPOSES

402.1.1 AUTHORITY

This ordinance has been prepared in accordance with the provisions of Title 30-A, Chapter 187 of the Maine Revised Statutes Annotated, as amended.

402.1.2 SHORT TITLE

This ordinance and the accompanying Official Zoning Maps shall be known as and may be cited as the "Zoning Ordinance, Town of Gray, Maine."

402.1.3 PURPOSES

The purpose of this ordinance is to:

A. Protect the health, safety, and general welfare of the residents of the town of Gray;

B. To encourage appropriate use of land throughout the municipality;

C. To promote traffic safety;

D. To provide safety from fire and other elements;

E. To provide adequate light and air; to prevent overcrowding of real estate;

F. To prevent housing development in unsuitable areas;

G. To provide an allotment of land area in new developments sufficient for all the requirements of community life;

H. To conserve natural resources, open space, and visual character;

I. To prevent and control water pollution;

J. To protect buildings and lands from flooding and accelerated erosion;

K. To protect archaeological and historic resources;

L. To protect freshwater wetlands; and,

M. To provide for adequate public services, as an integral part of a Comprehensive Plan for municipal development.

402.1.4 JURISDICTION

The provisions of this ordinance shall govern all land and all structures within the boundaries of the Town of Gray.

ARTICLE 2 – DEFINITIONS

402.2.1 CONSTRUCTION OF LANGUAGE

In the interpretation and enforcement of this ordinance, all words other than those specifically defined in the ordinance shall have the meaning implied by their context in the ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this ordinance and any map, illustration, or table, the text shall control.

The word "person" includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.

The word "shall" and "will" are mandatory, the word "may" is permissive.

The word "lot" includes the words "plot" and "parcel".

The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

The words "town" or "municipality" means the Town of Gray, Maine.

The words "governing authority" means the Gray Town Council.

402.2.2 DEFINITIONS

In this ordinance the following terms shall have the following meanings:

Abutter: The owner(s) of a property sharing a common boundary with or within 250 feet of a given parcel of property, whether or not these properties are separated by a public or private way. For the purposes of this Ordinance, the owner(s) of properties shall be considered to be parties listed by the Tax Assessor as the ones whom taxes are assessed.

Accessory Apartment: A subordinate residential use that requires approval from the Code Enforcement Officer that conforms to the performance standards in this Ordinance including being owner-occupied, a maximum of 660 sq. ft., and is incorporated within a single-family dwelling. An accessory apartment shall not be considered a separate dwelling unit when calculating lot area per dwelling unit for this Ordinance, but must comply with all other applicable requirements of law including the State Minimum Lot Size statute and the State of Maine Subsurface Wastewater Disposal rules.

Accessory Use or Structure: A use or structure which is customarily and in fact both incidental and subordinate to the principal use or structure. The term "incidental" in reference to the principal use or structure shall mean subordinate and minor in significance to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. Accessory use shall include the use of any portion of a lot pursuant to an easement for Commercial Recreation, Outdoor.

Adult Business: Any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or services of any kind which appeal to prurient interests and which depict or describe specified sexual activities. As applied to a business which sells, rents or leases such materials or devices, “substantial or significant portion” means that 25% or more of the floor area of the unit of occupancy in which the business is located is used to display, shelve or store such materials or devices. As applied to a business which exhibits or displays, films, videos or similar visual reproductions for viewing by patrons on the premises, “substantial or significant portion” means that, in any single day, 50% or more of the total display or exhibition time is devoted to such materials.

Aggrieved Person or Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture, General: Includes the cultivation of the soil for food products or other useful or valuable growth of the field, garden, nursery or greenhouse, but does not include dairying, raising of livestock, breeding or keeping of animals, fowl or birds as a business or gainful occupation.

Agritourism Center: A campus containing Agritourism Facilities along with facilities for educational, cultural, and outdoor recreation programs that may serve larger community purposes. One office building not exceeding fifteen thousand (15,000) square feet may be included to manage and support the mission and operation of the Agritourism Center.

Agritourism Facility: A building, or group of buildings operated in conjunction with each other, in which there is provided overnight lodging facilities, which may include private or other assembly facilities and/or restaurant facilities, to paying or non-paying guests, provided that: The operations of such facilities complement or support the agricultural, silvicultural, animal husbandry, or forest management use of land, or the educational and/or outdoor recreational programs on land so used, which uses or programs are otherwise permitted in the Rural Residential and Agricultural (RRA) District. The buildings or group of buildings may include private or common facilities, such as bathrooms, living areas, dining areas, gathering areas and kitchen facilities. The private or other assembly facilities and restaurant facilities may be open to the public generally in addition to guests of the lodging facilities. A facility meeting the foregoing definition of "Agritourism Facility" shall not be considered a "Bed and Breakfast Establishment" or a "Hotel/Motel."

Alteration: Any change, addition, or modification in construction, other than cosmetic or decorative, or any change in the structural members of buildings such as baring walls, columns, beams, or girders.

Animal Husbandry: Dairying or raising of livestock, breeding or keeping of animals, horses, llamas, deer, alpacas and other fur bearing animals, emus, fowls or birds as a business or gainful occupation, which are considered commercial and come under other State laws.

Applicant for Excavation: Anyone who applies for a permit to create or operate an excavation to obtain gravel, rock, sand, fill, borrow, or clay.

Aquifer: Geologic unit composed of rock or sand and gravel, which unit contains sufficient saturated permeable materials to conduct groundwater and to also yield economically significant quantities of groundwater to wells and springs. For purposes of this Ordinance, economically significant quantities of ground water shall be taken to be any unit capable of yielding ten (10) gallons or more per minute of water to a single well or spring.

Arterial Street: A major thoroughfare which serves as a major traffic way for travel to other communities and through the Town. The following roadways shall be considered arterial streets:

West Gray Road (Route 202)	Shaker Road (Route 26)
Lewiston Road (Route 100)	Wildlife Park Way (Route 26A)
Portland Road (Route 100/26)	

Auction Houses: A place where the public sale of property to the highest bidder is held by one licensed and authorized for that purpose.

Auctions: The sale of household goods by competitive bid conducted on the premises. Civic or nonprofit organizations are exempt from the above but must obtain a permit from the Town Council.

Authorized Agent: Anyone having written authorization to act in behalf of a property owner, signed by the property owner.

Auto Body Shop: A place where collision services, such as body, frame, or fender straightening and repair, overall painting and undercoating of vehicles are performed.

Auto Intensive: Retail, office or restaurant uses which have a drive-through facility.

Auto Repair Garage: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles.

Auto Service Station: A place where gasoline or any other automobile engine fuel (stored in tanks), kerosene, motor oil, lubricants or grease (for operation of motor vehicles) is retailed directly to the public on the premises. This includes the sale of minor accessories and the servicing and minor repair of automobiles, but does not include storage of unlicensed vehicles nor does it include body, frame, or fender straightening and repair.

Bed & Breakfast: A single family dwelling in which lodging and meals are offered to the general public for compensation, offering no more than three bedrooms for lodging purposes.

Blasting: The use of explosives to break up or otherwise aid in the extraction or removal of rock or other consolidated natural formation.

Blazed Tree: A tree from which a section of bark has been removed to display a visible spot that can be easily recognized

Buffer: A strip of land with the purpose to separate and protect one type of land use from another or screen a land use from public view.

Building: Any structure having a roof supported by columns or walls used for shelter or protection of persons, animals or personal property.

Building Height: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs.

Campground: A parcel or parcels of land providing temporary accommodation for recreational vehicles, tenting areas, and other forms of temporary shelter.

Cemetery: A property used for the interment of the dead.

Church: A building or structure or group of buildings or structures and grounds primarily intended or used for the conduct of religious services of any religious group faith, denomination or sect and for accessory uses associated therewith.

Class A Excavations: Class A excavations are those of five (5) acres or more in area that are required to have a permit from the Maine Department of Environmental Protection in accordance with 38 MRSA §§ 490-D Performance Standards For Excavations For Borrow, Clay, Topsoil, Or Silt, 490-Z Performance Standards for Quarries, Excavations that have a Site Location of Development permit issued under 38 MRSA Section 481, or excavations that have filed a notice of intent to comply pursuant to 38 MRSA § Section 484-A of the Site Location of Development Law and have adhered with the compliance schedule as required by that Section.

Class B Excavations: Class B excavations are those of less than five (5) acres in area that are not required to have a permit from the Maine Department of Environmental Protection, but are required to have a permit from the Town of Gray.

Client: A person dependent on another for protection or patronage.

Club: Any association of persons organized for social, religious, benevolent, or academic purposes; whose facilities are open to members and guests including fraternities, sororities, and social organizations.

Cluster Development: A development designed to promote the creation of open space by a reduction in dimensional and area requirements without increasing the net number of lots or housing units.

Code Enforcement Officer: A person appointed by the Town Manager to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like where applicable.

Commercial Recreation, Indoor: Any indoor recreational use such as bowling alleys, roller or ice skating rinks, swimming pools or tennis courts operated primarily for profit.

Commercial Recreation, Outdoor: Any outdoor recreational use such as golf courses, tennis courts, riding stables, swimming pools or ice skating rinks operated primarily for profit.

Community Living Arrangement: A housing facility for eight (8) or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living arrangement may include a group home, foster home, or intermediate care facility

Conditional Permitted Use: A use permitted only after review and approval by the Planning Board. A Conditional Use is a use that would not be appropriate without public review and restrictions, but which is permitted provided that all performance standards and other requirements of this ordinance are met.

Conditional Use Permit: A permit authorized by the Planning Board for a Conditional Permitted Use. A Conditional Use Permit may be issued only after the applicant has followed the procedures of this ordinance.

Conforming Use: A use of buildings, structures or land which complies with all applicable provisions of this Ordinance.

Constructed: Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered as part of construction.

Construction Services: Uses such as plumbing, painting, building, well drilling, carpentry or electrical installation and excavating.

Day Care Facility: Day care facility shall mean a house or other place in which a person, or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for three (3) or more clients.

Deck: An uncovered structure with a floor, elevated above ground level.

Decorative Changes: Repainting or re-siding; removing or replacing trim, railings, or other non-structural architectural details; or the addition, removal or change of location of windows and doors.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback from property lines, lot area, shore frontage and height.

Disability: A physical or mental impairment which substantially limits one or more of a person's major life activities, a record of having such and impairment, or being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.

Domestic Animals: These include but are not limited to dogs, cats, birds and reptiles that are raised within the confines of the household. They are not raised in multiple numbers for breeding, sale or exchange for other goods or services and do not meet the requirements for kennels, agriculture operations, or feed lots. This definition and restriction excludes service animals, which may include animals that have been certified and trained to assist in aiding a person with a specific physical or emotional disability.

Driveway: A vehicular access-way serving no more than two dwelling units or lots or a vehicular access way serving an institutional or commercial site.

Drive Through and Drive-In Facility: A commercial/retail facility or operation which provides a service directly to the occupants of a motor vehicle or where the customer can drive a motor vehicle onto the premises and to a location, person or device through which an order may be placed and the customer would be served with their order without exiting the vehicle.

Dwelling: Any building or structure or portion thereof designed or used for residential purposes.

> **Single-Family Dwelling:** a building containing only one dwelling unit for occupation by not more than one family.
>
> **Two-Family Dwelling:** a building containing only two dwelling units, for occupation by not more than two families.
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> **Multi-Family Dwelling:** a building containing three or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

Dwelling Unit: A room or suite of rooms designed and equipped exclusively for use by one family as a habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing but not recreational vehicles or motel units.

Excavation: Any digging, mining, or removal of borrow, topsoil, loam, rock, sand, gravel, clay, silt, or other similar non-metallic earth materials whether alone or in combination.

Existing Excavated Area (Earth-Moving Operations): The area in which actual excavation has occurred preceding 7/4/85. Stripping of vegetation shall not be considered to be excavation. The boundaries of the existing excavated area shall be documented by photographs and site plans drawn to scale and submitted to the CEO.

Existing Parcel (Earth Moving Operations): The total parcel which includes the existing excavated area and may include areas where expansion of existing pit operations will occur. The parcel shall be in single ownership or lease for at least a one-year period preceding 7/4/85 and which is intended to continue. The Code Enforcement Officer shall require evidence which may include cash receipts, affidavits, verbal testimony, photographs or other information to be presented on which to grant status as an existing pit operation.

Existing Pit Operation: An excavation activity which is located on an existing parcel and for which operation for remuneration has taken place in the existing excavated area during the one-year period immediately preceding 7/4/85 and which is intended to continue. The code Enforcement Officer shall require evidence which may include cash receipts, affidavits, verbal testimony, photographs or other information to be presented on which to grant status as an existing pit operation.

Expansion of Existing Pit Operations: Any proposed earth moving, excavating, processing or storage of earth materials operation which is expanded beyond the boundaries of the existing excavated area as defined in this Ordinance. When an existing operation is expanded more than five (5) acres, the operator shall file a copy of the DEP permit with the Planning Board. Expansions of existing pit operations are subject to limited rehabilitation requirements as specified in this Ordinance.

Expansion of a Structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

Expansion of Use: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family: One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel. Such unit shall not exceed five (5) persons not related by blood or marriage unless the group can demonstrate that it:

A. Shares the entire house;

B. Lives and cooks together as a single housekeeping unit;

C. Shares expenses for food, rent, utilities or other household expenses; and,

D. Is permanent and stable.

Farm Stand: A roadside stand not exceeding 200 square feet in floor area selling only farm, garden, greenhouse, or nursery products, and between Labor Day and Christmas, cut Christmas trees, garlands, wreaths and wreath material.

Filling: Depositions or dumping any matter on or into the ground water.

Flea Market – Open Air Market: An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public. There are no long-term leases (over 6 months) between the sellers and operators. Flea markets are not considered retail trade or commercial sales and service.

Flood: A temporary rise in stream flow that results in water overtopping its banks and inundating adjacent areas.

Flood Insurance Map: The official map on which the Dept. of Housing and Urban Development or the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the Town.

Flood Plain: The lands adjacent to a body of water which have been or may be covered by the base flood.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor Area, Gross: The sum, in square feet of the floor areas of all roofed portions of a building, as measured from the exterior faces of the exterior walls plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Floor Area, Net: The total of all floor areas of a building, excluding the following: stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and floors below the first or ground floor, except when used for human habitation or service to the public.

Frontage: The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the front lot line, except in the case of a curved lot line, where the frontage shall be considered the length of the curve.

Frontage, Street: That lot property line abutting on a street or private way, and ordinarily regarded as the front of the lot. On any lot bounded on more than one property line by a street or private way, the street frontage shall be that property line of the lot designated as "street frontage" in any building permit application for such lot. All lots are required to have the minimum street frontage on a single street or private way.

Gravel Pit: An excavation for removal, processing, or storage of borrow, topsoil, loam, gravel, rock, sand, clay, silt, or other similar non-metallic earth materials whether alone or in combination.

Ground Water: All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the slowly moving subsurface water present in the aquifers and recharge areas.

Headquarters for Contracting Business: An establishment primarily engaged in the administration of a business, which renders services on a fee or contract basis. This use is similar to construction services, but generally is smaller in nature and usually includes the firm's offices with little additional storage.

Heliport: A heliport restricted to private and personal use.

Home Occupation: A home occupation is defined as an occupation or business activity which results in a product or service and is conducted in whole or in part in the dwelling unit or accessory structure.

Hotels/Motels: A building or group of buildings designed for overnight accommodations for travelers and transients in rental guest rooms with or without cooking facilities but most accommodations having their own bathrooms. This definition includes Bed and Breakfasts with more than five (5) rooms, tourist courts, motor courts and motor lodges, but excludes lodging houses, boarding houses, rooming houses and dormitories.

Household Pets: Those pets normally considered as household companions, but not including horses, cattle, sheep, goats, swine, chickens, turkeys or any animals raised for sale or for the sale of their products which shall be deemed farm animals.

Impervious Surface/Cover: Structures and other man-made improvements to land, and materials covering the land, which substantially reduce the infiltration of water. Impervious surfaces shall include but not be limited to roofs, paved areas, and parking lots and driveways, regardless of the surface materials.

Kennel: Any place, building, tract of land, adobe, enclosure, or vehicle where three or more dogs or three or more cats, owned singly or jointly are kept for any purpose, including but not limited to breeding, hunting, show, field trials or exhibition, or where one or more dogs or other pets are kept for their owners in return for a fee. This definition shall not apply to dogs or cats under the age of six months. Conditional Use and Site Plan Review approval by the Planning Board are required for this use to be established.

Leachable Wastes: Waste materials, including solid wastes, sludge, industrial uses and agricultural wastes capable of releasing contaminants to the surrounding environment.

Light Manufacturing: Industrial uses which include fabrication, manufacturing, assembly or processing of materials that can be conducted entirely within enclosed buildings and which do not create smoke, gas, odor, dust, sound or other objectionable influences which might be obnoxious to persons conducting business or residing in this or any other zone.

Lot: A parcel of land having distinct and defined boundaries and described in a deed, plot or similar legal document.

Lot Area: The total land surface area within the lot lines.

Lot, Back: Any lot without direct frontage on a street. Legal access for development purposes can be added to a back lot through the back lot easement provisions of this ordinance.

Lot, Corner: A lot with at least two (2) contiguous sides abutting upon a street and/or private way.

Lot, Coverage: The percentage of the lot covered by all buildings.

Lot Lines: The property lines bounding a lot and as further defined below:

> **Front Lot Line:** Any line separating the lot from a street(s) or right(s) of way. On a corner lot, the line separating the lot from both streets or rights of way. In such cases, both lines abutting the street or private way are treated as front lot lines for the purposes of setbacks.
>
> **Rear Lot Line:** The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot lines, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
>
> **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds.

Lot Width: The distance between the side lot lines of the lot measured at the front setback line.

Manufactured Housing Unit: Structures, transportable in one or more sections, which were constructed in a manufacturing facility and transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

Manufacturing/Processing: Uses such as a textile mill, shoe factory, metal fabrication, canning of foods, meat packing or grain mill, the preparation of finished products made from foodstuff, fabrics, leather, wood, paper, rubber, stone, clay, glass, plastics, manmade materials and other similar materials.

Market Value: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mechanical Repair Garage: A place where general mechanical repairs to motor vehicles and related equipment that are predominantly not utilized on roads or highways may be performed. Collision services such as bodywork, frame or fender straightening and repairs such as repainting and undercoating are excluded. The storage or sale of engine fuels and kerosene or the storage of unlicensed

vehicles is not permitted. The fabrication of parts for such motor vehicles and related equipment may be performed.

Medical Facilities: A facility, which contains establishment dispensing health services including clinics and/or groups of doctors in an office complex.

Medical Marijuana: Medical Marijuana means marijuana used for "medical use," as that term is defined herein.

Medical Marijuana Cultivation Facility: Medical Marijuana Cultivation Facility means a not-for-profit entity registered pursuant to the laws of the State of Maine and Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as may be amended from time to time, that is a Medical Marijuana Dispensary's permitted additional location for the cultivation of marijuana. Any facility providing space for three or more marijuana growers/cultivators or an excess of 60 plants is also a Medical Marijuana Cultivation Facility for purposes of this Ordinance.

Medical Marijuana Dispensary: Medical Marijuana Dispensary means a "registered dispensary" as that term is defined in 22 M.R.S.A. § 2422(6), as may be amended from time to time.

Medical Use: "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered patient's debilitating medical condition or symptoms associated with the registered patient's debilitating medical condition.

Mineral Exploration: Hand sampling, test boring or other methods of determining the nature or extent of mineral resources, which create minimal disturbance to the land.

Minimum Lot Area: The land area of a parcel, not including the area of any land which is: beneath roads or driveways serving more than two lots, and areas which are part of a right of way for a street or easement, such as but not limited to, surface drainage easements or traveled rights of way (but not including utility easements servicing that lot).

Mini-Warehousing: A structure containing separate storage spaces of varying size, leased or rented on an individual basis.

Mobile Home: A detached, single-family dwelling unit with the following characteristics:

A. Manufactured as a relocatable living unit without a permanent foundation, designed for long-term, year-round occupancy and containing sleeping accommodations, a toilet, a tub or shower bath and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment to outside systems.

B. Designed to be transported, after fabrication, on its own chassis, and connected to utilities upon being placed on a permanent foundation or mobile home stand.

C. Designed to be installed with only incidental unpacking and assembling operations.

Mobile Home Park: A parcel of land under unified ownership approved by the municipality for the placement of three (3) or more mobile homes.

Mobile Vendor: Mobile Vendor shall mean and include any food service establishment not more than eight (8) feet in width and eighteen (18) feet in length attached to wheels and which is capable of moving under its own power or being a self-contained unit to be readily moved and must have a wash

basin and napkins if selling food, and which has all utilities and facilities contained within it or is capable of hookup thereto, in order to serve persons present at its location. The term shall exclude any use which falls exclusively within the definition of "lunch wagon" under 30-A.M.R.S.A. Sec. 3931 as amended from time to time.

Municipal Uses: A municipally owned or operated facility performing any governmental function including but not limited to municipal buildings, structures and facilities, public parks, public recycling facilities, public recreation facilities and fire stations. This definition does not include public schools.

Multifamily Development: A lot which contains one or more multifamily dwellings, two or more duplexes, three or more single family dwellings, or any combination of buildings containing three or more dwelling units.

Net Residential Area: The net area of a parcel or site that is generally suitable for development in its natural state. Net residential area shall be determined by subtracting unsuitable and marginal areas from the gross land area as calculated in Section 402.6.3.

Net Residential Density: Net residential density shall mean the number of dwelling units allowed on a parcel or site after unsuitable land is deducted and the minimum area per lot (or dwelling unit in the case of multi-family) for the District is applied to the remaining suitable land area.

New Pit Operations: Creation of new sand, fill or gravel pits. New pit operations are subject to rehabilitation requirements as specified in this Ordinance.

Non-Conforming Lot of Record: A lot shown on a plan or deed recorded prior to the effective date of this ordinance or amendment which does not meet the area, frontage, width or depth requirements of the District in which it is located but which met all such requirements at the time it was created.

Non-Conforming Structure: A structure that does not meet all of the following dimensional requirements: set-backs, height, and lot coverage; but which met all such requirements at the time it was constructed.

Nonconforming Use: Use of land or structures that is not permitted in the district in which it is located or which does not meet the performance standards proscribed for it by this ordinance but which was permitted and did meet all standards at the time it was established.

Nursing Home: An institution that provides nursing or convalescent care to chronic or convalescent patients, but does not provide hospital services such as an operating room or x-ray facility unless incidental to the delivery of nursing or convalescent care.

Office, Business or Professional: The place within and from which a person or persons conducts a business providing, by way of example, but not limited to, a trade, professional or service to clients or customers. Business and professional offices may include, but are not limited to, offices for plumbing, electrical, and other construction trades, firms or contractors (including headquarters); and for lawn care and building cleaning companies; and for lawyers, doctors, accountants, engineers and other professional consultants. Personal services are not included in this definition.

Open Space: Land or water area not involving a structure, earth-moving activities, the removal or destruction of vegetative cover, spawning ground of fish and aquatic life or bird and other wildlife habitat.

Operator: The owner or operator of an excavation.

Passive Recreation: Outdoor recreational activities which involve no structural or mechanical components or facilities, or earth moving, such as hiking, fishing, hunting, etc.

Patio: An uncovered floor, usually made on concrete, brick or other masonry material, which is not elevated above the surface of the ground in any matter.

Permitted Use: A use specifically allowed in a zoning district without the need for any review by a Town regulatory Board but subject to all zoning and building code requirements.

Personal Property: Property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Personal Service: Uses such as a laundromat, laundry, dry cleaning establishment, beauty shops, barber shops, shoe repair, photographic studio and similar businesses providing services of a personal nature.

Planned Unit Development: A commercial and retail land development project comprehensively planned as an entity via a unitary site plan which permits flexibility in building, siting, mixtures of commercial and retail types and land uses, usable open spaces, and the preservation of significant natural features.

Principal Building: The building in which the primary use of the lot is conducted.

Principal Use: The primary use to which the premises are devoted, and the main purpose for which the premises exist, provided however that use of any portion of a lot pursuant to an easement for Commercial Recreation, Outdoor shall not constitute a Principal Use or structure of said lot.

Private Assembly: A gathering of a number of people for meetings of a private nature such as social clubs, fraternal and service organizations, or cultural enrichment and primarily not for profit.

Private Landing Strip for Personal Aircraft: A landing strip restricted to private and personal use. Includes areas for landing helicopters subject to the provisions of the Ordinance.

Private Way: Any access way, designated for private or public use by a group of property owners, but not under public ownership and maintenance.

Prohibited Use: All uses not specifically allowed as Permitted Uses or Conditional Uses, except as provided by Section 402.5.2 D of this Ordinance.

Professional Offices: The place of business for doctors, lawyers, accountants, architects, surveyors, psychiatrists, psychologists, counselors, but not including financial institutions or personal services.

Protected Natural Resource: As defined in 38 MRSA Section 480-B Subsection 8.

Public Assembly – Indoor: Use such as theaters, playhouses, arenas, field houses or auditoriums.

Public Assembly – Outdoor: Use such as drive-in movies, race tracks, or stadium.

Public Building: A building owned, operated or funded in whole or in part by the Town of Gray which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to the Municipal Offices, Stimson Hall, the Gray Public Library, Newbegin Gym, the Public Safety Building, and the Fire Stations.

Public Utilities: The office, plant, generating facility, substation, or transmission lines of a person, firm or corporation, board or commission authorized to furnish gas, steam, electricity, communication facilities, transportation or water to the public.

Public Works Projects: A project for the Town of Gray, other municipal entity, or the State of Maine including, but not limited to, the Maine Department of Transportation, and the Maine Turnpike Authority.

Quarry: An excavation for the extraction of rock.

Recharge Areas: Areas composed of porous sand and gravel, or other areas that collect precipitation or surface water and carry it to aquifers.

Reclamation: Reclamation means the rehabilitation of the area of land affected by mining, including, but not limited to, the stabilization of slopes and creation of safety benches, the planting of forests, the seeding of grasses and legumes for grazing purposes, the planting of crops for harvest, the enhancement of wildlife and aquatic habitat and aquatic resources and the development of the site for residential, commercial, recreational or industrial use.

Recreational Vehicle: A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must possess a current registration sticker from any state Division of Motor Vehicles.

Redemption Center: A place of business which deals in acceptance of empty returnable beverage containers from either consumers or from dealers, or both, and which is licensed by the State of Maine as a redemption center.

Registered Patient: Registered patient means a "registered patient" as that term is defined in 22 M.R.S.A. § 2422(12), as may be amended from time to time.

Registered Primary Caregiver: Registered primary caregiver means a "registered primary caregiver" as that term is defined in 22 M.R.S.A. § 2422(11), as may be amended from time to time.

Repair Service: A business engaged in the servicing or repair of equipment and goods customarily associated with residential households rather than businesses. Such uses may include, but are not be limited to, the servicing or repair of: appliances, watches, jewelry, bicycles, computers and electronic equipment typically used in households. The servicing of any motorized vehicle, construction-related equipment, or recreational vehicle or accessory is specifically excluded from this definition. In no event shall there be any retail sales or outdoor storage associated with the repair service unless otherwise allowed in the district and specifically approved under Site Plan Review.

Research Facilities: A building or buildings and/or structure or structures and any accessory equipment or use in directing scientific or other forms of human inquiry into phenomena including but not limited to nature, human nature, the physical environment, eco-systems, other systems and products and devices.

Restaurant: A business establishment where food and drink are prepared, served, and consumed primarily within the principal building. Providing food to patrons shall clearly be the primary use and the serving of alcoholic beverages shall be ancillary (see Tavern). Outdoor seating is permitted with Planning Board approval. Drive-Through facilities shall not be permitted unless it is a permitted/conditional use and specifically approved by the Planning Board.

Retail Trade: Any business engaged in sales to the ultimate consumer for direct consumption and/or use, and not for resale. The term retail trade shall include such uses as stores for the sale of hardware,

food, apparel, furniture, jewelry, drugs, general merchandise, photographic equipment, athletic equipment, appliances, reading material, automobile sales and banks.

Rock: A hard non-metallic material that requires cutting, blasting, or similar methods of forced extraction.

Schools: An institution either public or private for education or instruction, including a college, university or school conducting classes pursuant to a program approved by the State Board of Education or similar governmental agency, but not including commercially operated schools, such as schools of beauty culture, business, dancing, driving, music or recreation which shall be deemed retail businesses.

Setback: The horizontal distance from a lot line to the nearest part of a structure, including any building overhangs.

Silt or Clay: A material that consists of particles of such size that forty-five (45) percent or more of the fraction of those particles able to pass through a three (3) inch sieve pass through the United States Standard Number 200 sieve, or a material that exhibits similar erosion potential, difficulty of stabilization, or runoff based upon gradation, plasticity, permeability, or other relevant criteria.

Similar Use: A use which is not specifically listed as a permitted or conditional permitted use in the Ordinance but is similar to and not more objectionable than those listed in the Ordinance as determined by the Planning Board under the conditional use criteria of Section 402.9.3.

Site Plan Review: The process by which the Planning Board reviews and may attach conditions under the conditional use criteria and site plan review standards to uses that are of such a scale and nature that they may affect the physical and visual environment, the provision of public services, the value and rights of adjoining properties, and the health, safety and welfare of the citizens.

Sludge: Residual materials produced by water or sewage treatment processes and by domestic septic tanks.

Solid Waste: Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing. This includes, but is not limited to, rubbish garbage, scrap materials, junk and refuse.

Specified Sexual Activities:

A. Human genitals in a state of sexual stimulation or arousal;

B. Acts of human masturbation, sexual intercourse or sodomy:

C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Stream, Year-Round: Any stream that is marked on a USGS map by a solid line.

Street: An existing state, county, or town way; a street shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds: or a street shown on a plan duly recorded in the County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term "street" shall not include those ways which have been discontinued or abandoned.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground, including buildings, commercial park rides and games, carports, decks, and other building features, but not including signs, sidewalks, fences, patios, driveways, and parking lots.

Subdivision: This ordinance defines "Subdivision" as it is defined in 30-A M.R.S.A. Section 4401 to mean the division of a tract or parcel of land into three (3) or more lots within any five (5) year period that begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five (5) year period. This definition and all other provisions in 30-A M.R.S.A. Section 4401 as may be amended from time to time is also incorporated into this definition.

Substantial Expansion: Floor space increase of 25% or new materials or processes not normally associated with the existing use.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historical Places.

Substantial Start: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tavern: A business establishment, serving either the general public or a private party, where beverages and/or food are prepared, served, and consumed predominantly within the principal building. Serving beverages shall clearly be the primary use and providing food shall be ancillary (see Restaurant). The retail sale of prepackaged beverages or food to be consumed off the premises is specifically prohibited. Approval by the Planning Board for Conditional Use and Site Plan Review is required for any food or beverage consumption outside the principal building.

Timber Harvesting: The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Topsoil: The top layer of soil that is predominantly fertile and ordinarily moved in tillage or the equivalent of such a layer in uncultivated soils.

Travel Trailer: Any portable vehicle which is designed to be transported on its own wheels; which is temporarily living quarters for travel, recreational, vacation or construction purposes; and which may or may not contain one or all of the accommodations and facilities included in a mobile home.

Trailer, Utility: A vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

Trucking Terminal: A building or buildings and/or structure or structures and any other facilities for the loading and off-loading of goods from trucks, the temporary storage of said goods, spaces for the temporary overnight parking of trucks, facilities for the normal and routine maintenance of trucks, accessory uses thereto including but not limited to dispatcher's office or administrative or recordkeeping office.

Undue Hardship: Legal criteria established by State statute that must be met before a variance from the requirements of the Zoning Ordinance can be granted by the Board of Zoning Appeals:

A. That the land in question cannot yield a reasonable return unless a variance is granted;

B. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

C. That the granting of a variance will not alter the essential character of the locality; and

D. That the hardship is not the result of action taken by the applicant or a prior owner.

Use: The purpose for which land or a structure is arranged, designed, intended, or for which land or a structure is or may be occupied.

Variance: A relaxation of the terms of this ordinance. Variances permissible under this ordinance are limited to dimensional and area requirements subject to the hardship criteria. No variance shall be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of nonconformities of other buildings or uses in the immediate or adjacent areas.

Warehouse & Storage Facility: A land area where goods or materials are stored in a warehouse facility and/or in specific outdoor areas.

Wholesale Trade: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Working Excavation: The area of extraction, including side slopes, of an excavation for borrow, topsoil, loam, gravel, rock, sand, clay, silt, or other similar non-metallic earth materials whether alone or in combination. The area of a "working excavation" does not include areas for stockpiles, permanent fixed structures such as an office building, permanent processing facility, or fixed fuel storage.

Veterinary Hospital or Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight accommodations. The overnight boarding of healthy animals shall be considered a kennel.

Zoning District: A specified portion of the municipality, delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

ARTICLE 3 – OFFICIAL ZONING MAP

402.3.1 OFFICIAL ZONING MAP

Districts are located and bounded as shown on the Official Zoning Map which is made a part of this ordinance. The Shoreland Zoning District boundaries are determined by the terms of Chapter 403 the Shoreland Zoning Ordinance creating that district, and any delineation of them on the Official Zoning Map shall be for reference only and shall not supersede or modify such boundaries as created in that Ordinance.

402.3.2 CERTIFICATION OF ZONING MAP

The Official Zoning Map is certified by the attested signature of the Town Clerk under the following words: "This is the Official Zoning Map referred to in Section 402.3.2 of the Zoning Ordinance of the Town of Gray," together with the date of the adoption of this Ordinance. The official copy shall be located in the office of the Town Clerk.

402.3.3 CHANGES OF THE OFFICIAL ZONING MAP

If changes are made in the district boundaries or other matter portrayed on the Official Zoning Map such changes shall be made on the Official Zoning Map within thirty (30) days after the amendment has been adopted together with an entry on the Official Zoning Map as follows:

"On (insert date) by official action of the Town Council, the following change(s) was (were) made: (insert brief description of the nature of change)."

Immediately beneath the entry the Town Clerk shall place their signature.

402.3.4 RULES GOVERNING DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map the following rules shall apply.

A. Boundaries indicated as approximately following the center lines of streets, highways, railroad rights-of-way, rivers, or streams shall be construed to follow such center lines.

B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following Town limits shall be construed as following Town limits.

D. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.

E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

F. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or other circumstances not covered by subsections A through E above, the Planning Board shall interpret the district boundaries.

G. The delineation of the Wellhead Protection Districts is shown on the official Zoning Map. In addition, delineation boundary markers, including coordinates are as follows: [To be provided by Sevee & Maher, consulting engineers to the Gray Water District].

ARTICLE 4 – ZONING DISTRICTS

402.4.1 ZONING DISTRICTS ESTABLISHED

For the purpose of this Ordinance, the Town of Gray is hereby divided into fifteen (15) Districts and one (1) Overlay District:

Districts & Overlay District created by the Zoning Ordinance

1. Rural Residential & Agriculture "RRA"
2. Lake District "LD"
3. Medium Density "MD"
4. Business Development 1 "BD-1"
5. Business Development 2 "BD-2"
6. Commercial "C"
7. Village Center "VC"
8. Village Center Proper "VCP"
9. Business Transitional 1 "BT-1"
10. Business Transitional 2 "BT-2"
11. Wellhead Protection 1 "WH-1"
12. Wellhead Protection 2 "WH-2"
13. Mobile Home Park Overlay* "MHP"

* Mobile Home Park Overlay District created by separate Mobile Home Park Ordinance.

Districts created by the Shoreland Zoning Ordinance

14. Resource Protection "RP"
15. Limited Residential "LR"
16. Stream Protection "SP"

For regulations affecting the Resource Protection and Limited Residential, and Stream Protection Districts, see the Town of Gray "Shoreland Zoning Ordinance" dated December 3, 1991 and as amended.

402.4.2 ZONING DISTRICTS PURPOSES

A. Purposes of the Rural Residential and Agricultural District:

The Rural Residential and Agricultural District is located in the most rural and sparsely populated sections of the Town, and extends beyond the areas of Gray that may reasonably be serviced by public water and sewer. It is the intent of this district to encourage low density development which will enhance, reinforce and protect the rural/open space environment currently characterizing these areas of the Town and to promote Agritourism on agricultural, forested and open space land for the

use and enjoyment of these lands by allowing owners or operators of land to develop and offer accommodations, food and hospitality services on lands within this zone.

B. Purposes of the Lake District

The Lake District contains the watershed areas of Gray's lakes, exclusive of the land within the boundaries of the Shoreland Zoning Districts. It is the intent of this district to help protect the sensitive lake watershed areas and to contribute to the protection of surface water quality by limiting the density of development.

C. Purposes of the Medium Density District

This district is located in areas, outside of the village center which are currently serviced by public water, with the exception of the area on Route 100 from Whitney Road, south to the Cumberland Town Line. Most of these areas are presently developed for predominantly residential uses. It is the intent of this district to recognize present relationships between land use and natural features by preserving the predominant residential character while allowing a somewhat denser development to occur than in other areas of the Town.

D. Purposes of the Business Development District

This district is located in areas of the community which are most suited for larger scale business activities such as business parks, warehouses, and manufacturing. The purpose of this district is to allow more intense business uses, while protecting the public health and safety, environmental quality and economic well-being of the Town of Gray. Businesses in this area must also maintain the rural character of the community. Community services and road access were important criteria for selecting such areas.

The Business Development District is further divided into two sub-districts as shown on the Gray Zoning Map. The uses allowed in Business Development 2 (BD-2) District are less restrictive than those in the Business Development 1 (BD-1) District and allow more flexibility reflecting the unique nature of the existing business and industrial campus.

E. Purposes of the Commercial District

This is a district designed to continue the Rural New England character by providing services and shopping opportunities to the residents of the community and to visitors. It is designed to encourage a pleasant, shopping environment. Commercial establishments may be more auto intensive than in the Village District.

F. Purposes of the Village Center and Village Center Proper Districts

The purpose of the Village Center District and the Village Center Proper District, which is contained within the center of the Village Center District and is its most densely developed portion, is to provide services and shopping opportunities to the residents of the community, and to visitors, in a pleasant, village type, shopping environment.

G. Purposes of the Business Transitional Districts

This is a district designed to provide services and shopping opportunities to the residents of the community and to visitors. It is designed to encourage a pleasant shopping environment that is consistent with New England character and serves as a transitional zone between residential and rural areas to the north and the more densely developed Village area to the south. This area lies near

the new Route 26A westerly bypass, and is proximate to the Wellhead Protection Zoning District, meriting limitations on development and prohibition of certain uses in order to protect groundwater quality and recharge potential for present and future use of this resource by individuals, industries, or public bodies. Commercial establishments may be more auto intensive than in the Village District.

The Business Transitional District is further divided into two sub-districts. Business Transitional 1, lies outside the wellhead capture zone of the Gray Water District as shown on the Gray Zoning Map. Business Transitional 2 lies within the capture zone and adds special requirements to protect groundwater quality and the Town's drinking water supply. The uses allowed within Business Transitional 1 are more restrictive due to the proximity to adjacent residential neighborhoods. The uses allowed in Business Transitional 2 are less restrictive reflecting its proximity to the Maine Turnpike, the downtown area, and its prior designation as Wellhead District 2.

H. Purposes of the Wellhead Districts

The intent of the Wellhead Protection Zoning Districts is to protect the ground water resources of the Gray Water District from harmful contaminants that can reasonably be expected to accompany certain uses of land. Wellhead Protection District 1 is the smaller and the more restrictive Wellhead Protection District with its dimensions based upon an estimated two hundred (200) day water travel time. Wellhead Protection District 2 is the larger and the less restrictive Wellhead Protection District with its dimensions based upon the location of the wellhead capture zone and estimated water travel times greater than two hundred (200) days.

I. Purposes of the Mobile Home Park Overlay District

See the Mobile Home Park Ordinance.

J. Purposes of the Resource Protection, Limited Residential and Stream Protection Districts

See the Shoreland Zoning Ordinance.

402.4.3 APPLICABILITY OF ZONING PROVISIONS TO DISTRICTS

All uses of land and development of property within the established Zoning Districts of the Town of Gray shall conform to the standards, criteria, and administrative procedures set forth in this Zoning Ordinance.

ARTICLE 5 – ZONING DISTRICT REGULATIONS

402.5.1 BASIC REQUIREMENTS FOR COMPLIANCE WITH CODES AND ORDINANCES

Permitted Uses and Conditional Permitted Uses in all districts shall conform to all applicable specifications and requirements of this Zoning Ordinance. A Plumbing Permit, Building Permit, and/or Certificate of Occupancy shall be required for all buildings, uses of land and buildings, and sanitary facilities, according to the provisions of this ordinance and all other applicable codes, ordinances, and laws of the Town of Gray and the State of Maine.

402.5.2 LEGAL RIGHTS AND RESPONSIBILITIES TO USES OF LAND AND PROPERTY

The Uses listed in this Zoning Ordinance are divided into four categories:

A. Permitted Uses are "by right" provisions that require no special review or approval other than standard building permits for most projects, and Planning Board site plan review when the proposed

development falls within the thresholds for site plan review based on the type of use and/or the scale of development.

B. Conditional Permitted Uses are permitted whenever the Planning Board determines upon review that the Conditional Use criteria have been met. The burden is on the applicant to demonstrate that proposed development meets the Conditional Use criteria, but upon satisfactory demonstration of compliance with the criteria, and subject to any conditions applied by the Planning Board to meet those specific criteria, Conditional Permitted Uses have the same inherent rights under the Zoning Ordinance as Permitted Uses.

C. Prohibited Uses include any use not specifically listed as a Permitted Use or a Conditional Permitted Use. All unlisted land uses are prohibited on all lots and property in Gray unless specifically provided for by State law and regulated by the State (e.g., forestry).

D. Similar Uses are uses that are variations of Permitted or Conditional Permitted Uses that develop over time through market and/or technological changes and do not fit precisely in the ordinance list of uses. This Zoning Ordinance grants to the Planning Board authority to determine that a use similar to but not specifically listed as a Permitted or Conditional Permitted Use can be approved by the Planning Board subject to the Conditional Use Criteria of Article 9.

402.5.3 DISTRICT REGULATIONS

Land uses permitted in each district, in conformance with the General Performance Standards in Articles 6 and where applicable, the Specific Performance Standards of Articles 7 and 8 are shown in the following table:

Key: P - Permitted Use

C - Conditional Permitted Use: requires Planning Board review under Article 9 if classified as a Major Development under Article 10 (Section 402.10.6). Minor Developments are treated as Permitted Uses.

‡ - Subject to Specific Performance Standards in Article 7.

* - Subject to Specific Performance Standards in Article 8.

TABLE 402.5.3 TABLE OF PERMITTED USES AND CONDITIONAL PERMITTED USES

		RRA	LD *	MD	BD-1	BD-2	C	VC *	VCP *	BT-1 *	BT-2 *	WH-1 *	WH-2 *
1.	Accessory Apartment ‡	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C		P/C
2.	Accessory Uses and Structures	P	P	P	P	P	P	P	P	P	P	P	P
3.	Adult Business*						C						
4.	Agritourism Center*	C											
5.	Agritourism Facility*	C											
6.	Animal Husbandry	P	P		C	C	C				C		C

7.	Auto Body Shop				C	C	C						
8.	Auto Repair Garage						C						
9.	Auto Service Station				C	C							
10.	Bed and Breakfast ‡	C	C	C	P	P	P	P	P	P	C		C
11.	Campground ‡	C	C										
12.	Cemetery	P					C						
13.	Church	P	P	P	P	P		C	C		C		C
14.	Commercial Recreation - Indoor or Outdoor	C	C		C	C	C	C	C	C	C		C
15.	Community Living Arrangement	P	P	P	P	P	P	P	P	P	P	P	P
16.	Construction Services				P	P					C		C
17.	Day Care Facility for Five (5) or fewer clients.	P	P	P	P	P	P	P	P	P	P		P
18.	Day Care Facility for Six (6) or more	C	C	C	C	C	C			C	C		C
19.	Drive Through and Drive in Facility					[1]C	C			C	C		C
20.	Expansion of Nonconforming Uses	C	C	C	C	C	C	C	C	C	C	C	C
		RRA	**LD** *	**MD**	**BD-1**	**BD-2**	**C**	**VC** *	**VCP** *	**BT-1** *	**BT-2** *	**WH-1** *	**WH-2** *
21.	Farm Stand ‡	P	P	P	P	P	P	P	P	P	P		P
22.	Flea Market, Open Air Market ‡	C	C	C	C		C	P	P				
23.	Garage Sale	P	P	P	P	P	P	P	P	P	P	P	P
24.	General Agriculture	P		P	P	P	P				C		C
25.	Headquarters for a Contracting Business	C	C	C	P	P					C		C
26.	Heliport	C	C		C	C							
27.	Home Occupation ‡	P	P	P	P	P	P	P	P	P	P	C	P

28.	Hotel and Motel				C	C	C			C			
29.	In-Home Offices‡	P	P	P	P	P	P	P	P	P	P	P	P
30.	Kennels	C	C				C						C
31.	Light Manufacturing				P	P							
32.	Manufacturing and Processing				C	C							
33.	Mechanical Repair Garages	C			P	P	C						
34.	Medical Facility	C	C	C		C	C	C	C	C			
35.	Medical Marijuana Cultivation Facility*				C	C	C	C					
36.	Medical Marijuana Dispensary*							C					
37.	Mineral Excavation	P	P	P	P	P	P						
38.	Mineral Exploration	C			P	P		P	P		P	P	P
39.	Mini-warehousing				C	C	C			C			
40.	Mobile Vendor	P	P	P	P	P	P	P	P	P			
41.	Motel (< 11 rooms)	C	C			C							
42.	Multi-family Development			C	C	C	C	C	C	C			
43.	Municipal Uses	C	C		C	C	C	C	C	C	C		C
		RRA	**LD ***	**MD**	**BD-1**	**BD-2**	**C**	**VC ***	**VCP ***	**BT-1 ***	**BT-2 ***	**WH-1 ***	**WH-2 ***
44.	Nursing and Convalescent Home	C	C	C	C	C	C			C			
45.	Office			C	P	P	P	P	P	C	C		C
46.	Personal Services				C	C	C	C	C	C			
47.	Planned Unit Development ‡				C	C	C	C	C	C			
48.	Places for Public Assembly, Indoor and Outdoor	C	C		C	C		P	P				
49.	Private Assembly				C	C	C	C	C				

50.	Private Landing Strips for Personal Aircraft ‡	C			C	C							

TABLE 402.5.4 A - LOT DIMENSION & DENSITY STANDARDS

51.	Public Utilities	C	C	C	C	C	C	C	C	C	C	C	C
52.	Redemption Center						C			C			P
53.	Repair Service				P	P	C	P	P		C		C
54.	Research Facility				C	C		C	C				
55.	Restaurant				P	P	C	P	P	C	C		
56.	Retail Trade				P	P	C	P	P	C	C		C
57.	School	P	P	P		C	C	C	C	C	C		C
58.	Single-Family Dwelling	P	P	P	P	P	P	P	P	P	P	P	P
59.	Similar Uses	C	C	C	C	C	C	C	C	C	C	C	C
60.	Tavern					C	C	C	C				
61.	Trucking Terminal				C	C							
62.	Two-Family Dwelling	P	P	P	P	P	P	P	P	P	P		P
63.	Warehousing				P	P							
64.	Wholesale Trade				C	C		P	P				

[1] Drive through and drive in facilities are allowed only as an accessory use to the permitted and conditional uses in the Business Development 2 District; see Section 402.8.8(A).

402.5.4 DISTRICTS DIMENSIONAL REQUIREMENTS

Lots and structures in all districts shall meet or exceed the following minimum requirements.

TABLE 402.5.4 B - BUILDING CONSTRUCTION SPATIAL STANDARDS

DISTRICT ZONING DISTRICT	Area Maximum Lot Coverage	Frontage Minimum Lot Line Setback Front	Unit Minimum Lot (Town Water) Line Setback Side	Unit Minimum Lot (Private Well) Line Setback Rear	Impervious Surface [C] Maximum Building Height
RRA	80,000 sq. ft.	200 ft.	40,000 sq. ft.	40,000 sq. ft.	N/A
RRA	10 %	50 ft.	[D] 25 (15) ft.	50 ft.	35 ft.
LD	80,000 sq. ft.	200 ft.	N/A	80,000 sq. ft.	N/A
LD	20 %	50 ft.	[D] 25 (15) ft.	50 ft.	35 ft.
MD	40,000 sq. ft. [A] (80,000)	150 ft.	20,000 sq. ft.	40,000 sq. ft.	N/A
MD	15 %	50 ft.	[D] 20 (15) ft.	20 ft.	35 ft.
BD-1	80,000 sq. ft.	200 ft.	40,000 sq. ft.	40,000 sq. ft.	50 %
BD-1	50 %	50 ft.	[D] 25 (15) ft.	50 ft.	[E] 35 (53) ft.
BD-2	80,000 sq. ft.	200 ft.	40,000 sq. ft.	40,000 sq. ft.	85 %
BD-2	85 %	[G] 25 ft.	[G] 0 ft.	[G] 15 ft.	[E] 35 (53) ft.
C	40,000 sq. ft.	200 ft.	20,000 sq. ft.	40,000 sq. ft.	65 %
C	50 %	10 ft.	15 ft.	20 ft.	[E] 35 (53) ft.
VC	20,000 sq. ft.	40 ft.	10,000 sq. ft.	10,000 sq. ft.	75 %
VC	75 %	10 ft.	0 ft.	10 ft.	35 ft.
VCP	20,000 sq. ft.	40 ft.	10,000 sq. ft.	10,000 sq. ft.	75 %
VCP	75 %	0 ft.	0 ft.	0 ft.	35 ft.
BT-1	40,000 sq. ft.	150 ft.	20,000 sq. ft.	40,000 sq. ft.	50 %
BT-1	50 %	25 ft.	[F] 15 (10) ft.	20 ft.	35 ft.
BT-2	40,000 sq. ft.	150 ft.	20,000 sq. ft.	40,000 sq. ft.	[B] 10 (30) %
BT-2	[B] 10 (30) %	25 ft.	[F] 15 (10) ft.	20 ft.	35 ft.
WH-1	4 Acres	200 ft.	4 Acres	4 Acres	[B] 10 (30) %
WH-1	[B] 10 (30) %	50 ft.	[D] 25 (15) ft.	50 ft.	35 ft.
WH-2	4 Acres	200 ft.	4 Acres	4 Acres	[B] 10 (30) %
WH-2	[B] 10 (30) %	50 ft.	[D] 25 (15) ft.	50 ft.	35 ft.

[A] Lots in MD District not served by public water require 80,000 square feet of lot area.

[B] Impervious surface and lot coverage in BT-2, WH-1, & WH-2 Districts can be increased to 30% of lot with Planning Board approval subject to the requirements of Section 402.8.4 L for recharge protection.

[C] Height requirements do not apply to flagpoles, chimneys, transmission towers, steeples, windmills or similar structures usually erected at a greater height than the principal building; however such accessory structures or appurtenances require a lot line setback distance of no less than its height.

[D] Side setback for non-conforming lots of record in RRA, LD, MD, BD-1, WH-1, & WH-2 Districts is 15 feet.

[E] Maximum building height in BD-1, BD-2, and C is 53 feet if public water is available and at least two sides of the building are accessible by fire apparatus.

[F] Side setback in BT Districts is 10 feet if not abutting a residential property.

[G] For any lot in a BD-2 District, the setback for any property line(s) that abuts another district, including BD-1, shall meet the minimum setback(s) for either the abutting district or BD-1, whichever is less restrictive.

ARTICLE 6 – GENERAL PROVISIONS APPLICABLE IN ALL ZONING DISTRICTS

402.6.1 LAND USE REQUIREMENTS

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

402.6.2 LOTS

A. Lots with Multiple Street Frontages

Lots which abut on more than one street shall provide the required front setbacks along every street.

B. Developable Areas

No structure or other impervious surface may be constructed on land with sustained slopes of twenty-five (25%) percent or greater, nor in any wetland. Subsurface wastewater disposal systems may not be located where soils are unsuitable for septic systems according to the Maine State Plumbing code, as amended.

C. Building Extensions to Meet Setbacks

All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, or platforms above normal grade level, shall not project into any required minimum front, side or rear setback.

D. Only One Principal Building per Lot

No more than one (1) principal structure and its accessory buildings as regulated in this Ordinance may be located on any one lot, except in the case of a Planned Unit Development and Cluster Housing unless all applicable space and dimensional standards are met separately for each principal structure or use on the lot, subject to the following:

1. Where a lot has more than one existing principal structure or use, any new principal structure or use proposed for the lot, or any proposed division of the lot, shall meet all applicable space and dimensional standards for the new lot or principal structure or use; provided, however, before creation of a new principal structure or use on the lot or division of the lot, the property owner shall provide the Code Enforcement Officer with a sketch plan, drawn to scale, in sufficient detail to satisfy the Code Enforcement Officer that it accurately represents the current conditions in the field; and
2. The creation of a new lot or new principal use or structure must satisfy current space or dimensional standards established for the zone in which the lot is located. Where an existing principal structure is legally nonconforming as to any applicable space or dimensional standard, the creation of a new lot or principal use or structure shall not increase the degree of such nonconformity.
3. For lots located in the Business Development 2 Zoning District, the number of uses per principal structure shall be determined by standards established in Section 402.8.8 of this Ordinance.
4. No variances are allowed from the provisions of the preceding paragraphs of this section.

402.6.3 NET RESIDENTIAL AREA

A. The following areas shall be considered unsuitable for development and 100% of the acreage of these areas shall be deducted from the gross land area:

1. Land that is cut off from the main parcel by a road or by existing land uses and where no means of access can be provided, so that the land is isolated and unavailable for building purposes or common uses.
2. Land situated below the normal high water mark of any water body.
3. Land within the 100-year Floodplain as identified by the Federal Flood Boundary and Floodway Maps or Federal Maps or Federal Flood Insurance Rate Maps.
4. Land within a Resource Protection District.
5. Land, which has been created by filling or draining a pond or wetland.
6. Land area consisting of unreclaimed gravel pits.
7. Very poorly drained soils. (See E. below)

B. Areas consisting of Poorly Drained and Somewhat Poorly Drained Soils shall be considered marginally suitable for development, and fifty (50%) percent of these areas shall be deducted from the balance of A.(See E. below)

C. Fifteen percent (15%) of the total acreage of the site remaining after subtracting those areas listed in A and B above, shall be deducted as an allowance for roads, parking and right of ways, whether or not the actual area devoted to roads is greater or less than fifteen (15%) percent.

D. No building or structure shall be sited in areas subtracted as one hundred (100%) percent deductions as listed in A. above. Siting of a structure in areas subtracted as fifty (50%) percent deductions as listed in B. above shall be discouraged but shall be permitted where the applicant or developer demonstrates that measures will be taken to minimize erosion, sedimentation and seasonal wetness, that these areas are stable for the siting of structures, and that proposed subsurface waste disposal systems will comply with the Maine State Plumbing Code.

E. For determination of the very poorly, poorly and somewhat poorly drained soils, the following guidelines shall apply:

1. Soil classifications shall be determined by a Class A High Intensity Soils Survey prepared by a Maine Certified Soils Scientist, in accordance with the standards of the Maine Association of Professional Soil Scientists.
2. In cases where the requirement of a Class A High Intensity Soils Survey is waived, deductions for unsuitable soils shall be determined in the following manner:
   a. One hundred percent (100%) of land areas with a water table within six (6) inches of the surface for three (3) or more months a year shall be deducted. In making this determination, the Planning Board shall consult medium-intensity soils maps, perform site visits, consult experts and review other available information.
   b. If the applicant wished to contest the Planning Board's determination of unsuitable soils on the site using the above method, the applicant may submit for the Board's consideration, a Class A High Intensity Soils Survey prepared by a Maine Certified Soils Scientist in accordance with the Standards of the Maine Association of Professional Soil Scientists.

F. Whenever a residential development involving subdivision is proposed, whether single family, two-family, cluster, or multifamily, the land area remaining after deducting the areas calculated in subsections A. through E. above shall be considered the net residential acreage for determining the maximum allowable number of lots or dwelling units.

402.6.4 NET RESIDENTIAL DENSITY

The net residential density shall be calculated by dividing the land area determined as the net residential area in Section 402.6.3 above by the minimum land area per dwelling unit found in Table 402.5.4 A for the Zoning District in which the project is located to determine the maximum number of lots or dwelling units permitted.

402.6.5 NON-CONFORMANCE WITH THE REQUIREMENTS OF THIS ZONING ORDINANCE

A. Continuation, Maintenance, & Replacement of Non-Conforming Structures and Uses

1. Continuance, Enlargement, Reconstruction: Any legally existing non-conforming use or non-conforming structure may continue to exist but may not be extended, reconstructed, enlarged, or structurally altered except as specified below.

2. Transfer of Ownership: Non-conforming structures, non-conforming lots of record, and non-conforming uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this ordinance.

3. Restoration or Replacement: This ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repairs, renovations, or modernizations which do not involve expansion of the non-conforming use or structure; and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require. Any non-conforming use or structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent, may be restored or reconstructed within one (l) year of the date of said damage or destruction, provided that:

   a. The nonconforming dimensions of any restored or reconstructed structure shall not exceed the non-conforming dimensions of the structure it replaces;

   b. Any non-conforming structure shall not be enlarged except in conformity with this ordinance and the Maine State Subsurface Wastewater Disposal Rules; and

   c. Any non-conforming use shall not be expanded in area.

Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

B. Discontinuance of Non-Conforming Uses
Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the use. A non-conforming use of land which is accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.

Discontinuance of the use of a legally existing non-conforming structure shall not constitute abandonment of the structure. Conforming use of the structure may be commenced at any time.

C. Expansions & Changes Involving Non-Conforming Uses

1. A Structure Non-Conforming as to Use: A building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated or approved by the Planning Board under the Conditional Use criteria of Article 9. A non-conforming use of part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this ordinance, or of any amendment making such use non-conforming or is approved by the Planning Board under the Conditional Use criteria of Article 9.
2. Change of Use: A legally existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Planning Board under the Conditional Use criteria. The determination of appropriateness shall require written findings on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The Conditional Use criteria in Article 9 of this ordinance shall apply to such requests to establish new non-conforming uses.
3. Use of Land: A non-conforming use of land may not be extended into any part of the remainder of a lot of land.

D. Expansions not Involving Non-Conforming Uses
(Pertaining solely to dimensional requirements of lots and structures. Applications regarding non-conforming uses shall be reviewed under the provisions above.)

1. Enlargements Controlled: A non-conforming structure shall not be added to or enlarged unless: such addition or enlargement conforms to all the regulations of the district in which it is located; the addition does not increase the non-conformity of the structure; or a variance is obtained. In addition, state laws and local ordinance requirements must be adhered to. The following actions are not considered to be expansions of non-conforming structures:
   a. The addition of an open patio with no structures elevated above ground level shall not constitute the expansion of a non-conforming structure. The addition of steps or the enclosure of an existing deck shall not constitute the expansion of a non-conforming structure. But the addition of a deck shall constitute the expansion of a non-conforming structure and shall meet all the dimensional requirements of this ordinance.
   b. The placing of a foundation below a lawfully existing non-conforming structure shall not constitute the expansion of the structure so long as the first floor space of the structure is not increased.
   c. Construction or expansion of a foundation under an existing dwelling which expands habitable space shall be considered an expansion and shall be subject to the State Plumbing Laws (Title 30, Maine Revised Statutes Annotated, §322l, Subsection 4) requiring documentation of wastewater disposal capabilities.
2. Lack of Required Parking or Loading Space: A building or structure which is non-conforming as to the requirements for off-street parking and/or loading space shall not be enlarged, added to, or altered unless off-street parking and/or loading space is provided to bring parking and/or loading space into conformance with the requirements of this ordinance for both the addition or alteration and for the original building or structure, or a variance is obtained.

a. The provision of required off-street parking for an existing non-conforming use that is not being enlarged, added to, or altered shall not be considered the expansion of the use.

3. Disability Access Structures: The Code Enforcement Officer may approve construction of access ramps not meeting setback requirements for the purpose of making that property accessible to a person with a disability who is living on the property. The Code Officer shall restrict any approval granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The approval shall be only for the duration of the disability or the time that the person with the disability lives on the property. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, M.R.S.A. Section 4553.

E. Existing Lots of Record Grandfathered

A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area or width requirements, or both, of the District in which it is located may be built upon provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership, and that all other provisions of this Ordinance shall be met. Variance of yard or other requirements not involving area or width shall be obtained only by action of the Board of Appeals. (Any lot of record, established on or before January 1, 1970 is a legally nonconforming lot.)

F. Required Combination of Substandard Sized Lots

If two (2) or more contiguous lots or parcels are in single ownership of record at the time of adoption or amendment of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of this ordinance, the lands involved shall be considered to be a single parcel for the purposes of this Ordinance and no portion of said parcel shall be built upon or sold which does not meet dimensional requirements of this Ordinance; nor shall any division of the parcel be made which creates any dimension or area below the requirements of this Ordinance.

Notwithstanding the preceding provisions of this subsection, lots depicted on a subdivision plan approved by the Planning Board, on or after 1977 shall be buildable, even if contiguous and in the same ownership, provided however, that any such lot must meet the minimum requirements set forth in 12 M.R.S.A., Subsection 4807-A for minimum lot size with septic systems.

G. Vested Rights when Ordinance is Amended

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required state permits and approvals. Such rights arise when substantial construction of structures, or development of infrastructure improvements for town approved subdivisions, began prior to adoption or amendment of this Ordinance. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits. In the case of pending applications, vesting occurs when the substantive review process on an application has commenced. Substantive review occurs when a completed application demonstrating compliance with all Ordinance requirements has been submitted and reviewed by the Planning Board.

402.6.6 SPECIAL PERMIT REQUIRED FOR TEMPORARY EVENTS

A. Activities such as music festivals and car shows that are of a decidedly temporary nature or of short duration which will, because of unusual circumstances, be unable to meet the minimum requirements of the performance standards may be allowed under the provisions of a Special Permit issued by the Code Enforcement Officer. The conditions of issuance for this permit are:

   1. The proposed activity or use will not continue beyond a maximum time period of one (1) week. If, in the judgment of the Code Enforcement Officer, additional time is necessary or desirable, extensions of the Permit may be granted for additional one week periods. Upon expiration of the Special Permit the activity must be immediately discontinued or brought into conformance with the minimum standards of performance or be violation of this code.
   2. The proposed activity will not create, cause, or increase any health, safety, or public nuisance problems. In making this determination, the Code Enforcement Officer shall seek input from the Fire Chief and Public Works Director.
   3. The proposed activity will not cause immediate or future damage to adjacent properties.
   4. Reasonable provisions are made to prevent or minimize harmful environmental impacts of the proposed activity.

B. To assist the Code Enforcement Officer in making these determinations a public hearing may be required for the purpose of soliciting additional information or other municipal boards and commissions may be consulted. If an extension of a Special Permit beyond one (1) week is requested, the Code Enforcement Officer must obtain the concurrence of the Planning Board before such an extension is granted.

402.6.7 REGULATION OF SIGNS

All signs are required to meet the requirements of the Sign Ordinance, Chapter 406.

402.6.8 REGULATION OF MOBILE HOME PARKS

Mobile Home Parks shall be subject to the provisions of the Mobile Home Park Ordinance, Chapter 402.A.

402.6.9 PARKING REQUIREMENTS

All uses of land and development of property shall be provided with parking and loading facilities meeting the standards of Section 402.10.11 B under Site Plan Review.

ARTICLE 7 –STANDARDS APPLICABLE IN MOST ZONING DISTRICTS

402.7.1 TEMPORARY STRUCTURES

A. Temporary Structures in Conjunction with Construction Work

Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six (6) month period and may be renewed by the Code Enforcement Officer.

B. Temporary Structures in Conjunction with Disasters

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

402.7.2 HOME OCCUPATIONS

A. Intent and Purpose

Home Occupations when managed conscientiously and with respect for the neighborhood in which they are situated can offer benefits to both the proprietors and the community, and a productive alternative to the formally structured traditional workplace. Consequently, it is the intent and purpose of this Ordinance to produce liberal, flexible standards for the establishment and maintenance of home occupations, while simultaneously providing the town with a mechanism in which to monitor and regulate their use.

B. Home Occupation Requirements:

A home occupation shall conform to the following requirements:

1. The home occupation shall be carried on primarily within the principal structure or accessory structures.
2. The home occupation shall be carried on by a member or members of the family residing in the dwelling unit. One employee, who is not part of the family residing in the dwelling unit, shall be permitted.

3. The home occupation is clearly incidental and secondary to the use of the dwelling unit for residential purposes.
4. There shall be no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building, except such signs as are permitted.
5. There shall be no more than two (2) commercial vehicles kept outside the garage overnight.
6. Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, hazardous materials, odors, heat, or glare shall not be generated.
7. Hours of operation shall be reasonable and normal for residential areas.
8. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.
9. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicle of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operation hours.
10. No more than fifty (50%) percent of the floor area of a residence and an accessory building shall be used for a home occupation.
11. Retail sales are limited to the sale of products or goods produced, fabricated or substantially altered on the premises as a result of the home occupation. This may include products that are not fabricated on the premises as defined above, but which are customarily incidental to the product created by the home occupation.
12. Retail businesses such as restaurants, new or used car sales, auto repair garages, auto body shops, and auto service stations shall not be considered home occupations.
13. The size and number of signs used in connection with a home occupation shall be determined by the sign ordinance.

402.7.3 FLEA MARKETS & OPEN AIR MARKETS

A. Authorization to Use the Property

Flea Markets and Open Air Markets must be held on land that is owned by the applicant or has written permission from the owners to use.

B. Adequate Parking

Before the permit is issued by the Code Enforcement Officer or approved by the Planning Board, whichever is appropriate, the applicant must prove adequate off street parking and provide means of insuring parking provided is used.

C. Time Limit for Conduct

The market can operate no more than three (3) days a week. All evidence of use must be removed from the premises for the balance of the week.

D. Site Plan Review Required
Markets are subject to the site plan review procedures of Article 10.

402.7.4 KEEPING OF LARGE ANIMALS

A. Minimum Lot Size Required

Bovine, cloven hoofed animals, horses or other types of riding or laboring animals such as horses may be kept in any district except the Shoreland Zone and the WH1 Districts, provided that there is a minimum of 120,000 square feet of land owned, rented or leased or the first animal to be kept thereon and an additional 10,000 square feet for each additional animal to allow pasturing and disposal of animal waste.

B. Enclosures & Nutrient Plan

Animals must be kept in enclosures at least fifty (50) feet from both the front and rear lot line and twenty five (25) feet from any side lot lines and from the edge of any water body all in full compliance with the best management practices and a Nutrient Management Program per the then current State Law. Any increase in the number of animals kept on the minimum lot size shall first require the owner to have and implement a Nutrient Management Plan prepared and approved by a Nutrient Management Planning Specialist who has been certified by the Commissioner of Agriculture before local approval may be granted.

C. Complaints

Complaints will be referred to the State of Maine Department of Agriculture for review of compliance and resolution.

402.7.5 BACK LOT ACCESS EASEMENTS

Back lots used for single family purposes shall be permitted, provided they meet the following standards:

A. Access Requirements

1. A fifty (50 ft.) foot wide access shall be provided for back lots.
2. Said access shall be owned either in fee or by permanent easement and maintained by the back lot users.
3. Record of said access way shall be recorded as part of the deed of each back lot and shall be filed with the County Register of Deeds.
4. The access way entrance to a street shall conform to standards of the Subdivision Ordinance and shall be approved by the Code Enforcement Officer.
5. The issuance of a building permit for a single family dwelling on a back lot shall in no way be construed to imply the acceptance of any access way for the purpose of maintenance, improvements or snow removal by the Town of Gray.
6. Creation of a subdivision requires compliance with the provisions of the Gray Subdivision Ordinance.

B. Lot Frontage Requirements

Frontage equal to the street frontage required for the zoning district shall be required along the access way.

C. Lot Size Requirements

1. Any back lot shall be equal to or greater than the minimum lot size required for the zoning district. Computation of minimum lot size area shall not include any portion of the area devoted to an access way for the lot across which the easement crosses and for the lot served by the easement.
2. The side lot line nearest and generally parallel to the road to which the back lot access way leads shall be equal to the street frontage required for the zoning district.

402.7.6 CLUSTER DEVELOPMENT

Deleted 2/15/2016

402.7.7 PLANNED UNIT DEVELOPMENT FOR COMMERCIAL SUBDIVISIONS

A. Purposes of Planned Unit Development

The purpose of the Planned Unit Development shall be to encourage a commercial development which will result in:

1. A choice in the types of environment, a mixture of commercial and retail uses and quality in land use so that development will be a permanent and long-term asset to the Town.
2. An aesthetically-pleasing development, innovative design standards, open space and ample off-street parking and traffic circulation.
3. A pattern of development which reserves trees, outstanding natural topography and geologic features and prevents soil erosion.
4. An efficient use of land resulting in smaller networks of streets and utilities, encouraging the use of underground utilities.
5. An environment in harmony with surrounding development.
6. A more desirable environment than would be possible through the strict application of other sections of this Ordinance.
7. Encouragement of central water and sewer systems.

B. Provisions for Planned Unit Development

The Planning Board, in reviewing and approving proposed commercial and retail developments located in the Town, may modify provisions related to minimum lot size, lot frontage, number of structures, and setback size to permit innovative approaches to commercial and retail development and environmental design in accordance with the following standards. This shall not be construed as granting variances to relieve hardship.

1. The Planning Board may reduce lot frontage requirements by up to fifty (50%) subject to the conditional use and site plan criteria and standards.

2. The Planning Board may reduce front setback requirements by up to fifty (50%) subject to the conditional use and site plan criteria and standards.
3. The Planning Board may reduce the minimum lot area by up to fifty (50%) percent subject to the conditional use and site plan review criteria.

402.7.8 MOBILE HOMES, MOTOR HOMES AND TRAVEL TRAILERS

A. Use of a Mobile Home as Temporary Living Quarters While Building a Home

A mobile home may be used as a temporary single-family dwelling subject to the following requirements:

1. No person, firm or corporation shall move or cause to be moved into the Town of Gray a mobile home to be located otherwise than in a duly-licensed mobile home park without first securing a temporary permit from the Code Enforcement Officer to do so.
2. The application for such permit shall state the name of the owner of the mobile home, its make, serial number, length, width, color and any other identification information that the Code Enforcement Officer may require.
3. The applicant shall also state the proposed location in the Town where the mobile home is to be placed. The owner of the mobile home must own the lot upon which the mobile home is to be placed.
4. The applicant shall also furnish the Code Enforcement Officer with a plot plan showing the boundary lines of the lot proposed for the location of the mobile home, and also showing the sewage disposal area.
5. The applicant shall also furnish the Code Enforcement Officer with reliable information relating to soil tests conducted on the sewage disposal area in accordance with any applicable state law, code or regulation and must demonstrate that soil conditions are suitable for the absorption of waste materials from septic tanks.

B. Issuance of a Temporary Mobile Home Permit

1. The temporary mobile home permit shall expire six (6) months after its issuance and if not replaced by the permanent permit, as hereinafter provided. Within said period, any mobile home moved or caused to be moved into the Town shall either be moved to a duly licensed mobile home park or removed from the limits of the Town.
2. A temporary permit may be granted by the Code Enforcement Officer to reside in a mobile home during the construction of a permanent home on the same lot as long as a valid building permit is held by the applicant. The permit shall be subject to semi-annual review by the Code Enforcement Officer and may be renewed if, in his/her judgment, reasonable progress is being made and nuisance conditions do not exist.

C. Use of a Mobile Home as Permanent Living Quarters on a Single Lot

The Code Enforcement Officer may grant a permanent permit for the location of the mobile home on the lot referred to in the temporary permit provided that the following additional requirements are met:

1. The applicant shall have constructed a permanent and continuous masonry foundation for the mobile home and located and securely fastened the mobile home upon said foundation.

2. Said foundation shall be around the entire perimeter of the mobile home and shall be on concrete or building blocks bounded together on an 8” x 16” footing extending at least four (4) feet below grade. Said foundation may contain suitable openings for ventilation not to exceed 32” x 16” in area except that opening for windows or doors in said foundation may be of a larger size.
3. The ground floor area of said mobile home shall be at least four hundred (400) square feet.
4. The lot upon which said mobile home is located shall meet the space regulations set forth in this Ordinance and shall have a minimum lot area required by the applicable zoning district.

D. Uses of Travel Trailers and Motor Homes

1. Temporary Occupancy: A householder may permit bona fide guests to park not more than two (2) travel trailers or motor homes in the yard adjacent to such house for a period not exceeding thirty (30) days per calendar year, provided that the travel trailer or motor home is used only for sleeping purposes during said period and also provided that the householder shall have granted permission to the travel trailer or motor home occupant to use the householder’s toilet facilities.
2. Storage: An unoccupied travel trailer or motor home may be stored on any lot subject to all regulations concerning setbacks for buildings provided that it shall not be used for living or sleeping purposes during said period of storage.
3. Construction Offices: No travel trailer or motor or mobile home shall be used as a permanent office, but may be used for a temporary demonstration and sale of such articles or services as may be readily transported or displayed in a trailer or mobile home by a distributor or salesperson if situated in the applicable zoning district for a period not to exceed fifteen (15) days; provided, further, that such a travel trailer or motor, or mobile home may be used as temporary office headquarters (including electricity and phone) for a bona fide charitable organization for a period not to exceed one year. During such period such a trailer or motor or mobile home shall not be used for living or sleeping purposes. The Town Council may extend said sixty (60) day period in the case of trailers or mobile homes used as offices on construction work, renewable by the Code Enforcement Officer, until construction is completed.

E. Existing Mobile Homes and Travel Trailers

A travel trailer or mobile home lawfully established at the time of adoption of this section shall not be affected by this Section and such travel trailer or mobile home may be replaced with another travel trailer or mobile home, but not later than ninety (90) days after its destruction, removal, or abandonment.

402.7.9 ACCESSORY APARTMENTS

1. General Standards:

1. Accessory Apartments shall only be located within a single-family dwelling (SFD) or a structure permanently attached to the SFD by common walls and a permanent roof meeting the aesthetic standards below in Section 402.7.9.C.

2. Accessory Apartments are specifically prohibited in, on, or within any of the following:
   a. any detached accessory structure such as a separate garage;
   b. any structure or parcel located in the Shoreland Zone;
   c. any duplex or multi-family dwelling;
   d. any SFD located on a back-lot that utilizes a right-of-way less than fifty (50) feet wide;
   e. any individually owned lot in a Cluster/Open Space subdivision that contains less than 75% of the minimum lot size for the zoning district in which the property is located;
   f. any lot that contains less than 75% of the minimum lot size for the zoning district in which the property is located, existing non-conforming lots of record;
   g. any lot that contains one or more principal commercial use(s) either on the parcel or in any structure located on such lot; or
   h. any lot than contains less than 20,000 square feet.
3. Only one accessory apartment is allowed per lot, and only on a lot that the CEO has determined the primary use to be a SFD.
4. Accessory Apartments are permitted uses, on lots which meet the minimum required lot area and street frontage for the zoning district in which the lot is located. For lots in Cluster/Open Space subdivisions with commonly owned area, only the lot that is individually owned may be used for the purposes of this determination; fractional ownership of Open Space or other land may not be counted for this purpose.
5. Accessory Apartments are conditionally allowed, subject to Planning Board approval, on lawfully existing non-conforming lots of record provided that the lot size is at least 75% of the minimum lot size for the zoning district in which the lot is located. For example, a lot in a zoning district that requires 80,000 square feet for the minimum lot size must contain at least 60,000 sq. ft. For lots in Cluster/Open Space subdivisions with commonly owned area, only the lot that is individually owned shall be used for the purposes of this determination; fractional ownership of Open Space or other land may not be counted for this purpose.
6. The maximum square footage of finished living area for accessory apartments is six-hundred and sixty (660) square feet. The Zoning Board of Appeals shall not have the authority to increase this maximum finished living area by variance or otherwise.
7. Although an existing single-family dwelling may be expanded or utilized for the purposes of creating an Accessory Apartment, no portion of an Accessory Apartment shall be located within minimum lot line setbacks, including non-conforming structures of record.
8. In addition to any off-street parking required for the SFD, there must be at least one year-round off-street parking space for use by the Accessory Apartment occupant(s). There must also be sufficient space on the site for vehicular turn-arounds without having to back out onto the street.
9. One Home Occupation use may be conducted, as otherwise allowed under the Ordinance, as an accessory use to either an Accessory Apartment or an existing SFD, but not both. Solely for the purposes of this paragraph 9, In-Home offices are not considered a Home Occupation.
10. Accessory Apartments must comply with applicable building and fire safety codes.

11. Accessory Apartments must have shared common utilities, such as water, electricity, etc.

2. Ownership Standards:

12. Ownership of the existing SFD and the Accessory Apartment must be held by the same person(s).

13. Either the existing SFD or the Accessory Apartment must be owner-occupied. "Owner-occupied" means that either the existing SFD or the Accessory Apartment must be occupied by a person(s) who has a legal ownership and bears risk of decline in value of the property and who receives any payment from the lease or rental of the property.

3. Aesthetics:

14. Accessory Apartments shall retain and respect the existing streetscape, character of the neighborhood, and preserve the SFD appearance, architectural style, and character of the dwelling.

15. Any exterior modifications to the SFD associated with the construction or installation of the Accessory Apartment must be consistent with architectural style and character of the SFD in terms of exterior materials, roof pitch/form, and window type/spacing.

16. Any exterior alteration of the SFD must preserve the formal, front entrance of the building in order to maintain the SFD appearance and architectural style of the building.

17. Exterior stairs more than five (5) feet above final finished grade shall be enclosed and are restricted to the rear and sides of the SFD wherever practicable provided that that they are integrated into and consistent with the architecture of the building.

18. Accessory Apartments shall have a full common wall with the principal dwelling.

19. In the event that the Code Enforcement Officer and the applicant for the Accessory Apartment cannot agree on the aesthetic standards contained in this Section 402.7.9.C, the applicant may appeal to the Planning Board within thirty (30) days of the CEO's written decision.

4. Wastewater Disposal:

20. An Accessory Apartment may be served by one of the following subsurface wastewater disposal (SSWD) systems: (a) an existing SSWD system, (b) an upgraded SSWD system, or (c) a new SSWD system, all as otherwise allowed by law.

21. In all cases, the SSWD system serving the Accessory Apartment must meet First Time System criteria as established in the Maine SSWD Rules. Utilizing Replacement System or Expanded System criteria per 10-144 CMR 241 is prohibited.

22. If an existing SSWD system is proposed to serve the Accessory Apartment without being upgraded, the LPI shall require the applicant to submit sufficient documentation from a Maine licensed site evaluator showing the SSWD system meets First Time System criteria.

23. If a new SSWD system is proposed to serve the Accessory Apartment, the LPI shall have the authority to require the design be recorded at the CCRD if it does not need to be installed as may be allowed in the Maine SSWD Rules.

5. Discontinuance:

24. If any of the applicable ordinance standards are no longer being met, use of the Accessory Apartment must be discontinued, and the SFD must revert to single-family use by removing the eating and cooking facilities/equipment support system(s) from the Accessory Apartment as established in the definition of "Dwelling Unit" contained in the version of the International Residential Building Code most recently in effect.

402.7.10 PRIVATE LANDING STRIPS FOR PERSONAL AIRCRAFT & HELICOPTERS

Private landing strips for personal aircraft and helicopters, as defined herein, shall be allowed in districts where permitted by this Ordinance, subject to approval by the Planning Board under the Conditional Use and Site Plan Review criteria and standards. Any and all necessary Federal and State approvals must be obtained by the applicant prior to final Planning Board Private landing strips for personal aircraft and helicopters shall be further subjected to the following provisions:

A. No commercial operations or activities shall be permitted on or from the private landing strip for personal aircraft and helicopters.

B. No more than six (6) aircraft shall be permitted at the private landing strip for personal aircraft and helicopters at any one time.

C. The minimum runway length of the airstrip shall meet established manufacturers' safety standards. Maximum runway length shall not exceed 2,500 feet.

D. Operations at the private landing strip for personal aircraft and helicopters shall be restricted to aircraft of gross weights not exceeding 3,500 pounds and rotor craft of gross weights not exceeding 3,500 pounds.

E. The minimum setbacks required for parcels containing a private landing strip for personal aircraft shall be one hundred fifty (150) feet minimum setbacks to either side of the center line of the runway, and a four hundred (400) foot minimum setback from either end of the runway.

F. Heliports shall require designated landing areas of fifty feet (50') by fifty feet (50'), with setbacks from all sides of the designated landing area of no less than one hundred fifty (150) feet from the property perimeter.

G. Temporary landing areas for aircraft in use for three (3) days or less in any calendar year are exempt from the provision of this Ordinance.

H. The Planning Board may request an evaluation of the air safety aspects of the site plan from the Division of Aeronautics of the Maine Department of Transportation.

402.7.11 CAMPGROUNDS

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following (in cases of possible conflict, the stricter rule shall apply):

A. General

1. A campground must be constructed on at least 10 acres of land, and all camping units or structures shall be located at least 100 feet from any property line and 200 feet from any residence (except residences belonging to the campground owners).

2. Campsites shall be laid out and screened in such a manner that none are within view from public roads, navigable rivers, existing residences or approved subdivision lots. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this

screening standard, when campsites would otherwise be visible from the locations described above.

3. No trailers other than recreational vehicles or utility trailers as defined herein, shall be permitted within any campground, temporarily or otherwise. No camping unit shall be stored or exhibited for sale for commercial purposes within the park.
4. Tent sites and sites for recreational vehicles (RV's) shall be laid out so that the density of each developed acre of land does not exceed the standards below (in terms of sites per acre of land, excluding circulation roads):

	Non-Shoreland	Shoreland Zones
Tent Sites	14 per acre	8 per acre
RV Sites	11 per acre	7 per acre

5. The minimum frontage of a campsite along any shoreline shall be 100 feet. Minimum setback from the normal high water elevation shall be 100 feet for all recreational vehicles, tents, or other vehicles and temporary or permanent structures.
6. No campsite shall be located within a Resource Protection District or within the 100 year flood plain.

B. Parking and Circulation

1. A minimum of three hundred square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site. Recreational vehicles shall be parked in spaces so that:
   a. there shall be a minimum of 50 feet between vehicles; and
   b. there shall be a minimum of 75 feet between all recreational vehicles and tents, and all public rights-of-way located inside the boundaries of the campground.
2. Vehicular access shall be provided onto a hard-surfaced road adequate for the volume and type of traffic likely to be generated. Grades and sight distances specified in the town's subdivision standards shall be observed in designing all intersections. Roads shall be constructed of at least 12" of bank-run gravel (no stone larger than 4"), 2" of crushed gravel (l/2" chips) and two applications of liquid asphalt (l/2 gallon per sq. yd. each application). The minimum width of roadways shall be twelve feet for one way roads and 22' for two-way roads. No vehicle parking shall be permitted on the roadway.

C. Health and Safety

1. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table and trash receptacle. The park management shall dispose of refuse from said containers by transporting the refuse in a closed truck or in enclosed containers or bags to an approved disposal area at least once every three days.
2. A campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. In no case shall less than one toilet and lavatory be provided for each sex for every ten camping and tent

sites. All recreational vehicle sites shall be equipped with water and sewage hook-ups, connected to approved distribution or disposal systems.

3. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. 24 hour emergency communication service (e.g. telephones) shall be provided.
4. Each campsite shall be provided with a masonry or metal fireplace, approved in writing by the Fire Chief.

D. Planning and Review

1. Roads, parking, campsites and required facilities shall be planned in accordance with the basic principles outlined below, and shall be shown on the proposed plan which is submitted for review and approval as a Conditional Permitted Use:
   a. A logical sequence of entry and circulation should be created: entrance, administration and storage, parking, campsites, toilets and laundry, playing fields or shoreline.
   b. Campsites should be clustered in groups according to intensity of use (low density, medium density, etc.) and also related to common support service areas (laundries, play areas, etc.) serving a number of campsite clusters. The purpose is to minimize road length, increase accessibility, and preserve open space.
   c. Footpaths and roads should follow "desire lines" of pedestrian and vehicular movement between campsites and all jointly used facilities. Parking areas may be grassed provided there is a dry and stable subbase.
   d. Access roads shall be laid out as loops to the greatest extent that is practicable, although "cul-de-sacs" or "dead-ends" may be allowed to serve up to twenty campsites.
2. A soil erosion and sedimentation control approved by the County Soil and Water Conservation District shall be submitted. In addition to data on soils, slopes and drainage, a vegetation map showing the following items may be required:
   a. The major types of vegetation should be identified and described (as to age, height, openness or density, and pattern, either natural or reforested).
   b. New planting should be selected to provide screening and shelter, to tolerate existing and proposed site conditions, and to blend compatibly with existing natural vegetation.
   c. All vegetative clearing should avoid creating straight-line edges between open land and surviving stands.
   d. Areas of activity and/or traffic should be sited to avoid wildlife areas (such as thickets for birds and small mammals, or deer yards and trails).

402.7.12 FIRE AND EXPLOSIVE HAZARDS

All above ground and underground fuel storage tanks shall meet the requirements of the Maine Department of Environmental Protection (Chapter 691 & 692) and the Maine Department of Public Safety (Chapter 34).

402.7.13 LIGHTING

A. No lights shall be placed or maintained upon or in view of any public roadway or street so that its beams or rays are directed at any portion of the road when the light is of such brilliance and so positioned as to blind, dazzle or otherwise impair the vision of the driver of any motor vehicle upon said roadway.

B. No rotating or flashing light or signals except safety-signaling devices are required by law is permitted.

C. Adequate buffers using either the natural landscape or artificial screening are required to prevent unnecessary or undesirable light from being directed beyond lot lines onto adjacent properties.

402.7.14 STORAGE OF MATERIALS

All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats, or other vermin. This shall be accomplished by placing containers in enclosures, storing materials above ground, separation of material, elimination of stagnant water, extermination procedures and other means that would provide for decent, safe, and sanitary living conditions.

402.7.15 FARM STANDS

A. Farm Stands for the sale of farm, garden, greenhouse and nursery products shall conform to the following standards:

1. They shall be used exclusively for the sale of farm, garden, greenhouse, and nursery products.
2. No farm stand shall be permitted unless such use is allowed in the underlying zoning district.
3. They shall be located on land owned or leased by the producer or the operator of the farm stand, and not within or on any public ways
4. The licensee must demonstrate to the Code Enforcement Officer that there is sufficient access, parking and maneuvering space, that the location and adequacy of approached are sufficient, and that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the farm stand.
5. Front, rear and side setbacks shall conform to those of the underlying zoning district.
6. No farm stand shall operate within 200 feet of any fixed base retail establishment or other farm stand offering the same or substantially similar goods or services.
7. Farm Stand Signs: Farm Stands must conform with the Town of Gray Sign Ordinance.
8. The hours of operation shall be from sunrise to sunset.
9. Noise Level: No loud speakers or any unnecessary noise will be allowed on the site. Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. The average d.b.a. count resulting shall not exceed 60 d.b.a. at any point on or beyond the site.
10. A sufficient number of covered, metal rubbish containers shall be provided at each site immediately adjacent to the farm stand to hold material. The licensee shall keep sidewalks, roadways, and other public and private spaces adjacent to the site free from refuel and dust which may be generated by the operation of the business.

B. Fees: The annual fee to operate a farm stand shall be $200.00 and will cover the period of January 1st of the calendar year to December 31st. Fees will not be prorated.

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

   Such policy of insurance shall be issued for the principal sum, no less than $300,000 for bodily injury, death and property damage. A certificate of insurance bearing an endorsement thereon by the issuing agent shall be deposited with the Clerk. Such certificate shall state that the issuing agent will notify the Clerk in writing no less than thirty (30) days prior to the cancellation thereof.

402.7.16 BED AND BREAKFAST ESTABLISHMENTS

A. The only meal served in a bed and breakfast shall be breakfast and food service shall be limited to overnight guests.

B. A bed and breakfast with three (3) guest rooms or less shall be considered a home occupation accessory to principal use of the dwelling and shall be allowed under the standards applicable to home occupations.

C. The average occupancy is not to exceed three (3) persons per guest room per night.

D. A structure shall not be used or occupied as a bed and breakfast establishment until all necessary State approvals have been received and a certificate of use and occupancy has been issues by the local Code Enforcement Officer.

402.7.17 IN-HOME OFFICES

A. In any district, the Code Enforcement Officer may issue a permit for the operation of an in-home office by one or more residents of a dwelling unit as an accessory use to the dwelling unit. An in-home office shall not be considered a home occupation if the following conditions are met:

   1. Customers or clients do not come to the dwelling to receive goods or services;
   2. Communication with customers, clients, and business associates is primarily by mail, electronic mail, telephone, or other telecommunication device, and deliveries or pick-ups by truck, if any, occur at an average frequency not substantially greater than the ordinary frequency of delivery truck traffic at a single family residence;
   3. There are no signs or any other exterior indications of the in-home office activity;
   4. The activities conducted within the in-home office are limited to processes, such as data processing, word processing, desktop publishing, and electronic research, which do not create noise, pollution, or nuisance conditions detectable outside the dwelling;
   5. The in-home office does not employ any persons who are not residents of the dwelling unit; and
   6. There are no signs (other than a name on a mail box which complies with U.S. Postal Service regulations), exterior exhibits, exterior storage of materials, or any other exterior indications of the in-home office.

402.7.18 BOAT STORAGE

A. No vessel exceeding twenty-four (24) feet in length shall be stored or parked on any residential property unless the vessel is stored or parked so as to not violate the minimum front, rear, or side

yards for structures. For the purposes of measuring vessel length, any permanently attached element of the vessel shall be included specifically including a bowsprit and/or stern step(s).

ARTICLE 8 –STANDARDS ONLY APPLICABLE IN SPECIFIC DISTRICTS

402.8.1 ADULT BUSINESSES

A. Location of Adult Businesses Restricted

B. No adult business shall be located:

1. In any zoning district other the Commercial District "C."
2. In any location where the customer entrance to the adult business would be closer than one thousand (1,000 ft.) feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:
   a. Occupied by a residence, school, park, playground, church or public building; or,
   b. Occupied by another adult business.
3. In any location closer than seven-hundred and fifty (750) feet of a residential zoning district, measured in a straight line without regard to intervening structures or objects.

C. Outside Displays Prohibited

No materials or devices displaying or exhibiting specified sexual activities shall be visible from the exterior of the building in which the adult business is located.

402.8.2 BUSINESS TRANSITIONAL DISTRICT STANDARDS

A. Design Guidelines: All development in Business Transitional Districts 1 and 2 shall conform to the Town's Business Transitional District Design Guidelines, adopted November 13, 2007.

B. Vehicle Access and Parking: Vehicle access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development, as demonstrated by a traffic impact study conducted by a Maine licensed professional engineer. The use may not cause unreasonable safety hazards for pedestrians, cyclists, and operators of motor vehicles and may not result in a decrease in overall level of service below LOS D at study area intersections or the project driveway during the design hour. (Levels of service are defined by the latest edition of the Highway Capacity Manual, 30th highest hour of the year for the intersection.)

C. Layout and Parking: The layout of the site must provide for the safe movement of pedestrians, and passenger, service and emergency vehicles through the site. Parking layout and design are specifically exempted from the site plan review standards of Section 402.10.11 B.5 but must instead conform to the parking standards contained in the Town's Business Transitional District Design Guidelines, adopted November 13, 2007.

D. Stormwater Design: Adequate provision must be made for the collection and disposal of all stormwater that runs off from proposed streets, parking areas, roofs, and other surfaces, through a stormwater management and maintenance plan certified by a Maine licensed professional engineer as conforming to the Maine Department of Environmental Protection's Chapter 500 standards, as amended from time to time, such that groundwater quality is protected and there are no unreasonable impacts to abutting and downstream properties.

E. Stormwater Standard: Stormwater runoff from unusually severe storm events shall not cause erosion of man-made drainage features. Culverts and drainage ditches shall be designed to accommodate the twenty-four (24) hour, fifty (50) year storm.

F. Stormwater Maintenance: Provisions shall be made to ensure the long-term operation and repair of drainage facilities on the site. A maintenance plan shall document the maintenance requirements and the parties responsible for maintenance of the storm water control system.

G. Wellhead District Aquifer Protection: All portions of the Business Transitional District-2 are located within the recharge zone of the Gray Water District wells located on Shaker Road, and all uses and activities within that sub-district are therefore subject to all provisions and requirements of Section 402.8.4.

H. Signs: Signage in the Business Transitional District is specifically exempt from the standards of Chapter 406, the Sign Ordinance, but shall instead conform to the signage standards contained in the Town's Business Transitional District Design Guidelines, adopted November 13, 2007.

I. Noise: The development must satisfy the following noise standards:

1. Sound From Routine Operation of Developments: Hourly sound levels resulting from routine operation of the development shall not exceed the following limits:

   a. 75 dBA at any time of day, at any property line of the development or contiguous property owned by the developer, whichever is farther from the proposed development's regulated sound sources.

   b. At any protected location in an area outside the Business Transitional zoning districts:

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

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

   c. At any protected location also located within a Business Transitional zoning district:

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

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

   d. When a proposed development is to be located in an area where the daytime pre-development ambient hourly sound level at a protected location is equal to or less than 45 dBA and/or the nighttime pre-development ambient hourly sound level at a protected location is equal to or less than 35 dBA, the hourly sound levels resulting from routine operation of the development shall not exceed the following limits at that protected location:

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

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

   e. Notwithstanding the above, the developer need not measure or estimate the pre-development ambient hourly sound levels at a protected location if he demonstrates, by estimate or example, that the hourly sound levels at the property line resulting from routine operation of the development will not exceed 50 dBA in the daytime or 40 dBA at night.

   f. Except as specifically approved by the Planning Board, non-residential uses in the Business Transitional zoning district shall not be open to the public between the hours of 12:00 a.m. and 5:00 a.m. Deliveries and other external loading and unloading operations, including dumpster servicing, shall not be conducted between the hours of 7 p.m. and 7 a.m.

2. Sound from Construction of Developments

a. Construction is prohibited between the hours of 7:00 p.m. and 7:00 a.m., provided that the Code Enforcement Officer may approve construction between these hours where an applicant demonstrates short-term circumstances of special need during the construction process.

b. Sound from construction activities between 7:00 a.m. and 7:00 p.m. shall not exceed the following limits at any protected location:

Duration of Activity	Sound Level Limit
12 hours	87 dBA
8 hours	90 dBA
6 hours	92 dBA
4 hours	95 dBA
3 hours	97 dBA
2 hours	100 dBA
1 hour or less	105 dBA

3. Exemptions from Noise Standards:

   a. Sound from registered and inspected vehicles, when such vehicles are operating on public ways, or enter the development to make a delivery or pickup, when such vehicles are moving, starting or stopping, but not when they are parked for over 60 minutes in the development.

   b. Snow removal, landscaping and street sweeping activities.

   c. Warning signals and alarms.

4. For purposes of this subsection, a "protected location" is defined as any location, accessible by foot, on a parcel of land containing a residence or fully approved and permitted residence or fully approved residential subdivision.

402.8.3 VILLAGE CENTER DISTRICT STANDARDS

A. Replacement of Existing Buildings and Structures

Existing buildings or other structures in the Village Center District are allowed to be rebuilt or replaced with new construction provided that the existing "footprint" is not exceeded unless in conformance with the standards in Section 402. 5.4 for the Village Center District and the Village Center Design Guidelines in Section 402.8.3. B below.

1. Replacement of Destroyed or Damaged Building: The owner of a building or structure in the Village Center District that is destroyed or damaged by any means beyond the control of the owner shall have the option of rebuilding or restoring the building or structure either on the same "footprint" or in accordance with the space standards of Section 402.5.4 within a period of one (1) year from the date of destruction or damage. The Code Enforcement Officer may issue a

permit for one additional one (1) year period if reasonable progress is being made and is nuisance conditions do not exist.

2. Voluntary Replacement: A building or structure in the Village Center District may be voluntarily replaced provided that the existing "footprint" is not exceeded. The construction of the replacement building or structure must be completed in accordance with a building permit drawn within one (1) year of the demolition of the prior building or structure and construction must be completed within a period of two (2) years from the date of the building permit. The building permit shall expire if the work or change involved is not commenced within one (1) year of the date on which the permit is issued, and if the work or change is not substantially completed within the two (2) years. The Code Enforcement Officer may issue a permit for one additional one (1) year period if reasonable progress is being made and if nuisance conditions do not exist. Before a building or structure is voluntarily replaced to the existing "footprint" under this paragraph, the owner must provide the Code Enforcement Officer with a Class D survey, conducted before demolition of the building or structure showing its exact location on the lot unless the replacement building or structure is proposed to be in accordance with the space standards of Section 402.5.4.

B. Special Performance Standards:

The following standards apply in the Village Center District to those uses requiring site plan review by the Planning Board:

1. All development shall conform to the Town's Village Center District Design Guidelines, adopted December 18, 2007.

402.8.4 WELLHEAD DISTRICT STANDARDS

Commercial and agricultural chemical and petroleum products use, storage, and handling activities within the Wellhead Protection Districts shall be subject to the requirements of this section. Normal home activities such as gardening, lawn care, and landscaping are exempt from the requirements of this Section.

A. Chemicals of Special Concern in Wellhead Districts

1. The principal chemicals of concern regarding groundwater contamination include agricultural chemicals, petroleum products, various solvents, road salt, manure, and various waste products:
   a. Agricultural chemicals include nutrients, fertilizers, and various pesticides (including fungicides, herbicides, and insecticides).
   b. Petroleum products include gasoline and jet fuels that have low viscosity and soluble components such as MTBE and benzene as well as home heating oil.
   c. Harmful solvents include a variety of cleaners and degreasers such as trichloroethylene (TCE), perchloroethylene (PCE), and methylene chloride.
   d. Harmful waste products include unused paints, paint scrapings or sandings, spent solvents, and wash water.
2. Major potential sources of groundwater contamination include:
   a. Leakage of liquid chemicals, petroleum products, and solvents from tanks or drums.

b. Leaching of solid chemicals in bulk if exposed to precipitation.

c. Spills during transport and delivery.

d. Leaching of chemicals by water during fire-fighting emergencies.

3. The lists of materials of the National Primary Drinking Water Standards, National Secondary Drinking Water Standards, State Primary Drinking Water Standards, and State Secondary Drinking Water Standards, as amended from time to time, shall be utilized to identify chemicals subject to the provisions of this Ordinance.

B. Specific Prohibition of Certain Activities in Wellhead Districts due to the Risk to the Public Water Supply

Due to the inherent risks to the public water supply system of certain activities, the following uses and activities area specifically prohibited in the Wellhead Protection Districts:

1. Disposal of solid wastes (except brush and stumps), leachable wastes (except subsurface disposal of domestic sewage), and sludge.
2. Storage of leachable wastes or solid wastes.
3. Mining or Excavation in excess of ten (10) cubic yards other than excavation for permitted uses or approved special exceptions.
4. Application of de-icing chemicals with a salt content of more than ten (10) percent unless the entity responsible for such activities submits an agreement satisfactory in all respects to the Town Council that will assure adequate protection of the potable water supply wells, together with a non-binding recommendation from the Gray Water District. Homeowners undertaking normal residential activities are exempt from this provision.
5. Large and medium Concentrated Animal Feed Operations (CAFOs) as defined by the U.S. Environmental Protection Agency (EPA) under the Clean Water Act (CWA) as amended from time to time.
6. Manure application to land other than in accordance with an approved State of Maine Nutrient Management Plan.
7. Application of sludge to land.
8. Storage of Petroleum or Gasoline in excess of one-hundred (100) gallons except for such storage necessary for petroleum use on site as a fuel. In accordance with Maine law, installation of new or replacement underground storage tanks is prohibited in the Wellhead Protection Districts.
9. Vehicles transporting petroleum or gasoline, other than the vehicle propulsion fuel, are not permitted to be stored in Wellhead Protection 1 District. Vehicles transporting petroleum or gasoline in excess of one-hundred (100) gallons, other than the vehicle propulsion fuel, are not permitted to be stored in Wellhead Protection 2 District or Business Transitional 2 District. Vehicles transporting petroleum or gasoline in excess of one-hundred (100) gallons are permitted to routinely pass through the Wellhead Protection Districts and to make deliveries, but are not permitted to be stopped or parked for a time longer than that needed for making deliveries.
10. For any proposed use or activity, not specifically listed above, deemed by either the Code Enforcement Officer or the Planning Board “likely to be detrimental” to the quality of the

groundwater, the proponent of the proposed use or activity shall have the burden of proving to the Planning Board, after notice to the Gray Water District, that the use or activity will not be detrimental. The Planning Board shall seek comments on the same from the Gray Water District before making a determination.

C. Submission Requirements for Applications in Wellhead Districts involving Chemical and Petroleum Products

Where commercial and agricultural chemical and petroleum products use, storage, and handling activities occur within the Wellhead Protection Districts, the following information, where applicable, shall be submitted for review and approval by the Code Enforcement Officer in consultation with the Gray Water District:

1. Type and volume of chemical compounds and petroleum products handled and/or stored.
2. Intended uses of chemical compounds and petroleum products.
3. Site plan showing all storage, handling, and use areas for raw materials and wastes.
4. For inside areas, plans to contain spills including the:
   a. Location of control dikes.
   b. Location of floor drains and floor drain outlets.
   c. Location of separators, holding tanks, and/or drain outlets.
   d. Location and design of piping systems for wash water discharge to appropriate sewers or treatment systems.
5. For outside areas, plans to contain spills including:
   a. Information to demonstrate the prevention of the flow of natural runoff from entering the storage area and keeping leaks or spills from flowing off site.
   b. Plans to control chemical, petroleum product, and solvent spills.
   c. Provisions to segregate underground systems to ensure that there are no cross connections.
   d. Provisions to prevent accidental containment breach due to vehicle or equipment collisions.
   e. A plan for emergency measures which can be implemented for surface drainage systems.
6. A Spill Prevention Control and Countermeasures (SPCC) plan detailing:
   a. Materials and equipment to be available.
   b. A training plan and schedule of training.
   c. A list of contacts (EPA/DEP/local fire officials) with phone numbers.
   d. An inspection schedule.
   e. A Pre-Plan tailored to the chemicals and materials on site. The Pre-Plan should address the procedures the fire department can utilize to minimize leaching of chemicals by water in order to limit groundwater contamination in case of a fire.
7. An Integrated Pest Management Plan in accordance with guidance from the Maine Board of Pesticide Control.

8. An on-site soils evaluation to assess nutrient holding capacity and permeability of the soils.
9. Plans for control of surface water run-off and erosion in areas where chemicals will be applied.

D. Performance Standards in Wellhead Districts involving Chemical and Petroleum Products

Performance Standards for commercial and agricultural chemical and petroleum products use, storage, and handling, where applicable include:

1. All chemical and petroleum products shall be stored under cover and on an impervious surface, without floor drains.
2. Secondary containment of liquids shall be provided to contain at least 110% of the stored product.
3. Tanks for liquid chemical and petroleum products storage shall be equipped with automatic shut-off valves and high level alarms.
4. Above-ground piping shall be designed to prevent line breakage due to collision.
5. Containers and piping shall be constructed of corrosion resistant materials.
6. Containers shall be clearly labeled with the contents name and date of purchase.
7. When a Spill Prevention Control and Countermeasures (SPCC) plan is required by the Maine DEP, a copy shall be provided to the Code Enforcement Officer, the Gray Fire Department, and the Gray Water District with a statement of procedures the fire department can utilize to minimize leaching of chemicals by water in order to limit groundwater contamination in case of a fire.
8. All agricultural restricted use pesticides and herbicides shall be in accordance with current Maine Board of Pesticide Control rules and regulations, as amended from time to time, for application, storage, and disposal.
9. The use of chemicals and petroleum products or residuals shall not cause or contribute to the cumulative, calculated, or actual levels of any contaminants in the groundwater within the Wellhead Protection Districts for the Gray Water District Wells to exceed fifty (50) percent of the Maximum Contaminant Level (MCL) as published in the National and State Primary and Secondary Drinking Water Standards, as amended.
10. Only pesticides with low leachability applied by Maine licensed applicators are allowed.
11. Provisions shall be made to control surface run-off and erosion in areas where pesticides are being applied.
12. Pesticide logs and reports maintained as required by the Maine Board of Pesticide Control shall be made available on request by the Code Enforcement Officer.

E. Submission Requirements for Applications in Wellhead Districts involving Agricultural Manure and Fertilizers

Where agricultural manure and fertilizer use, storage, and handling activities occur within the Wellhead Protection Districts occur, the following information, where applicable, shall be submitted to the Code Enforcement Officer for review and approval in consultation with the Gray Water District:

1. A nutrient management plan for agricultural activities within the Wellhead Protection Districts.

2. Type and volume of manure and fertilizer handled and/or stored.
3. An on-site soils evaluation to assess nutrient holding capacity and leachability of the soils.
4. Plans for control of surface water run-off and erosion in areas where manure and fertilizer will be applied.
5. Site plan showing all storage, handling, and use areas for manure and fertilizer.

F. Performance Standards in Wellhead Districts involving Agricultural Manure and Fertilizers

Performance Standards for agricultural manure and fertilizer storage and application, where applicable:

1. Sludge shall not be applied to any land within the Wellhead Protection Districts
2. All agricultural fertilizers shall be applied in accordance with label directions and shall be applied in accordance with an approved Nutrient Management Plan.
3. Fertilizer applications shall be tailored to the specific needs of the crop, as determined by soil suitability analyses.
4. Use of slow-release fertilizer is preferred.
5. Irrigation schedules shall be coordinated with nutrient application to minimize leaching potential.
6. Manure may be used within the Wellhead Protection Districts in accordance with a nutrient management plan.
7. Applications of approved residuals, not including sludge, and manures shall be tailored to the specific needs of the crop, as determined by a soil suitability analyses.
8. Residuals and manures shall not be applied over very shallow soils of less than one (1) foot or over exposed bedrock.
9. Residuals and manure shall not be applied on frozen ground or immediately before storm events.

G. Submission Requirements in Wellhead Districts involving Commercial Vehicle Storage and Maintenance

Where commercial vehicle maintenance and storage activities occur within the Wellhead Protection Districts, the following information shall be provided to the Code Enforcement Officer for review and approval in consultation with the Gray Water District:

1. The number and types of commercial vehicles to be maintained or stored.
2. A site plan, drawn to scale, showing locations and designs of secondary containment for fuel and storage and refueling pads.

H. Performance Standards in Wellhead Districts involving Commercial Vehicle Storage and Maintenance

Performance Standards for vehicular maintenance and storage:

1. Precautionary measures such as portable drip pans shall be taken to ensure that no spills occur when draining oils or fluids from vehicles.

2. All fuel oil, waste oil, lubricants, antifreeze, or other potential contaminants shall have secondary containment of at least one-hundred-ten (110) percent of the liquid volume stored.
3. Washing of vehicles in the Wellhead Protection Districts shall be in accordance with Best Management Practices.
4. Refueling of commercial vehicles :
   a. A portable drip catch pan shall be in place beneath the fill tube at all times during the refueling operation.
   b. Refueling shall be done on a concrete pad or other impermeable surface.

I. Submission Requirements in Wellhead Districts involving Subsurface Wastewater Disposal

All applications for a wastewater disposal system permit in Wellhead Districts shall include the following information submitted for review and approval by the Code Enforcement Officer in consultation with the Gray Water District:

1. A hydrogeologic analysis of nitrate concentrations at the property line for systems using a tank greater than one-thousand (1,000) gallons,
2. Design plans for all floor drains, grease traps, and holding tanks.

J. Performance Standards in Wellhead Districts involving Wastewater Disposal Systems

1. Nitrate and nitrite concentrations shall not exceed five (5) mg/L at the property line for systems using a tank greater than one-thousand (1,000) gallons.
2. Floor drains, grease traps, and holding tanks that are not connected to a subsurface waste disposal system designed and installed in accordance with the Maine Subsurface Wastewater Disposal Rules of the Department of Human Services are prohibited.
3. The Code Enforcement Officer shall notify the Gray Water District in writing of any installation, expansion, or replacement of any waste water disposal system within the Wellhead Protection Districts.

K. Submission Requirements and Performance Standards in Wellhead Districts involving Stormwater Management

New construction and stormwater management activities shall be in accordance with the following requirements within the Wellhead Protection Districts:

1. Calculations and plans which provide following information, where applicable, shall be included in Site Plan Application submissions for new construction and new stormwater management activities within the Wellhead Protection Districts:
   a. Design of dry wells, storage, retention, or detention facilities and other surface water Impoundments.
   b. Stormwater system outlets.
   c. Delineation of post development drainage areas.
   d. Plans for snow removal, ice control, and use of road salt.
2. Performance Standards for Stormwater Management:

Stormwater shall be directed to an appropriate vegetated buffer, detention, or treatment system.

L. Submission Requirements and Criteria for Increasing Lot Coverage and Impervious Surfaces in the Wellhead Protection Districts

The Planning Board may authorize an increase in the allowable lot coverage and/or impervious surfaces as indicated in Tables 402.5.4 A and B for proposed development in the Wellhead and Business Transitional-2 Districts (except for areas within four-hundred (400) feet from the springs and well site controlled by the Gray Water District), provided that the Board finds that criteria established in subsections 1. through 6. below have been met. Evidence as to whether the criteria below have been met shall be submitted by the applicant in the form of a stormwater management plan prepared by a qualified registered professional engineer and a hydrogeologic analysis prepared by a certified geologist. The Planning Board shall, when deemed necessary to determine compliance with the criteria contained in this section, retain the peer review services of the Town Engineer and hydrologist; the cost of such services to be covered by the applicant:

1. Recharge to the aquifer shall not be significantly impaired. To avoid reduction in recharge, the ground surface of the site in question shall be modified so as to create recharge swales and/or recharge dry wells. Swales and dry wells shall be designed to accept stormwater from a twenty-four (24) hour, ten (10) year storm, falling on the total area of impervious surface and the area of the swale itself.
2. Stormwater runoff shall be satisfactorily infiltrated into the aquifer. Wetland conditions shall not be created in recharge swales. Test pit logs, water level readings from wells or piezometer or other climatological data shall determine that the bottom of recharge swales and/or dry wells will not intersect the seasonal-high water level.
3. For the purposes of encouraging recharge, evaporation of impounded stormwater shall be minimized. Surface and subsurface soil permeabilities shall be sufficient to drain runoff generated by the twenty-four (24), ten (10) year storm within a period of seven (7) days.
4. The hydrogeologic analysis shall provide evidence that the resultant water quality of the runoff due to the increased impervious cover will not be degraded over existing, predevelopment conditions.
5. Stormwater runoff from unusually severe storm events shall not cause erosion of man-made drainage features. Culverts and drainage ditches shall be designed to accommodate the twenty-four (24) hour, fifty (50) year storm.
6. Provisions shall be made to ensure the long-term operation and repair of drainage facilities on the site. A maintenance plan shall document the maintenance requirements and the parties responsible for maintenance of the stormwater control system.

M. Control of Existing Threats in the Wellhead Protection Districts

1. Inspection

   a. The Code Enforcement Officer shall have the right to inspect any property or building located in a Wellhead Protection District at reasonable hours, with owner or occupant permission, as provided in 30-A MRSA section 4452, for the purpose of determining compliance with this Ordinance or any permit issued hereunder.

b. The Code Enforcement Officer may be accompanied by a representative of the Gray Water District, or its designee.

c. In the event the landowner denies or prevents access for this purpose, the Code Enforcement Officer shall be authorized to apply for an administrative inspection warrant pursuant to Rule 80E, Maine Rules of Civil Procedure.

2. Monitoring

Whenever the Code Enforcement Officer finds, or becomes aware of from any source, that any use commencing on or after the date of adoption of this Ordinance on February 6, 2006, including but not limited to uses of the types identified in Section 402.8.4 of this Ordinance, is located within a Wellhead Protection District designated by this Ordinance and poses an actual or potential threat to the safety or quality of the public groundwater supply, the Code Enforcement Officer, with the concurrence of the Gray Water District, may:

a. Order the property owner to grant permission for installation of groundwater monitoring wells and testing at reasonable hours and at the sole cost of the Gray Water District.

b. In the event the owner of the property refuses to comply with an order to grant permission for installation of groundwater monitoring wells and testing at reasonable hours at the sole cost of the Gray Water District the Town of Gray may apply to the Maine District Court for an order to permit such monitoring.

c. If testing indicates that the groundwater has been contaminated to fifty (50) percent or greater of the Maximum Contaminant Level (MCL) as published in the National and State Primary and Secondary Drinking Water Standards, as amended, then the source of that contamination shall be determined by further testing at the sole cost of the Gray Water District.

d. If it is determined by further testing that the current owner or occupant of the property is responsible for all of the contamination of the groundwater to fifty (50) percent or greater of the Maximum Contaminant Level (MCL) as published in the National and State Primary and Secondary Drinking Water Standards, as amended, then the owner or occupant shall reimburse the Town or the Water District, as appropriate, for expenses incurred in testing and remediation.

e. The owner or occupant of the property shall not be required to pay for the expense of testing, prevention, or remediation of contamination that originates on another property.

3. Enforcement

If any use causes or contributes to groundwater contamination of fifty (50) percent or greater of the Maximum Contaminant Level (MCL) as published in the National and State Primary and Secondary Drinking Water Standards, as amended, within, or at the boundary line of, a Wellhead Protection District designated by this Ordinance, the Code Enforcement Officer may require the owner or occupant of the property on which the contaminating use occurs to cease activity, install or construct mechanisms, or enact appropriate procedures to reduce the contamination.

402.8.5 AGRITOURISM

A. Agritourism Center

1. The minimum lot size for an Agritourism Center in the RRA District shall be one hundred (100) acres. Development shall follow a master plan approved by the Planning Board that includes: A minimum of:

   a. 30 percent dedicated to passive open space and trails

   b. 20 percent dedicated to agriculture

   And a maximum of:

   c. 25 percent dedicated to active recreational fields & facilities

   d. 25 percent dedicated to Agritourism Facility & office development

2. A minimum buffer of one hundred (100) feet shall be maintained along any public roadway. A minimum buffer of fifty (50) feet shall be maintained along a property line in the location of an abutting residence and yard. If existing vegetation does not provide adequate screening as determined by the Planning Board, additional plantings may be required.

3. An Agritourism Center may be built in phases subject to a schedule approved by the Planning Board.

B. Agritourism Facility

The minimum lot size for an Agritourism Facility in the RRA District shall be fifty (50) acres. An existing residential building as of January 1, 2006 on a parcel of land that meets the minimum lot size for an Agritourism Facility may be converted to an Agritourism Facility and maintained, repaired and replaced notwithstanding that it does not meet the street frontage, height, and setback standards set forth in this ordinance, provided that such structure shall not be expanded in a manner that increases the non-conformity.

402.8.6 WATERSHED PROTECTION MEASURES IN THE LAKE DISTRICT (LD)

A. Roads and Driveways

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

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

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

   This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

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

402.7 Road Grade (Percent)	402.8 Spacing (Feet)
402.9 0-2	402.10 250
402.11 3-5	402.12 200-135
402.13 6-10	402.14 100-80
402.15 11-15	402.16 80-60
402.17 16-20	402.18 60-45
402.19 21+	402.20 40

   b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.

c. On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.

d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

8. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

B. Stormwater Runoff

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

2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

C. Erosion and Sedimentation Controls

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Code Enforcement Officer for approval and shall include, where applicable, provisions for:

a. Mulching and revegetation of disturbed soil.

b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

c. Permanent stabilization structures such as retaining walls or riprap.

2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

D. Erosion and Sedimentation Controls

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

402.8.7 MEDICAL MARIJUANA CULTIVATION FACILITIES AND DISPENSARIES

A. Location Criteria

Medical Marijuana Cultivation Facilities or Dispensaries shall only be located consistent with Table 402.5.3 of this Ordinance. In addition, no Medical Marijuana Cultivation Facility or Dispensary shall be sited within two hundred and fifty feet (250') of the lot lines of any of the following:

1. A church, synagogue, or other house of religious worship;
2. A school;
3. A lot zoned Residential or Medium Density prior to the application for the Medical Marijuana Cultivation Facility or Dispensary;
4. An athletic field, park, playground, or recreational facility;
5. Any juvenile or adult halfway house, correctional facility, or substance abuse rehabilitation treatment center;
6. A licensed day care facility; or
7. A lot on which another Medical Marijuana Cultivation Facility or Dispensary is sited.

The distance cited in this subsection shall be measured between the lot line of the proposed site and the lot line of the site of the uses listed in numbers one (1) through seven (7) above at their closest points.

B. Hours of Operation

Medical Marijuana Dispensaries and Medical Marijuana Cultivation Facilities may be open for business only between the hours of 8:00 AM and 8:00 PM, local prevailing time.

C. Signage and Advertising

All signage and advertising for a Medical Marijuana Dispensary or a Medical Marijuana Cultivation Facility shall comply with the standards of Chapter 406, the Sign Ordinance. In addition, no signage or advertising shall use the word "marijuana", "cannabis", or any other word, phrase, or symbol commonly used or understood to refer to marijuana unless such word, phrase, or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernable as all other words, phrases, or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for registered medical marijuana patients and registered primary caregivers.

D. Security Measures

Security measures at a Medical Marijuana Dispensary and a Medical Marijuana Cultivation Facility shall include, at a minimum, the following:

1. Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, and the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts, loitering and nuisance activities occurring at the premises;
2. Door and window intrusion robbery and burglary alarm systems with audible and law enforcement notification components that are professionally monitored and maintained in good working condition;
3. A locking safe permanently affixed to the premises that is suitable for storage of all prepared marijuana and cash stored overnight on the premises;
4. Exterior lighting that illuminates the exterior walls of the premises and complies with applicable ordinances of the Town;
5. Deadbolt locks on all exterior doors and locks or bars on any other access points (e.g. windows); and
6. All security recordings shall be preserved for at least seventy-two (72) hours by the Medical Marijuana Cultivation Facility or Dispensary. The Medical Marijuana Cultivation Facility or Dispensary shall provide local law enforcement or its designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town or local law enforcement may provide notice of any operating problems associated with the Medical Marijuana Cultivation Facility or Dispensary.

E. Qualified Caregivers and Patients

Processing, possession, and/or manufacturing of medical marijuana in any zoning district other than a zoning district that allows such uses as Medical Marijuana Cultivation Facilities and Medical Marijuana Dispensaries shall be limited to registered patients and registered primary caregivers.

F. On-site Consumption of Medical Marijuana

The consumption, ingestion, or inhalation of medical marijuana on, or within the premises of, a Medical Marijuana Dispensary or Cultivation Facility is prohibited.

G. Visibility of Activities; Control of Emissions; and Disposal Plan

1. All activities of Medical Marijuana Dispensaries and Cultivation Facilities, including, without limitation, cultivating, growing, processing, displaying, selling and storage, shall be conducted indoors.
2. No marijuana or paraphernalia shall be displayed or kept in a Medical Marijuana Dispensary or Cultivation Facility so as to be visible from outside the premises.
3. Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting the facility must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.
4. All Medical Marijuana Dispensaries shall have in place an operational plan for proper disposal of marijuana and related byproducts.

H. Quiet Enjoyment

The cultivation of marijuana shall not adversely affect the health or safety of residences or nearby properties through the creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or create a hazardous condition due to the use or storage of material, processes, products or waste.

I. Code Compliance

The Medical Marijuana Cultivation Facility and/or Dispensary must be in compliance with all State adopted codes applicable to municipalities, including, without limitation, National Electrical Code, Uniform Plumbing Code, National Fire Prevention Association (NFPA) Codes and Standards, and Maine Uniform Building and Energy Code.

J. Sale of Edible Products

No food products shall be sold, prepared, produced or assembled by a Medical Marijuana Dispensary, except in compliance with all operating and other requirements of state and local law and regulation, including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area, and all marijuana must be labeled with a list of all chemical additives, such as non-organic pesticides, herbicides, and fertilizers used in the cultivation and production.

K. Other Laws Remain Applicable

A Medical Marijuana Dispensary shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing medical marijuana dispensaries, the stricter law or regulation shall control.

L. Maximum Number Permitted

The maximum number of Medical Marijuana Dispensaries permitted in the Town is one (1). No more than three (3) Medical Marijuana Cultivation Facilities may be located in the Town. No Medical Marijuana Cultivation Facility can be located on the same site as another cultivation facility nor can a Medical Marijuana Cultivation Facility be located on the same site as a Medical Marijuana Dispensary.

M. Planning Board Review Required

Application(s) for a Medical Marijuana Cultivation Facility and/or Dispensary shall be considered a Major Development, as defined in this Ordinance, and shall be reviewed in accordance with all applicable standards including those contained in Article 10 (Site Plan Review) Section 402.10.4.A which requires Planning Board Review.

402.8.8 BUSINESS DEVELOPMENT DISTRICT 2 STANDARDS

A. Accessory Uses. Drive through and drive in facilities are allowed as an accessory use to the permitted and conditional uses in the Business Development 2 District.

B. Uses per Principal Structure. Notwithstanding Section 402.6.2(D), no more than five permitted or conditional uses are allowed in any principal structure in the Business Development 2 District. No more than one (1) principal structure and its accessory buildings may be located on any one lot unless all applicable space and dimensional standards are met separately for each principal structure on the lot, subject to the conditions that apply to new principal structures in Section 402.6.2(D).

C. Sign Standards. Signage in the Business Development 2 District is subject to the standards in Chapter 406, the Sign Ordinance, except that: (i) the maximum aggregate sign area may not exceed two percent (2%) of the area of the building footprint per lot; and (ii) one freestanding sign and one freestanding directory sign are permitted per frontage, with up to 100 square feet maximum sign area allowed per sign; and (iii) the maximum sign area for wall, projecting and roof signs is 10% of the wall area or roof area on which they are located and/or attached.

ARTICLE 9 – ADMINISTRATION AND ENFORCEMENT

402.9.1 DUTIES AND AUTHORITY OF THE CODE ENFORCEMENT OFFICER

A. Code Enforcement Officer: It shall be the duty of the Code Enforcement Officer of the Town of Gray to enforce the provision of this Ordinance. If the code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, building, or structures, removal of illegal building or structures or of additions, alternations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions. The Code Enforcement Officer may employ such independent, recognized consultant necessary, at the expense of the applicant, to assure compliance with performance standards of this code and abatement of nuisances.

B. Legal Action and Violation: When any violation of any provision of this Ordinance shall be found to exist, the Code Enforcement Officer shall notify the Town Council who shall then initiate any and all actions to be brought in the name of the Town.

C. Fines: Any person, firm or corporation being the owner of or having contact or use of any building or premises who violates any of the provisions hereof, shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than twenty-five (25) dollars nor more than one-hundred (100) dollars. Each day such a violation is permitted to exist after notification thereof shall constitute a separate offense. All fine collected hereunder shall insure to the Town of Gray.

D. Building Permits: No building or other structure shall be erected, moved, added to or structurally altered without a permit thereof issued except in conformity with the provisions of this Ordinance, except after written order from the Board of Appeals. A Building Permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within six (6) months of the date on which the permit is granted, and if the work or change is not substantially completed within one (1) year of the date on which the permit is granted. All building permits heretofore issued shall be subject to the provisions of this paragraph.

E. Application for Building Permit: All applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Code Enforcement Officer to determine conformance with and provide for the enforcement of this Ordinance.

F. Certificate of Occupancy:

1. New Buildings: No building hereafter erected shall be used or occupied in whole or in part until the certificate of use and occupancy shall have been issued by the Code Enforcement Officer.

2. Building hereafter altered: No building hereafter enlarged, extended or altered to change from one use group to another, in whole or in part, and no building hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall be occupied or used until the certificate shall have been issued by the building inspector, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work of alteration, shall be discontinued

within thirty (30) days after the completion of the alteration unless the required certificate is secured from the Code Enforcement Officer.

3. Existing Buildings: Upon written request from the owner of an existing building, the Code Enforcement Officer shall issue a certificate of use and occupancy provided there are no violations of law or orders of the building officials pending, and it is established after inspection and investigation that the alleged use of the building has heretofore existed. Nothing in the Zoning Ordinance shall require the removal, alteration or abandonment of, or prevent the continuance of the use and occupancy of a lawfully existing building, unless such use is deemed to endanger public safety and welfare.
4. Changes in Use and Occupancy: After a change of use has been made in a building, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless all the applicable provisions of the Basic Code are complied with. A change from one prohibited use, for which a permit has been granted, to another prohibited use shall be deemed a violation of the Zoning Ordinance

G. Plumbing Permit: Must be obtained prior to issuance of a building permit. The State of Maine Plumbing Code standards will be used. The application shall also furnish the Code Enforcement Officer with reliable information relating to soils tests conducted in the sewage disposal area, in accordance with any applicable state or Local law, code, or regulation and must demonstrate that soil conditions are suitable for the absorption of waste materials from septic tanks. The results of the soil tests shall be submitted on the HHE 200 form or Maine Department of Environmental Protection, whichever is applicable.

402.9.2 DUTIES AND AUTHORITY OF THE BOARD OF ZONING APPEALS

A. Appointment and Composition:

1. The Zoning Board of Appeals shall be appointed by the Town Council of the Town of Gray, and shall consist of five (5) members and two (2) associates, all of whom shall be legal residents of the Town of Gray. Terms of members shall be for three (3) years except that initial appointments shall be such that the terms of office of no more than two (2) members shall expire in any single year. The board shall elect annually a chair and vice-chair from its membership. A recorder shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall consist of three (3) members.
2. Town Council members and/or their spouses may not serve as members or associate members of the Board.
3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
4. A member of the Board may be dismissed for cause by the Town Council upon written charges and after public hearing.

B. Powers and Duties:

Appeals shall lie from the decision of the Code Enforcement Officer to the Board of Appeals and from the Board of Appeals to the Superior Court according to the provision of Maine Revised Statues. The Board of Appeals shall have the following powers and duties:

1. Administrative Appeals: To hear and decide where it is alleged there is an error in any order, required, decision, or determination by the Code Enforcement Officer in the enforcement of this Ordinance. The actions of the Code Enforcement Officer may be modified or reversed by the Board of Appeals, by concurring vote of at least three (3) members of the Board. Decisions of the Code Enforcement Officer may be reversed only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance.
2. Variance Appeals: To hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A variance may be granted by the Board only where strict application of the Ordinance, or a provision thereof, to the petitioner and his/her property would cause undue hardship. The words "undue hardship" mean:
   a. That the land in question cannot yield a reasonable return unless a variance is granted;
   b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
   c. That the granting of a variance will not alter the essential character of the locality; and
   d. That the hardship is not the result of action taken by the applicant or a prior owner.

Establishment or expansion of a use or structure otherwise prohibited shall not be allowed by variance, not shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts. The Board of Appeals shall grant a variance only by concurring vote of at least three (3) members and in so doing may prescribe conditions and safeguards as are appropriate under this Ordinance.

3. Practical Difficulty Variance: The Board may grant a variance from the dimensional standards of the Zoning Ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:
   a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
   b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
   c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
   d. No other feasible alternative to a variance is available to the petitioner;
   e. The granting of a variance will not unreasonably adversely affect the natural environment; and
   f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

   As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

4. Variance Review Criteria: In hearing variance appeals under this section, the Board of Appeals shall determine that the applicant has demonstrated that all of the undue hardship or practical difficulty criteria in sub-Sections 2 and 3 above have been met. Additionally, the Board shall consider the following criteria in its decision to grant any variances or impose conditions:
   a. What effect will be proposed variance have on the prevailing character of the area?
   b. Does the proposed variance require special screening or fencing to separate or protect the property of abutting owners?
   c. Will the proposed variance create drainage, erosion or flooding problems?
   d. Will the proposed variance increase water pollution?
   e. Will the proposed variance generate vehicular traffic, access circulation or parking conditions which create hazardous situations?
   f. Will granting of the variance violate any of the performance standards of this Ordinance apart from the specific relief authorized by this Section?
   g. Will the proposed variance create to any degree nuisances to abutting property owners?
   h. Is the variance request the least modification of the Zoning Regulations necessary to afford relief?
   i. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

C. Appeal Procedure:

1. In all cases, persons aggrieved by decision of the Code Enforcement Officer shall commence their appeal within thirty (30) days after a decision is made by the Code Enforcement Officer. The appeal shall be filed with the Board of Appeals on forms approved by the Board and aggrieved person shall specifically set forth on the form the grounds for the appeal
2. In appeals involving variances, the applicant shall include as part of the appeal application, information demonstrating that the criteria listed in Section 402.9.2 B above are met for the applicant’s situation.
3. The fee to cover the administrative costs of an appeal shall be set by the Council annually.
4. Following the filing of an appeal, and before taking action on any appeal, the Board of Appeals shall hold a public hearing on the appeal within thirty (30) days. The Board of Appeals shall notify the Code Enforcement Officer and the Planning Board, at least twenty (20) days in advance, of the time and place of the hearing, and shall publish notice of the hearing at least ten (10) days in advance in a newspaper of general circulation in the area.
5. In the case of administrative or variance appeals, the Board of Appeals shall notify by mail the appellant and only the owners of property abutting that property for which an appeal is taken at least ten (10) days in advance of the hearing, of the nature of the appeal and of the time and place

of the public hearing thereon. For the purpose of this section, abutting properties shall include property directly across the street from the property for which the variance is requested.

6. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing nor invalidate any action by the Board of Appeals.
7. At any hearing, a party may be represented by agent or attorney. Hearing shall not be continued to other times except for good cause.
8. The Code Enforcement Officer or his/her designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he or she deems appropriate for an understanding of the appeal.
9. The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. All parties shall have the right to present their case of defense by oral or documentary evidence, to submit rebuttal evidence and to conduct cross-examination as may be required for a full and true disclosure of the fact.
10. The transcript of testimony, if any, and exhibits, together with all papers, and requests filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed to the petitioner or his/her representative or agent within seven (7) days of their decision.
11. In reviewing appeals involving variances the Board of Appeals shall follow the criteria outlined under "Variance Review Criteria" of this section before reaching a decision. In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.
12. If the Board grants a variance under this Section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval.
13. Upon submission of a recorded certificate of variance approval, the Code Enforcement Officer may issue a Building Permit in accordance with the conditions of the approval.
14. A right of appeal under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within six (6) months of the date of which the appeal is granted and if the work or change is not substantially completed within one (1) year of the date on which such appeal is granted.
15. If the Board of Appeals shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board within one (1) year from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board, substantial new evidence shall be put

forward or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law of misunderstanding of fact shall have been made.

16. Any party may take an appeal within forty five (45) days of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Article 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury.

17. The Board of Appeals may reconsider any decision reached under this section within forty-five (45) days of its prior decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

402.9.3 DUTIES AND AUTHORITY OF THE PLANNING BOARD FOR APPROVAL OF CONDITIONAL PERMITTED USES AND SITE PLAN REVIEW PERMITS

A. Authorization: The Planning Board is hereby authorized to hear and decide upon applications for Conditional Permitted Use Permits and Site Plan Review Permits, in accordance with the provisions of this ordinance. The Planning Board shall approve, approve with modifications or conditions, or disapprove an application for a Conditional Permitted Use Permit in accordance with the criteria of this Section 402.9.3. No Conditional Permitted Use Permit shall be authorized unless specific provision for such Conditional Permitted Use is made in this Ordinance. The Planning Board shall also approve, approve with modifications or conditions, or disapprove an application for a Site Plan Review Permit in accordance with the criteria of Section 402.10.

B. Existing Conditional Permitted Use or Structure: A Conditional Permitted Use which existed prior to the effective date of this ordinance may not be changed to another Conditional Permitted Use nor substantially expanded or altered except in conformity with all regulations of this ordinance pertaining to Conditional Permitted Uses. Substantial expansion shall be defined as:

   1. Floor space increase of twenty-five (25%) percent; or,
   2. New materials or processes not previously associated with the existing use.

   No changes shall be made in any approved Conditional Permitted Use without approval of the change by the Planning Board.

C. Application Procedure: A person informed by the Code Enforcement Officer that a proposed use requires a Conditional Permitted Use permit shall file an application for the permit with the Planning Board on forms provided for the purpose. The applicant shall be responsible for a filing fee, which covers administrative and legal advertisement costs. All plans for Conditional Permitted Uses presented for approval under this section shall be drawn at a scale of not smaller than one (1) inch equals fifty (50) feet and show the following information unless the Planning Board waives these requirements:

   1. The name and address of the applicant (or his authorized agent) plus the name of the proposed development, and a copy of the deed or record of ownership, the assessor's map and lot number.
   2. Total floor area, ground coverage, and location of each proposed building, structure, or addition.

3. Accurate depiction of the property in question. In most cases a mortgage survey will be adequate, but the Board may request a perimeter survey of the parcel made and certified by a registered land surveyor licensed in Maine, relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage.
4. The appropriate fees as established by the Town Council.

D. Public Hearing: Within ten (10) days of the filing of an application, the Planner shall determine whether the application is complete. If the application is not complete, the Planner shall notify the applicant in writing of the information needed to make the application complete. The Planning Board shall hold a public hearing on the application within thirty (30) days of determining that the application is complete.

1. The Planner shall notify by regular U.S. mail, first class, postage prepaid, the applicant and the owners of all abutting property involved at least ten (10) days in advance of the hearing, of the nature of the application and of the time and place of the public hearing. Notice shall also be advertised at least seven (7) days in advance in a newspaper of general circulation in the area
2. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
3. The Planner, Code Enforcement Officer, or a designated assistant shall attend all hearings and may present to the Planning Board all plans, photographs or other material deemed appropriate for an understanding of the application.
4. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

E. Decision

1. Within thirty (30) days of the public hearing the Planning Board shall reach a decision on the Conditional Permitted Use application and shall inform, in writing, the applicant and the Code Enforcement Officer of its decision and shall prepare detailed finding and conclusions. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Board, or deny a Building Permit.
2. A Conditional Permitted Use Permit secured under the provisions of this ordinance by vote of the Planning Board shall expire if the work or change involved is not substantially started within two (2) years of the date on which the Conditional Permitted Use is authorized.
3. Any party may take an appeal within forty five (45) days of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Article 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury.
4. The Planning Board may reconsider any decision reached under this section within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

F. Standards Applicable to Conditional Permitted Uses: It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met:

1. Will be compatible with the general character of the neighborhood with regard to design, scale, and bulk of proposed structures;
2. Will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, light or glare.
3. Will not have a significant adverse effect on adjacent or nearby property values;
4. Will not result in significant hazards to pedestrian or vehicular traffic or significant traffic congestion;
5. Will not result in significant fire danger;
6. Will not result in significant flood hazards or flood damage, drainage problems, ground or surface water contamination, or soil erosion;
7. Will be served adequately by, but will not overburden, existing public services and facilities, including fire protection services, roads, water and storm drainage systems.

Upon a showing that a proposed use is a Conditional Permitted Use in the district where it is to be located, a Conditional Permitted Use permit shall be granted unless the Board determines that the proposed use will not meet one of the standards set forth in paragraphs 1. through 7. of this subsection, due to unique or distinctive characteristics or effects associated with the proposed use or its location which differ substantially from the characteristics or effects which would normally occur from such a use in that district. In order to have "significant" impacts adequate to deny a permit, a proposed Conditional Permitted Use must have impacts that are measurable by objective standards and are readily apparent to disinterested parties.

G. Conditions Attached to Conditional Permitted Uses: Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those specifically required in this Ordinance that it finds necessary to further the purposes of this ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to specifications for:

1. Type of vegetation used for buffering;
2. Increased setbacks and yards;
3. Specified sewage disposal and water supply facilities;
4. Landscaping and planting screens;
5. Period of operation;
6. Operational controls;
7. Professional inspection and maintenance;
8. Deed restrictions, restrictive covenants;
9. Locations of parking and signs; type of construction; or
10. Any other conditions necessary to fulfill the purposes of this ordinance.

In evaluating each application the Board may request the assistance of the County Soil and Water Conservation District, a State or Federal agency, or consultant which can provide technical assistance.

H. Projects needing Site Plan Review

When an applicant needs Site Plan Approval from the Planning Board due to the scale of the project, the Conditional Permitted Use review shall be conducted and completed prior to commencing deliberations and determination of compliance with the Site Plan Review criteria and standards. In such cases, the time frames and procedures of Article 10 for Site Plan Review shall apply to both applications, which shall be combined into a single, two-step proceeding (conditional use review & site plan review). The applicant may, however, choose to submit a separate application for Conditional Permitted Use review in order to get a preliminary determination on the Conditional Use criteria prior to fully designing the project.

I. Review Fees & Consultant Escrows: The Town Council shall annually set the amount of all fees required by this Ordinance. The fee structure shall include for Conditional Permitted Use applications the following fees for the Planning Board to use in hiring independent consulting services to review the application.

1. The applicant shall pay into a special account the cost to the Town of hiring independent consulting services according to the schedule set by the Town Council. If the balance in the special account is drawn down by seventy-five (75%) percent of the required escrow fund, the Board shall notify the applicant and require an additional amount. Any balance in the account remaining after a final decision on the application shall be returned to the applicant.
2. In the event that an application involves both Conditional Permitted Use Review and Site Plan Review, the applicant shall establish a single review escrow account sufficient to cover review costs.

402.9.4 SEVERABILITY OF INDIVIDUAL ORDINANCE SECTIONS AND PROVISIONS

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

402.9.5 CONFLICTS WITH OTHER ORDINANCES

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

402.9.6 PLANNING BOARD RULES OF PROCEDURE

In order to provide for the efficient management of its duties and the fair hearing of items coming before it, the Planning Board may adopt and amend written rules governing the conduct of its meetings, provided such rules shall not conflict with this Ordinance or the provisions of any other Ordinance or Charter requirement. Such rules may include a provision that the Town Planner, in conjunction with the Planning Board Chair, may refuse to schedule an item for the Planning Board agenda unless and until the application in question is complete, including all Town staff reports. The Planning Board has the right to postpone a decision on an application to the Board if a significant amendment or additional information is proposed after the initial completed submission.

402.9.7 EFFECTS OF NEW ORDINANCE ENACTMENT

The Zoning Ordinance of the Town of Gray originally adopted March 1, 1958, and as subsequently amended through January of 2008, is hereby repealed as of the effective date of this new Zoning Ordinance. The Town of Gray Shoreland Zoning Ordinance shall remain unaffected by the adoption of the Ordinance.

402.9.8 AMENDMENTS TO THE ZONING ORDINANCE AND ZONING MAP

All amendments to the Town of Gray Zoning Ordinance and Map must be in conformance with the Comprehensive Plan. Amendments which affect the Wellhead Protection or Business Transitional 2 Districts must be reviewed by the Gray Water District.

402.9.9 CONDITIONAL OR CONTRACT ZONING

Addition of 402.9.9 adopted: November 15, 2011 / Effective December 15, 2011 (Note: Refer to Policy adopted by Town Council October 16, 2012 for process)

Pursuant to 30-A M.R.S.A. § 4352.8 conditional or contract zoning is hereby authorized where, for reasons such as the unusual nature or unique location of the development proposed, the Town Council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions not generally applicable to other properties similarly zoned. All rezoning under this section shall establish rezoned areas which are consistent with the existing and permitted uses within the original zones. Nothing in this section shall authorize a rezoning, or an agreement to change or retain a zone, which is inconsistent with the Town's Comprehensive Plan.

A. The Planning Board shall conduct a public hearing prior to any property being rezoned under this section. Notice of this hearing shall be posted in the town clerk's office at least thirteen (13) days prior to the public hearing and shall be published in a newspaper of general circulation within the town at least two (2) times, the date of the first publication must be at least twelve (12) days prior to the hearing and the second notice at least seven (7) days prior to the hearing. Notice shall also be sent to the owners of all property abutting the property to be rezoned at their last-known address. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

B. Conditions and restrictions imposed under the authority of this section shall relate only to the physical development and operation of the property and may include, by way of example:

    1. Limitations on the number and types of permitted uses;
    2. Restrictions on the scale and density of development;
    3. Specifications for the design and layout of building and other improvements;
    4. Schedules for commencement and completion of construction;
    5. Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
    6. Preservation of open space and buffers, and protection of natural areas and historic sites;
    7. Contributions toward the provision of municipal services required by the development; and,
    8. Provisions for enforcement and remedies for breach of any condition restriction.

ARTICLE 10 – SITE PLAN REVIEW

402.10.1 PURPOSES OF SITE PLAN REVIEW

The site plan review provisions set forth in this Section are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multi-family construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

402.10.2 APPLICABILITY OF SITE PLAN REVIEW

A person who has right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:

A. The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures, if such buildings or structures have a total area for all floors of one thousand (1,000) square feet or more.

B. The expansion of an existing nonresidential building or structure, including accessory buildings, if the enlargement increases the total area for all floors within a five (5) year period by more than twenty (20%) percent of the existing total floor area or one thousand (1,000 sq. ft.) square feet, whichever is greater.

C. The conversion of an existing building in which one thousand (1,000 sq. ft.) or more square feet of total floor area are converted from residential to nonresidential use.

D. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as, cemeteries, golf courses, and other nonstructural nonresidential uses.

E. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review.

F. The construction of a residential building containing three (3) or more dwelling units.

G. The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.

H. The conversion of an existing nonresidential building or structure, in whole or in part, into three (3) or more dwelling units within a five (5) year period.

I. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than two thousand five hundred (2,500 sq. ft.) square feet within any three (3) year period.

402.10.3 EXEMPT ACTIVITIES

The following activities shall not require site plan approval. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:

A. The construction, alteration, or enlargement of a single family or two-family dwelling, including accessory buildings and structures.

B. The placement, alteration, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.

C. Agricultural activities, including agricultural buildings and structures, unless located in a Wellhead District or the Business Transitional 2 District.

D. Timber harvesting and forest management activities.

402.10.4 REVIEW AND APPROVAL AUTHORITY

The review and approval authority for site plans shall depend on the classification of the project:

A. Major Developments

The Planning Board is authorized to review and act on all site plans for major developments. In considering site plans under this section, the Planning Board may act to approve, disapprove, or approve the project with such conditions as are authorized by this Section.

B. Minor Developments

The Staff Review Committee is authorized to review all site plans for minor developments and may approve, disapprove, or approve the project with such conditions as are authorized by this Section. In addition, the Committee may reclassify a minor development as a major development and forward it to the Planning Board with its recommendations for Planning Board action.

402.10.5 STAFF REVIEW COMMITTEE

B. Staff Review Committee Established

There is hereby created a Staff Review Committee. The Staff Review Committee shall consist of the Planner, Code Enforcement Officer, and Planning Board Chairman or his/her designee.

C. Operation of the Staff Review Committee

The Planner shall serve as Chair of the Staff Review Committee and shall be responsible for calling meetings of the Committee, presiding at its meetings, and maintaining the records of the Committee. The Staff Review Committee shall meet biweekly or on an as-needed basis.

D. Authority of the Staff Review Committee:

1. In addition to reviewing Minor Developments for Site Plan Review projects as authorized in Section 402.10.4, the Staff Review Committee is also authorized to review the establishment of or expanding a new use(s) that requires Staff Review Committee approval as expressly stated in this Ordinance within the thresholds for a minor development.

2. In addition to the powers granted to the Committee under the Zoning Ordinance, it shall have the authority to conduct business and make such recommendations as shall be expressly delegated to it by any other ordinance or Town Council order.

402.10.6 CLASSIFICATION OF PROJECTS

The Planner shall classify each project as a major or minor development. Minor developments are smaller scale, less complex projects for which a less complex review process is adequate to protect the Town's interests. Major developments are larger, more complex projects for which a more detailed review process and additional information are necessary.

A. Minor Developments

Projects meeting one or more of the thresholds listed below shall be considered a Minor Development. For calculation purposes, the baseline for meeting these threshold standards shall consider all changes during the five (5) year period prior to the date of application for Site Plan Review:

1. Construction or addition of 2,500 square feet or fewer of gross non-residential floor area.
2. Converting the use of an existing structure and/or property from one (1) lawfully existing non-residential use to another single non-residential use provided that a building permit is not required for 50% or more of the structure.
3. Addition of one (1) non-residential use to a structure that is currently utilized for one (1) lawfully existing non-residential use.
4. Adding less than 10,000 square feet of impervious surface and associated infrastructure, such as drainage, to one parcel. Existing impervious surfaces shall be counted to determine the 10,000 sq. ft. calculation. Any increase in impervious cover that exceeds 10,000 sq. ft. constitutes a Major Development for Site Plan Review purposes.
5. Establishing or expanding a municipal use on one (1) Town-owned parcel within the thresholds stated above for a Minor Development.
6. Components of a Major Development for Site Plan Review specifically delegated by the Planning Board subject to Planning Board appear per 402.10.7.D.
7. Establishing or expanding a new use(s) that requires Staff Review Committee approval as expressly provided in this Ordinance within the thresholds for a minor development.

B. Major Developments

Projects meeting any one of the following require Site Plan Review approval by the Planning Board:

1. Construction or addition of more than 2,500 square feet of gross non-residential floor area in the previous five years including square footage duly approved by the Staff Review Committee as a minor development.
2. Change of use of a structure and/or property principally used for residential purposes to one (1) or more non-residential uses
3. Addition of two (2) or more non-residential uses within the previous five years
4. Construction of impervious surfaces exceeding 10,000 square feet. Existing impervious surfaces shall be counted to determine the 10,000 sq. ft. calculation.
5. Projects than involve two (2) or more parcels/properties.
6. Projects that trigger Conditional Use review in addition to Site Plan Review.
7. Any Site Plan Review project(s) which is/are not classified as Minor Developments

402.10.7 SITE PLAN REVIEW PROCEDURE FOR MINOR DEVELOPMENTS

A. Preapplication Conference

Applicants for site plan review of a minor development are encouraged to schedule a preapplication conference with the Planner. The purpose of this meeting is to familiarize the applicant with the review procedures and submission requirements, and approval criteria, and to familiarize the Planner

with the nature of the project. Such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decisions relative to the plan may be made at this meeting.

In connection with the preapplication review, the Planner may determine that an on-site inspection be held to familiarize the Staff Review Committee with the project site. The on-site inspection shall be scheduled by the Planner and shall be attended by the applicant and/or the applicant's representative and members of the Staff Review Committee. All abutters to the property shall be notified, in writing, of the time and date of the site inspection.

B. Application Process for Minor Developments

The property owner or his/her representative must submit a formal minor development application for review and approval to the Planner.

1. Receipt of Application and Review for Completeness
   Upon receipt of the application, the Planning Office shall provide the applicant with a dated receipt showing the nature of the application and the fees paid. Within five (5) working days of receipt of an application for a minor development, the Planner shall review the application and determine if the application meets the submission requirements. The Planner shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application. If the application is incomplete, the Planner shall notify the applicant in writing of this determination, specify what additional materials or information are required to complete the application, and advise the applicant that the revised application package will be re-reviewed for completeness when it is resubmitted.

2. Notifications of Pending Application
   Once the application is deemed to be complete, the Planner shall notify the applicant and the Chair of the Planning Board in writing of this determination and the action on any waivers and shall provide copies of the application to the Code Enforcement Officer, and Department Heads. The Planner shall notify all abutters to the site as shown on the assessor's records, by first-class mail that an application has been filed. This notice shall contain a brief description of the proposed activity and the name of the applicant. It shall advise the party that a copy of the application is available for inspection and that written comments on the application will be received and considered by the Staff Review Committee, and provide the date, time, and place of the Committee meeting at which the application will be considered. Failure of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

C. Staff Review Committee Meetings

Within ten (10) working days of the application being determined to be complete, the Staff Review Committee shall consider the application at a regular meeting of the Committee. The Planner shall notify the applicant, Chair of the Planning Board, and abutters, in writing of the date, time, and place of the meeting.

The Staff Review Committee shall consider if the application complies with the Site Plan Review standards and criteria and any specific Ordinance requirements for the use proposed. If the Committee finds that the application conforms to these requirements, it shall make written findings of fact and it shall vote to approve, approve with conditions, or deny the application. Approval by the Committee shall require the affirmative vote of a majority of the members of the Committee. The

applicant, Chair of the Planning Board, and abutters shall be notified in writing of the Committee's action.

For uses listed in Table 402.5.3 as Conditional Permitted Uses, compliance with Site Plan Review Criteria and approval by the Staff Review Committee as a minor development shall be considered satisfactory demonstration of compliance with the Conditional Use Criteria of Section 402.9.3.G.

D. Appeal of Staff Review Committee Decisions to the Planning Board

Any party aggrieved by a decision of the Staff Review Committee, including the applicant, may seek an appellate review by the Planning Board. The appellant shall have ten (10) working days in which to file such an appeal with the Chair of the Planning Board. The appeal must be in writing and must specify why the appellant believes the action of the Staff Review Committee was in error.

If an appeal is filed, the application shall be placed on the agenda of the next regular meeting of the Planning Board subject to notification requirements. The appellant, applicant, and abutters shall be notified in writing of the Board meeting on the appeal. The Planner shall provide members of the Board with copies of the application, supporting material, staff review comments and decision of the Committee.

The Board shall review the existing record of materials on an appellate basis and shall determine if the application conforms to the approval criteria and standards. If the Board finds that the application conforms to the standards, it shall approve the application; otherwise it shall deny the same.

The Planner shall notify the appellant, applicant, and abutters who participated in the review of the action of the Planning Board.

E. Application Fees for Review of Minor Developments

Application fees and technical review fees shall be the same as for major developments and shall be set by the Town Council.

F. Submission Requirements for Review of Minor Developments

Site Plan applications for Minor Developments shall contain the submissions indicated in Sections 402.10.10 A (Site Inventory) and 402.10.10 C (Site Plan Submissions) unless waived by the Planner and/or Site Plan Review Committee.

402.10.8 SITE PLAN REVIEW PROCEDURE FOR MAJOR DEVELOPMENTS

A. Pre-application Conference

Applicants for site plan review of a major development are required to schedule a pre-application conference with the Planning Board. The purpose of this meeting is to familiarize the applicant with the review procedures and submission requirements, and approval criteria, and to familiarize the Planning Board with the nature of the project. Such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decisions relative to the plan may be made at this meeting.

B. Procedure and Information Required for Pre-Application Conferences
Applicants for site plan review of a major development are required to provide fourteen (14) copies of a packet ready for distribution to the Planning Board containing the submittals detailed in this section. The Town Planner shall have the authority to determine if the pre-application submittal is complete to place the item on the next Planning Board agenda.

The applicant's oral presentation and submitted materials regarding the present conditions and scope and nature of the project must provide adequate information to allow the Planning Board to understand the project, identify possible concerns, and provide meaningful input and to determine whether the approval standards have been met.

The submittal shall consist of following three components:

1. Narrative and site photographs
   The applicant shall provide an accurate narrative outlining the present on-site conditions as well as the nature of the proposed development. In addition to aerial and/or on-site photographs (color 11" x 17") that accurately depict present on-site conditions, the narrative must include the following:
   a. Description of existing development constraints and implications on the proposed development;
   b. The proposed use of the parcel including conceptual zoning use classification(s);
   c. Initial estimate of the traffic generation for the proposed use;
   d. Estimates of water use and wastewater generation;
   e. Initial input, as appropriate, from State of Maine regulatory agencies, such as the DEP, DOT and the Department of Public Safety;
   f. List of ordinance waivers (as opposed to Zoning Ordinance variances) requested;
   g. Any unusual or hidden site characteristics that relate to the approval standards; and
   h. Any other matters with regard to which the applicant seeks comments from the Planning Board.
2. Initial Site Inventory Plan
   The applicant shall provide one or more scaled plans containing readily available information including the following:
   a. Basic parcel information, i.e., boundaries, size, zoning district(s), north arrow, etc.;
   b. Surrounding land uses and accesses to street;
   c. Significant site features, both natural and developed, including significant trees, rock outcroppings, any developed portions;
   d. Estimated sight distance in both directions entering the street;
   e. Readily available soils information, such as the 1974 Cumberland County Medium Intensity Soils maps and soil descriptions for the requisite site;
   f. Topographic information, such as USGS maps delineating site;
   g. Wetland information that is readily apparent on-site or available through National Wetland Inventory Maps;
   h. Location and size/extent of any stormwater measures on site, such as culverts; and
   i. Location and features on site that may be subject to State regulatory agency review.

3. Conceptual Site Development Plan
   The applicant shall provide a plan, to a readable scale, containing the following information:
   a. Overall site layout including access in, out, and within the parcel;
   b. Approximate location of water supply and wastewater disposal;
   c. Estimate of the size, extent, and location of impervious surfaces;
   d. Anticipated stormwater measures and their location;
   e. Buffering and screening that is proposed to be retained and/or added;
   f. Site elements to be retained; and
   g. Location and size of anticipated structures.

C. Application Process for Major Developments

1. Receipt of Application
   Upon receipt of a formal site plan review application, the Planner shall give a dated receipt to the applicant.
2. Determination of Completeness
   Within ten (10) working days of the receipt of a formal development review application, the Planner shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Planner shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Board. These steps, except the notification requirements, shall be repeated until the application is found to be complete.
3. Placement on the Planning Board Agenda
   When the Planner determines that the application is complete, the Planner shall notify the applicant in writing of this finding, and place the item on the agenda of the Planning Board for substantive review at the next available meeting subject to the notification requirements of subsection 4 below.
4. Meeting Notice Requirements
   The Planner shall give written notice of the date, time, and place of the meeting at which the application will be considered by the Planning Board to the applicant and all abutters of the property involved at least ten (10) days in advance of the meeting. For major developments, a notice of the hearing shall be published in a newspaper of general circulation in the community at least once; the date of publication shall be at least seven (7) days prior to the hearing (Note: This generally requires that an application be submitted a minimum of twenty-one (21) days before the meeting).
5. Planning Board Site Inspection
   The Board may hold an on-site inspection of the site to field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the public hearing. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the Board will request that the applicant agree to extend the review period to allow an on-site inspection. The inability of the Board to hold a site inspection due to snow cover shall be sufficient grounds

for denial of an application. If the Board decides to hold a site walk, the Board shall establish the day and time of the site inspection at its duly advertised meeting during their review of the application or written notice of the site inspection shall be provided to all abutters receiving notice of the pending application.

D. Public Hearing on Major Development Applications

1. Conduct of the Public Hearing
   The Chairman or Vice Chairman of the Planning Board shall chair the public hearing. The Chairman shall open the public hearing by identifying the application and explaining the purpose of the hearing and the procedures to be followed.

2. Purpose of the Public Hearing
   The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards and other regulations and requirements of this Ordinance or other municipal ordinances. The Planning Board is not a policy-making body and must apply the Ordinance as it has been enacted.

3. Process of Public Hearing Input
   The Chairman shall provide the applicant or his/her representative with an opportunity to make any statement or presentations at the beginning of the hearing. The Planner shall then present any comments or recommendations from the staff and Department Heads. The Chairman shall then allow the members of the Board to ask questions of the applicant and/or the Planner. Following Board questions, the Chairman shall open the public hearing to the public for statements, information submissions, or questions about the project. At the close of the public comment period, the Chairman shall afford the applicant an opportunity to answer any questions raised by the public and rebut any statements or information submitted. The Chairman may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed.

E. Final Action on the Application

The Planning Board shall take final action on said application within thirty (30) days of the public hearing. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval and performance standards of this Ordinance for Zoning Districts, Conditional Permitted Uses, and for projects requiring Site Plan Review. In issuing its decision, the Board shall make written findings of fact that establish whether the proposed development does or does not meet the requirements of this Ordinance.

The Board shall notify the applicant and abutters who requested to be notified of the action of the Board including the findings of fact and any conditions of approval.

F. Extension of Time Limits

All time limits provided for in this section may be extended by mutual agreement of the applicant and Board.

G. Final Approval and Filing

Upon completion of the requirements of this Article and an approval vote by the majority of the Planning Board members, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and must be filed by the applicant with the Code Enforcement Officer. Any plan not so filed within thirty (30) days of the date upon which such plan is approved and signed by the Board as herein provided shall become null and void. The Planning Board may by vote extend the filing period for good cause.

402.10.9 APPLICATION AND TECHNICAL REVIEW FEES FOR SITE PLAN REVIEW

A. Application Fee

An application for site plan review must be accompanied by an application fee. This fee is intended to cover the cost of administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee must be paid to the municipality, and evidence of payment of the fee must be included with the application.

B. Technical Review Fees

In addition to the application fee, the applicant for site plan review must also pay a technical review fee to defray the technical costs of the application review. This fee must be paid to the Town and must be deposited in the Development Review Account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until this fee is paid. The Board may reduce the amount of the technical review fee or waive it if it determines that the scale or nature of the project will require little or no outside review.

The technical review fees may be used by the Board to pay for reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, planning consultant reviews, consulting engineering or other professional fees.

The applicant shall pay into a special account the cost to the Town of hiring independent consulting services according to the schedule set by the Town Council. If the balance in the special account is drawn down by seventy-five (75%) percent of the required escrow fund, the Board shall notify the applicant and require an additional amount.

The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with condition of the application.

C. Establishment of Fees

The Town Council may, from time to time and after consultation with the Board, establish the appropriate fees following posting of the proposed schedule of fees and conducting a public hearing.

402.10.10 REQUIRED SUBMISSIONS FOR SITE PLAN REVIEW

Site Inventory and Analysis: The site inventory and analysis is intended to provide both the applicant and the Planning Board with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. This analysis will result in a development plan that reflects the conditions of the site; ensuring that those areas most suitable for the proposed use will be utilized, while those that are not suitable or present significant constraints will be avoided to the

maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the site and an analysis of that information.

A. Site Inventory Plan

The site inventory must contain, at a minimum, the following information:

1. The names, addresses, and phone numbers of the record owner and the applicant.
2. The names and addresses of all consultants working on the project.
3. Evidence of right, title, or interest in the property.
4. Fourteen (14) copies of an accurate scale inventory plan of the parcel at a scale of not more than one hundred (100) feet to the inch showing as a minimum:
    a. The name of the development, north arrow, date and scale.
    b. The boundaries of the parcel and existing zoning.
    c. The relationship of the site to the surrounding area (i.e., access roads and abutting uses).
    d. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site (in many instances, submittal of the U.S.G.S. contours will be adequate);
    e. The major natural features of the site and within five hundred (500) feet of the site, including wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state).
    f. Existing buildings, structures, or other improvements on the site (if none, so state).
    g. Existing restrictions or easements on the site (if none, so state).
    h. The location and size of existing utilities or improvements servicing the site (if none, so state).
    i. Mapping of all wetlands and/or potential vernal pools on site regardless of size.
    j. A Class B high intensity soil survey if any portion of the site is located in a resource protection district or has wetlands covering more than ten (10%) percent of the site.
    k. A Class D medium intensity soil survey if vernal pools and/or significant wetlands are not present.

B. Site Analysis Plan

The site analysis must contain, at a minimum, the following information:

1. Fourteen (14) copies of a site analysis plan at the same scale as the inventory plan highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to identify:
    a. Portions of the site that are unsuitable for development or use;
    b. Portions of the site that are unsuitable for on- site sewage disposal;

c. Areas of the site that have environmental limitations (steep slopes, flat poorly drained areas, wetlands, vernal pools, aquifers, wildlife habitat, floodplains, drainage, etc.) that must be addressed in the development plan;

d. Areas that may be subject to off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.); and which areas are well suited to the proposed use.

2. Fourteen (14) copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.

3. Any requests for waivers from the submission requirements for the site plan review application.

C. Site Plan Review Application Submission Requirements

Applications for site plan review must be submitted on application forms provided by the Town. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Planner. In addition to the site inventory and analysis, the submission must contain at least the following exhibits and information, unless specifically waived in writing:

1. A fully executed and signed copy of the application for development review.

2. Evidence of payment of the application and technical review fees.

3. Fourteen (14) copies of written materials plus fourteen (14) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under approval criteria, but in no case shall be more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development.

4. The bound report and maps or drawings shall contain the following general information (Note: asterisks (*) following an item indicate information to be included on the approved Site Plan):

a. Record owner's name, address, and phone number and applicant's name, address and phone number, if different.*

b. The location of all required building setbacks, yards, and buffers.*

c. Names and addresses of all property owners within five hundred (500 ft.) feet of any and all property boundaries.

d. Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.

e. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.

f. The tax map and lot number of the parcel or parcels on which the project is to be located.*

g. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.

h. The name, registration number and seal of the person who prepared the plan, if applicable.*

i. Evidence of the applicant's technical and financial capability to carry out the project as proposed.

5. The bound report and maps and drawings shall contain the following information pertaining to existing conditions of the site:

   a. Zoning classification(s), including overlay and/or sub-districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or sub-districts or abuts a different district.*

   b. The bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.*

   c. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed and on abutting streets or land that may serve the development and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.

   d. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.*

   e. The location and dimensions and photographs of all existing buildings on the site.

   f. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.

   g. Location of intersecting roads or driveways within two hundred (200) feet of the site.

   h. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

   i. The direction of existing surface water drainage across the site.

   j. The location, front view, dimensions, and lighting of existing signs.

   k. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

   l. The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

6. The bound report and maps and drawings shall contain the following information pertaining to proposed development of the site:

   a. Estimated demand for water supply and sewage disposal, together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data for on-site sewage disposal.

   b. The direction of proposed surface water drainage across the site, and from the site, with an assessment of impacts on downstream properties.

c. Provisions for handling all solid wastes, including hazardous and special wastes, and the location and proposed screening of any on-site collection or storage facilities.*

d. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.*

e. Proposed landscaping and buffering.

f. The location, dimensions, ground floor plan, and architectural elevations of all proposed buildings or building expansion proposed on the site.*

g. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign(s).

h. Location and type of exterior lighting.*

i. The location of all utilities, including fire protection systems.

j. A general description of the proposed use or activity.

k. An estimate of the peak hour and daily traffic to be generated by the project.

l. Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection, if the project is located in the Wellhead Protection or Business Transitional 2 Districts, or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

7. One drawing of the plan set shall be labeled as the Site Plan and shall contain the following information:

   a. All mapping information contained in subsections 4, 5, and 6 above that are followed by an asterisk (*).

   b. Space provided on the plan drawing for the signatures of the Planning Board and date, together with the following words, “Approved: Town of Gray Planning Board.”

D. Additional Engineering Information Required for Major Developments

In addition to the information required for all applicants, an application for a major development must contain the following additional information:

1. A narrative and/or plan describing how the proposed development plan relates to the site inventory and analysis.

2. A grading plan showing the existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine.

3. A stormwater drainage and erosion control program showing:

   a. The existing and proposed method of handling stormwater runoff.

   b. The direction of flow of the runoff, through the use of arrows.

   c. The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.

d. Engineering calculations used to determine drainage requirements based upon the twenty-five (25) year twenty-four (24) hour storm frequency; this is required only if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.

e. Methods of controlling erosion and sedimentation during and after construction.

4. A groundwater impact analysis prepared by groundwater hydrologist for projects involving on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.

5. The name, registration number, and seal of the architect, engineer, landscape architect and/or similar professional who prepared the plan.

6. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, cable TV, and any other utility services to be installed on the site.

7. A planting schedule keyed to the site plan indicating the general varieties and sizes of trees, shrubs, and other vegetation to be planted on the site, as well as information pertaining to provisions that will be made to retain and protect existing trees, shrubs, and other vegetation.

8. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets, if the project or expansion will provide parking for fifty (50) or more vehicles or generate more than one hundred (100) trips during the a.m. or p.m. peak hour based upon the latest edition of the trip generator manual of the Institution of Traffic Engineers.

9. A written statement from the Gray Water District as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows, if public water will be utilized.

10. Estimated cost of the proposed development and evidence of the applicant's financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed or available, and individual's or institution's interest in financing the project or in the form of a letter from a certified accountant or annual report indicating that the applicant has adequate cash flow to cover anticipated costs.

E. Waiver of Submission Requirements

The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the preapplication conference or at the initial review of the application if no preapplication conference is held. A waiver of any submission requirement may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria. Provisions for waivers of the performance standards of the following Sections 402.10.11 through 402.10.14 are contained in Section 402.10.15.

402.10.11 SITE DEVELOPMENT STANDARDS FOR SITE PLAN REVIEW

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of

these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. Utilization of the Site
The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

B. Traffic Access and Parking

1. Adequacy of Road System - Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development.

   Levels of service rankings are similar to the academic ranking system where an 'A' represents little control delay and an 'F' represents extensive delay. A level of service 'D' and higher is desirable for a signalized intersection, although in urban areas, specific movements often operate at a level of service 'E' or 'F'. [Adopted 1/19/10]

   The following tables summarize the relationship between control delay and level of service: [Adopted 1/19/10]

Table 1A - Level of Service Criteria for Signalized Intersections	
Level of Service	**Control Delay per Vehicle (sec)**
A	Up to 10.0
B	10.1 to 20.0
C	20.1 to 35.0
D	35.1 to 55.0
E	55.1 to 80.0
F	Greater than 80.0

Table 1B - Level of Service Criteria for Unsignalized Intersections	
Level of Service	**Control Delay per Vehicle (sec)**
A	Up to 10.0
B	10.1 to 15.0
C	15.1 to 25.0

D	25.1 to 35.0
E	35.1 to 50.0
F	Greater than 50.0

If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service. This requirement may be waived by the Planning Board if the project is located within a growth area designated in the Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

A development not meeting this requirement may be approved if the applicant demonstrates that:

a. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or

b. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality.

2. Access into the Site - Vehicular access to and from the development must be safe and convenient.

a. Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible and per the following requirements:

(i) Minimum sight distance requirements for all subdivision accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the subdivision access. On roads that are designated by the Maine Department of Transportation as Mobility or Retrograde Arterials, the third column in Table 1C shall apply:

Table 1C – Required Access Safe Sight Distances		
Posted Speed (MPH)	Sight Distance (Feet)	Mobility Site Distance[1] (Feet)
20	155	225
25	200	300
30	250	380
35	305	480
40	360	580
45	425	710
50	495	840

55 & over	570	990
[1] Mobility or Retrograde Arterials are critical travel corridors identified by MDOT. In Gray, the only such designated corridor is Route 26 from Cumberland through to New Gloucester.		

(ii) The measurement of sight line distances shall be from a point at a distance of ten (10) feet from the edge of the travel way at a height of three and one half (3.5) feet above the level of the surface of the travel way to the top of an object four and one quarter (4.25) feet above the surface of the travel way in the center of the approach lane.

(iii) Where sight line distances cannot be met at proposed new intersections, portions of the right of way as well as portions of abutting lots under the control of the applicant may be cleared of all growth (except isolated trees) and obstructions to achieve required sight distances. The applicant shall provide documentation that areas cleared to improve sight distances will be maintained in that condition. If approved by the Town Engineer and Public Works Director, the grade of the approach road may be modified to achieve improved visibility.

b. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

c. The grade of any proposed drive or street must be not more than ±3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

d. The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

e. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.

f. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

g. Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

h. The following criteria must be used to limit the number of driveways serving a proposed project:

(i) No use which generates less than one hundred (100) peak hour vehicle trips shall have more than a single two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.

(ii) No use which generates one hundred (100) or more peak hour vehicle trips shall have more than two points of entry from and two points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

3. Accessway Width - Accessways must meet the following width standards:

a. The dimensions of driveways shall be designed to accommodate adequately the volume and character of vehicles anticipated to be attracted daily to the development for which a site plan is prepared. The required minimum dimensions for driveways are indicated below. Driveway entrances and exits serving traffic of over fifteen percent (15%) truck traffic shall be designed with adequate width to avoid a turning vehicle from tracking into the opposing travel lane. [Adopted 6/21/11]

TABLE 1D – REQUIRED MINIMUM ACCESS DRIVE WIDTHS		
	One-Way Operation Driveways * Width (feet)	Two-Way Operation Driveways* Width (feet)
3 to 10 dwelling units	10	18
10 dwelling units or over	12	20
Commercial, Industrial, and Institutional	16	24
*All driveways shall be five (5) feet wider at the curbline, and this additional width shall be maintained for a distance of twenty (20) feet into the site.		

4. Accessway Construction Standards: [Adopted 6/21/11]

   a. Apart from the traffic access provisions of Sections 402.10.11 B.1 to 4. above, all access roads and drives for commercial, industrial, institutional, and multi-family development shall meet the standards of the Subdivision Ordinance for stormwater design (Section 401.13.16 B.3), closed drainage systems (Section 401.13.16 B.4), curbing (Section 401.13.16 B.5), construction Section 401.13.16 C), and sidewalks Section 401.13.16 E),

   b. Internal roads for commercial, industrial, institutional, and multi-family development are not required to have a defined right of way if the project is a condominium and/or has no individual lots that require street frontage on the access drive.

5. Accessway Location and Spacing - Accessways must meet the following standards:

   a. Private entrances/exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

   b. Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

6. Internal Vehicular Circulation - The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

a. Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of WB-40 vehicles.

b. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

c. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

d. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

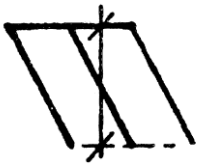
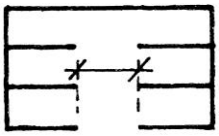
7. Parking Layout and Design - The goals of the parking standards are to provide safe and adequate parking while avoiding construction of excess parking that is expensive to build and maintain. Applicants are encouraged to consider shared parking arrangements (Subsection 7. a below), off-site parking (Subsection 7. b), and reserve parking areas (Subsection 7.e) in meeting these goals. Off-street parking must conform to the following standards:

a. Parking areas with more than two parking spaces must be arranged so that it is not necessary for vehicles to back into the street.

b. All parking spaces, access drives, and impervious surfaces must be located at least five (5 ft.) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within the required front setback unless a visual barrier to screen views of vehicle tire wells is approved by the Planning Board. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24 ft.) feet in width.

c. Parking stalls and aisle layout must conform to the following standards:

Table 2 – Minimum Parking Space & Aisle Standards				
Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width

				
90 degrees	9'-0"		18'-0"	24'-0" two way
60 degrees	8'-6"	10'-6"	18'-0"	16'-0" one way
45 degrees	8'-6"	12'-9"	17'-6"	12'-0" one way
30 degrees	8'-6"	17'-0"	17'-0"	12'-0" one way

d. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

e. Parking areas for nonresidential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit and in non-residential uses for designated employee parking.

f. Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

g. Except as provided in Subsection 7.b. below, off-street parking spaces shall be provided on the same lot occupied by the use. [Adopted 1/19/10]

h. The closest boundary of the parking area shall be within 300 ft. of the principle use for which the spaces are required. [Adopted 1/19/10]

8. Calculation of Required Number of Parking Spaces [Adopted 1/19/10]

a. All areas pertinent to the use, except those listed in Subsection 6. b. below shall be included in the calculation of gross floor area.

b. Floor area of rooms occupied by mechanical, electrical, communications, and security equipment shall be deducted from the floor area for the purpose of calculating parking requirements.

TABLE 3 – MINIMUM NUMBER OF OFF-STREET PARKING SPACES	
Residential	
Dwelling: Single Family, Duplex	2 per dwelling unit
Multifamily:	
Studio	1.25 per dwelling unit
One Bedroom	1.5 per dwelling unit
Two or More Bedrooms	2 per dwelling unit
Accessory/In-Law Dwelling Unit	1 per dwelling unit
Hotel/Motel	1.25 per guest room, plus

	10 per 1000 sq. ft. restaurant/lounge, plus
	30 per 1000 sq. ft. meeting/banquet room.
Senior Citizen Housing, Independent Living	0.6 per dwelling unit
Senior Citizen Housing, Assisted Living	0.4 per dwelling unit
Boarding Homes for Sheltered Care and Nursing Homes	1 per room
Rooming House:	
Single-Occupancy Unit	1 per dwelling unit
Double-Occupancy Unit	2 per dwelling unit
Employees	1 per employee
Visitors	As needed
Day Care, Facility (any type)	.35 per client of licensed capacity plus staff
Hospital/Medical Center	0.4 per employee, plus
	1 per 3 beds, plus
	1 per 5 average daily outpatient visits, plus
	1 per 4 medical staff, plus
	1 per student/faculty/staff
Retail/Service	
Retail Sales (not in shopping center)	3.5 per 1000 sq. ft. of gross floor area (GFA)
Supermarket (Freestanding)	4.5 per 1000 sq. ft. of GFA
Discount Superstore/Clubs	3.5 per 1000 sq. ft. of GFA
Home Improvement Superstore	2.5 per 1000 sq. ft. of GFA
Other Heavy/Hard Goods (Furniture, Appliances, Buildings Materials, etc.)	3.0 per 1000 sq. ft. of GFA
Shopping Centers	4.0 per 1000 sq. ft. of GFA,
Service Business, Personal	
Beauty Shops/Barber Shops	2 per treatment station, but not less than 4.3 per 1000 sq. ft. customer service area.
	3.5 per 1000 sq. ft. of GFA
Coin-Operated Laundry/Dry Cleaning Services	
Other	3.5 per 1000 sq. ft. of GFA
Fitness Center/Health Club	1 per 3 persons of permitted capacity
Retail Sales, Automobile Sales	2.7 per 1000 sq. ft. of interior sales area GFA, plus 1.5 per 1000 sq. ft. of interior area
Automobile Repair Services, Major or Minor	4 per service bay
Convenience Store	.25 per pump plus 1 per employee plus 4 per 1000 sq. ft.
Food and Beverage	
Restaurant	1 per 3 seats
Office and Business Services	

Business and Professional Office	4.5 per 1000 sq. ft. of GFA
Service Business, Commercial	4 per 1000 sq. ft. of GFA
Medical Office Building	5.5 per 1000 sq. ft. of GFA
Bank	5.5 per 1000 sq. ft. of GFA
Industry, Heavy	2 per 1000 sq. ft. of GFA
Industry, Light	1.5 per 1000 sq. ft.
Warehouse	0.7 per 1000 sq. ft. of GFA
Other Retail, Commercial or Business	4 per 1000 sq. ft. of GFA
Education	
Preschool/Nursery Schools	.35 per student plus 1 per employee
Elementary and Middle Schools	Per parking study specific to institution
High Schools	Per parking study specific to institution
College and University	Per parking study specific to institution
Cultural/Recreational/Entertainment	
Convention Center	0.25 per person of permitted capacity
Library	4.5 per 1000 sq. ft. of GFA
Place of Worship	1 for every 3 seats
Theater	1 for every 3 seats

9. Special Parking Conditions [Adopted 1/19/10]

   a. Shared Parking. Where multiple uses occur on a single site, the required number of off-street parking spaces shall be provided for each use. The Planning Board or Staff Review Committee may reduce the required number of parking spaces where the applicant can show, through a parking study performed by a Maine Licensed Professional Engineer, that the peak period parking demand of the uses is non-conflicting.

   b. Off-Site Parking. Parking spaces may be located off-site if the spaces will adequately serve the principal use for which the spaces are required. In making this determination the Planning Board, Staff Review Committee, or Code Enforcement Officer, as applicable, shall consider the following factors:

      (i) Proximity of the off-street parking,

      (ii) Ease of pedestrian access to the off-site parking,

      (iii) Provision of sidewalks or paths between the off-site parking and the principle use,

      (iv) The applicant has sufficient legal interest in the land on which the off-site parking is provided to establish control as long as the use exists.

      (v) Adequate lighting shall be installed to provide for safe pedestrian movement.

   c. Storage of Automobiles. The minimum off-street parking space requirements of Subsection 6. above do not apply to the storage of automobiles for repair or sale where the operator of the use has control over the movement of all stored vehicles on the property.

      (i) The applicant shall demonstrate that adequate area is provided for the storage of all automobiles on the property within any applicable yard setbacks.

      (ii) The aisle width requirements in Table 2 above shall apply to the storage of automobiles.

(iii) The applicable parking requirements in Table 3 apply to all other cars on the property (e.g. customers and employees).

d. Similar Uses. For any structure or use not specifically provided for, the Planning Board shall base the required number of parking spaces by selecting the use(s) most similar in the ordinance or by requiring a parking study to determine the appropriate number to be provided based on projected use.

e. Waiver of Parking and Loading Requirements. If any applicant can clearly demonstrate to the Planning Board that, because of the nature of the operation or use, the parking and/or loading and unloading requirements of this ordinance are unnecessary or excessive, the Planning Board shall have the power to approve a site plan showing less paved parking or unloading area than is required by this section; provided, however, that a landscaped area of sufficient size to meet the deficiency shall be set aside and reserved for the purpose of meeting future off-street parking or unloading requirements in the event that a change of use of the premises shall make such additional off-street facilities necessary.

f. Handicapped Accessible Spaces. All parking shall be designed in compliance with the requirements of the Americans with Disabilities Act and shall provide for accessible spaces in accordance with Table 4 below:

TABLE 4 – ACCESSIBLE PARKING REQUIREMENTS	
Total Parking in Area/Lot or Structure	**Required Minimum Number of Accessible Spaces**
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9

501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000
In addition, one in every eight accessible parking spaces (but not less than one) must be served by an access aisle at least 96 inches wide and must be designated "van accessible."	

10. Off-Street Loading. [Adopted 1/19/10]

a. The minimum off-street loading standards of Table 5 in this Subsection shall be met:

TABLE 5 – REQUIRED OFF-STREET LOADING BAYS				
	Gross Floor Area in Thousands of Square Feet			
Type of Use	12-24	25-100	101-250	Each 250 add.
Retail or Industrial	2	3	4	1
Business and Professional Offices, Hotels	1	1	3	1
Distribution Facilities, Warehousing 15 bays per 100,000 s.f. of gross floor area				

b. Size of loading areas.

(i) Each loading bay shall be between 12 and 14 feet wide depending on conditions of ingress and egress.

(ii) Access to the bay shall include a minimum maneuvering area of 125 feet in length, or more where required.

(iii) The bay area shall be long enough to accommodate standing trucks so as to remove them from the flow of traffic.

(iv) Areas shall be provided for trucks to park when waiting for loading activities.

(v) All loading bays and waiting areas shall be screened.

C. Pedestrian Access

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

D. Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

1. To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

2. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and

erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

3. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
4. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
5. The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
6. The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.
7. Except in Wellhead Districts and Business Transitional-2, submission of a MDEP stormwater permit shall constitute prima facie evidence of compliance with the stormwater standards of this Ordinance. The Board may, however, require additional documentation to address any existing or potential concerns for flooding problems.
8. Surficial or subsurface stormwater control and/or treatment infrastructure shall be located in appropriate locations on the project site. Stormwater measures shall not adversely affect required buffering and screening. In the event that buffering/screening will be materially compromised due to the placement of surficial infiltration areas, the Planning Board shall have the authority to require alternative measures including subsurface infrastructure for the purpose of ensuring the integrity of applicable buffering and screening.

E. Erosion Control

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991 or the latest version.

F. Water Supply Provisions

The development must be provided with a system of water supply that provides each use with an adequate supply of water.

If the project is to be served by the Gray Water District, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

G. Sewage Disposal Provisions
The development must be provided with a method of disposing of sewage which is in compliance with the Maine State Plumbing Code.

When two or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

Cluster septic systems shall be constructed with dual filtration beds to provide for continuing operation while service or rejuvenation is being conducted. Cluster systems shall also be provided with an area for expansion and/or replacement of the system.

H. Utilities
The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

I. Natural Features
The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

J. Groundwater Protection
The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

K. Water Quality Protection
All aspects of the project must be designed so that:

1. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

2. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

3. If the project is located within the direct watershed of a ‘body of water most at risk from development’ or ‘a sensitive or threatened region or watershed’ as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a stormwater permit from the DEP, the project must comply with the standards of the DEP with

respect to the export of total suspended solids and/or phosphorous. If the project does not require a stormwater permit from the DEP, it must be designed to minimize the export of phosphorous from the site to the extent reasonable with the proposed use and the characteristics of the site.

L. Hazardous, Special, and Radioactive Materials
The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies.

No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

M. Technical and Financial Capacity of the Applicant
The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

N. Solid Waste Management
The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

O. Historic and Archaeological Resources
If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

P. Critical Areas Program
For all uses requiring Town site plan approval, the CEO or Planner will submit, where applicable, the site plan to the State's Critical Areas Program for review. Comments from the State regarding Critical Areas Program shall be submitted to the Planning Board for their consideration.

Q. Floodplain Management
If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

402.10.12 GOOD NEIGHBOR STANDARDS FOR SITE PLAN REVIEW

A. Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during periods of darkness when the site is utilized.

1. Lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures must be shielded or

hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 footcandles at the lot line or upon abutting residential properties.

2. All exterior lighting, except security lighting, must be turned off between 11 P.M. and 6 A.M. unless located on the site of a commercial or industrial use which is open for business during that period with Planning Board approval.
3. Wiring to light poles and standards must be underground.

B. Buffering of Adjacent Uses

The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for screening of mechanical equipment and service and storage areas.

1. Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof.
2. A development must provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need to:
   a. Shield neighboring properties from any adverse external effects of the development, or
   b. Shield the development from the negative impacts of adjacent uses.
3. The width of the buffer may vary depending on the treatment of the area. Within densely built-up areas, a buffer with dense plantings, fencing, or changes in grade may be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width. In suburban and rural settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, fencing, or a combination thereof with a width of a minimum of five (5) feet.

C. Noise

1. The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity on the site shall be limited by the time period and by the abutting land use as listed below. Sound levels shall be measured at least four (4) feet above ground at the property boundary of the source.
2. Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4- 1961) ‘American Standards Specification for General Purpose Sound Level Meters.’
3. No person shall engage in construction activities, on a site abutting any residential use between the hours of 10 p.m. and 6 a.m.

D. Storage of Materials

1. Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to

provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

2. All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.
3. Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

402.10.13 SITE DESIGN STANDARDS FOR SITE PLAN REVIEW

A. Landscaping

Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

Landscaping may include plant materials such as trees, shrubs, groundcovers, perennials, and annuals, and other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture.

B. Building Placement

1. The site design should avoid creating a building surrounded by a parking lot. In built-up areas and in villages, buildings should be placed close to the street, in conformance with existing, adjacent setbacks. Parking should be to the side or preferably in the back.
2. In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.
3. Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site.
4. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

C. Building Illumination

1. Building facades may be illuminated with soft lighting of low intensity that does not draw inordinate attention to the building. The light source for the building facade illumination must be concealed.
2. Building entrances may be illuminated using recessed lighting in overhangs and soffits, or by use of spotlighting focused on the building entrances with the light source concealed (e.g., in

landscaped areas). Direct lighting of limited exterior building areas is permitted when necessary for security purposes.

D. Building Entrances

1. The main entrance to the building should be oriented to the street unless the parking layout or the grouping of the buildings justifies another approach, and should be clearly identified as such through building and site design, landscaping, and/or signage.
2. At building entrance areas and drop-off areas, site furnishings such as benches and sitting walls and, if appropriate, bicycle racks shall be encouraged. Additional plantings may be desirable at these points to identify the building entrance and to complement the pedestrian activity at this point.

E. Setback and Alignment of Buildings

Where there is a reasonably uniform relationship between the front walls of buildings and the street, new buildings must be placed on a lot in conformance with the established relationship. For buildings on corner lots, the setback relationship of both streets should be maintained. The creation of 'empty corners' should be avoided through the placement of the building and other site features.

F. Sidewalks

Where an existing or planned public sidewalk is interrupted by a proposed project driveway, the sidewalk material must continue to be maintained across the driveway, or the driveway must be painted to distinguish it as a sidewalk. Further, if street trees exist on an adjacent property, street trees must be planted, in a like manner, on the new site.

G. Location of Off-Street Parking

1. Within built-up areas, parking lots should be located to the side or rear of the building. Parking should not be located between the building and the street. The use of shared parking, shared driveways and the cross-connection of parking lots is encouraged.
2. In suburban and rural areas, smaller uses that may need public visibility from the street should be sited as close to the street as possible. In this case, not more than one row of parking shall be allowed between the building and the street, with the balance of the parking located at the side and/or rear of the building. Larger scale uses and uses which do not require visibility from the road may be located further from the road with a landscaped buffer between the building and the street.

H. Landscaped Roadside Buffers

Whenever the area between the street and the front of the building is used for parking or vehicle movement, a vegetated buffer strip must be established along the edge of the road right-of-way. This buffer strip must soften the appearance of the site from the road and must create defined points of access to and egress from the site. The width of the buffer strip must increase with the setback of the building as follows:

Building Setback	**Buffer Width**
<50 feet	10 feet

50-74 feet	15 feet
75-99 feet	20 feet
100 feet or more	25 feet
Where the buffer cannot be achieved, a low wall, fence, or hedge may be used to create the buffer.	

I. Landscaping of Parking Lots

Landscaping around and within parking lots shades hot surfaces and visually "softens" the hard surface look of parking areas. Parking areas must be designed and landscaped to create a pedestrian-friendly environment. A landscaped border must be created around parking lots. Any parking lot containing twenty (20) or more parking spaces must include one or more landscaped islands within the interior of the lot. There must be at least one island for every forty (40) spaces. Landscaping must screen the parking area from adjacent residential uses and from the street.

J. Building Orientation

New buildings within a built-up area should be compatible with the neighborhood such that they reflect the overall building bulk, square footage, dimensions, placement of the building on the lot, and rhythm of buildings and spaces along the street edge and minimize the visual impact on the neighborhood. The visual impact of a building shall be measured by its relationship to other buildings on the lot, design of the front of the building, and the rhythm of buildings and open spaces along the street.

K. Building Scale

When large new buildings or structures are proposed in built-up areas where their scale (size) and other features may be significantly different from that which already exists in the immediate neighborhood, care must be taken to design the new building or structure so that it is compatible with its neighbors. This may include making the building appear smaller, using additions and/or vertical and horizontal building extensions, traditional materials, styles and/or proportions.

L. Design of Drive-Through Facilities

Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the site adjacent to a residential use or residential zone. Communication systems must not be audible on adjacent properties in residential use. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing within normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street, or within designated parking areas. The drive-through must not interfere with any sidewalk or bicycle path. Only one drive-through is permitted per building, although banks can have multiple lanes.

402.10.14 STANDARDS FOR MULTI-FAMILY HOUSING

In addition to the prior provisions of Section 10 for Site Plan Review, multi-family housing in all Districts shall meet the following standards:

A. Perimeter Buffer Strip

A buffer strip of at least fifty (50) feet in width shall be required around the perimeter of the land area for which the multi-family project is proposed. The required buffer strip shall consist of undisturbed vegetation provided that the existing vegetation consists of mature trees and acts as an effective screen. If existing vegetation provides a poor visual screen, a mix of new landscaping including trees, shrubs and grasses shall be planted.

B. Driveways and Parking

The scale and surface area of parking areas, driveways and paved areas shall be compatible with adjacent structures, must be properly screened and must provide for parking in accordance with the requirements of Section 402.10.11. B.

C. Internal Road Access to all Units

Access to all housing units within the multi-family development shall be located on the new interior road system constructed as part of the development.

D. Orientation and Scale of Buildings

Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for site development. Buildings shall be compatible in terms of physical size, visual impact, intensity of use, proximity to other structures and density of development with other permitted uses within the District. In addition:

1. Individual lots, buildings, streets and parking areas shall be designed and situated:
   a. To minimize alterations of the natural site;
   b. To avoid the adverse effects of shadows, noise and traffic on the residents of the site;
   c. To relate to surrounding properties, to improve the view from and of a building;
   d. So that all dwelling units may take advantage of points of solar access.
2. Diversity and originality in lot layout and individual building, street, parking and lot layout shall be encouraged.

E. Number of Units per Building

The maximum number of attached dwelling units per structure shall be six (6) and the average number of attached dwelling units per structure shall be four (4). The distance between the foundations of any two principal structures shall be no less than the height of the taller of the two buildings, but in no event shall a building separation of less than thirty (30) feet be permitted.

F. Utilities

All dwelling units in the development shall be connected to a common water supply and distribution system (either public or private) in accordance with any policies of the Gray Water District, unless

the developer shall clearly demonstrate to the Planning Board that such a system is not feasible and, in addition:

1. That the costs of providing a common water supply and distribution system are prohibitive;
2. That adequate ground water is available at all locations proposed for individual water systems;
3. That the ground water source(s) proposed for individual water systems is safe from both on-site contamination; and
4. That the source proposed is adequate for installation of life-safety sprinkler systems for the entire development.

402.10.15 PLANNING BOARD WAIVERS OF SITE PLAN REVIEW PERFORMANCE STANDARDS

A. Unless otherwise specifically indicated, the Planning Board may grant waivers from the performance standards contained in this Article 10, Sections 402.10.11 through 402.10.14. In granting any waivers, the Planning Board shall make findings that:

1. The need for a waiver is based on unique circumstances relating to the specific site and development application and that these conditions would not be expected to be encountered elsewhere;
2. The application of the standards is not requisite to public health, safety, and general welfare;
3. The waiver would not qualify for relief granted by the Board of Appeals under Article 9.
4. The granting of the waiver in other situations would not have the effect of amending the ordinance requirements; and,
5. Appropriate conditions are applied.

402.10.16 POST SITE PLAN APPROVAL ACTIVITIES

A. Time Limit on Approval

Substantial construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months and substantially completed within twenty-four (24) months of the date upon which the approval was granted. If construction has not been substantially commenced within the specified period, the approval shall be null and void. If construction has not been substantially commenced within the specified period substantially completed the project shall be in violation of the Ordinance.

The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two, one-year extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

B. Improvement Guarantees

1. The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection C below as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and

duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

2. Upon substantial completion of all required improvements, the developer must notify the Planner and Code Enforcement Officer of the completion or substantial completion of improvements. The staff shall inspect or seek qualified professionals to conduct inspections to verify the proper construction of all required improvements and shall file a report indicating approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.
3. If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

C. Form of Guarantee

Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Town Attorney:

1. Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state. The bond must be issued in the name of the developer receiving site plan approval and not any contractors working for the developer.
2. Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
3. Escrow Account. The applicant may deposit cash or other instruments readily convertible into cash at face value, either with the Town, or in escrow in the name of the Town with a bank. A written agreement will be entered between the developer and the Town indicating the release of funds as work is completed and the return of all remaining funds with any interest accrued to the developer upon successful completion of the project.

D. Submission of As-Built Plans

Any project involving the construction of more than twenty thousand (20,000 sq. ft.) square feet of gross floor area or fifty thousand (50,000 sq. ft.) square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These "as-built" plans must be submitted prior to the issuance of a certificate of occupancy for the project or occupancy of the building.

E. Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the Planner.

F. Other Changes to Approved Plans

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect

approval standards, is subject to review and approval by the Planning Board or Staff Review Committee.

G. Appeals

1. Appeal of any actions taken by the Staff Review Committee shall be taken to the Planning Board in accordance with the provisions of Section 402.10.7 D.
2. Any party may take an appeal within thirty (30) days of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Article 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before the Superior Court must be without a jury.
3. The Planning Board may reconsider any decision reached under this section within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

ARTICLE 11 – GRAVEL PITS AND QUARRIES

Revision of Article 11 adopted by Town Council on: February 5th 2013

402.11.1 PURPOSE

The purpose of the standards in this Article 11are the following:

A. Regulate in an environmentally sound manner the extraction, removal, processing, and storage of topsoil, loam, rock, sand, gravel, clay, and other similar non-metallic earth materials in order to create an excavation for the purpose of obtaining gravel, rock, sand, fill, or clay.

B. Protect the quantity and quality of the groundwater and other water bodies.

C. Prevent a lowering of the average water table.

D. Control erosion.

E. Regulate access to excavations to and from public and private streets or roads.

F. Provide for the safety of the public.

402.11.2 APPLICABILITY

A. After the effective date of this revision of this Ordinance, March 7th 2013, all excavations within the Town of Gray shall be operated and maintained in accordance with the requirements of this Article 11 and this Ordinance except for those excavations with previously issued valid permits that specifically allow otherwise. Examples of exceptions include, but are not limited to, previously issued site location of development permits or other arrangements that have been approved by the State of Maine Department of Environmental Protection.

B. Definitions: Terms for standards included in and associated with this Article 11 are located in Article 2 (Definitions) of this Ordinance. Terminology utilized by the Maine Department of Environmental Protection for the purposes of regulating Gravel Pits, Quarries, and Extractive Operations shall be applicable for the purposes of standards in this Article 11.

C. Reclamation Requirements: Any area that has not been disturbed or modified since July 4, 1985 is not subject to reclamation requirements specified in Excavation Regulations in this Article (Section 402.11.7) of this Ordinance.

D. This Ordinance does not apply to the following types of excavations or activities (formerly identified as Class C excavations):

   1. Any excavation with the sole purpose to determine the nature or extent of mineral resources accomplished by hand sampling, test boring, or other methods which create minimal disturbance with test holes filled in immediately after use.

   2. The removal of less than two hundred (200) cubic yards of material (except topsoil) in any one (1) year, provided that such removal does not disturb more than one (1) acre of land. The removal of any amount of topsoil or loam from a site is not an exempt activity unless it is undertaken as part of an approved construction project, is part of normal farm operations, or the topsoil or loam is being moved to a contiguous site having the same ownership.

   3. Any excavation or grading which is undertaken as part of and subordinate to an approved construction project such as a subdivision, permitted structure, or road.

4. Any excavation that has not expanded the limits of extraction beyond those that existed on the site prior to the initial adoption of this Ordinance on July 4, 1985.

402.11.3 PERMITTED ZONING DISTRICTS

A. Excavation and earth-moving activities requiring a permit in accordance with this Ordinance shall be considered allowed uses in the RRA, BD-1, BD-2, MD, C, LD, and MH Zoning Districts.

B. Excavation and earth-moving activities which require a permit but which were not in operation as of July 4, 1985 shall be prohibited in the, WH-1, WH-2 and BT-2 Zoning Districts.

C. Excavation and earth-moving activities in RP, SP and LR Zoning Districts are covered separately under the Shoreland Zoning Ordinance.

402.11.4 PERMIT REQUIREMENTS

A. Regulations for permits distinguish between seven classifications as specified below in Section 402.11.5 (Classification). In addition to standards required for the respective classification, all operations shall comply with the standards in Permit Requirements in this Article (Section 402.11.4).

B. For all classifications that require a Town permit, the owner or operator shall pay a fee to the Town of Gray as set forth in the Schedule of Fees adopted by the Town Council upon filing an application for an excavation under this Ordinance.

C. For classifications that do not require a Town permit, the standards established in this Ordinance, including Administrative Requirements (Section 402.11.8) and Excavation Regulations (Section 402.11.7) in this Article are applicable unless specifically exempted.

D. The reviewing authority's scope of review is limited to the permit requirements for the respective classifications. The applicant shall be responsible for ensuring that necessary provisions have been established to meet and maintain Excavation Regulations specified in Excavation Regulations (Section 402.11.7) and Administrative Requirements (Section 402.11.8) of this Article including but not limited to reclamation standards, an acceptable form of surety for reclamation when applicable, expansions of non-conforming uses, inspections, annual reports, and change in owner/operator.

E. Renewal of an excavation permit shall not be required while the operation of an excavation remains within the boundaries of the existing permit, provided that the owner or operator complies with all the requirements of this Ordinance.

402.11.5 CLASSIFICATION

There shall be seven (7) classifications of excavations:

A. New Class A Excavations. Class A excavations are those of five (5) acres or more in area that are required to have a permit from the Maine Department of Environmental Protection. See 402.11.6.A below.

B. Expansion of a Class A excavation beyond the permitted excavation area and within the perimeter of the property which includes the proposed expansion without any change in access. See 402.11.6.B below.

C. Expansion of a Class A excavation beyond the permitted excavation area and within the perimeter of the property which includes the proposed expansion, with a proposed change in access. See 402.11.6.C below.

D. Expansion of a Class A excavation beyond the permitted excavation area and beyond the perimeter of the property which includes the existing excavation without any change in access. See 402.11.6.D below.

E. Expansion of a Class A excavation beyond the permitted excavation area and beyond the perimeter of the property which includes the existing excavation and which also includes a change in access. See 402.11.6.E below.

F. New Class B excavations and expansions of Class B excavations beyond the permitted excavation area that will have a proposed total working excavation area of less than five (5) acres. Class B excavations are those of less than five (5) acres in area that are not required to have a permit from the Maine Department of Environmental Protection, but are required to have a permit from the Town of Gray. See 402.11.6.F below.

G. Expansion of a Class B excavation that will have a proposed total working excavation area of five (5) acres or more. See 402.11.6.G below.

402.11.6 REQUIREMENTS FOR CLASSIFICATIONS

In addition to Permit Requirements specified in 402.11.4 above, the following standards are applicable for the respective type of classification:

A. New Class A excavations

1. Any proposed new Class A excavation that is entirely within the Town of Gray is required to obtain a permit from the Town of Gray in accordance with the requirements of this Ordinance. For any proposed new Class A excavation that crosses municipal boundaries, this requirement for a permit applies only to that portion that lies within the Town of Gray.
2. The applicant is required to file a notice of intent to comply with the Maine Department of Environmental Protection and to file an application for a new excavation permit with the Town of Gray.
3. Planning Board approval is required before a permit is issued by the Town of Gray. A public hearing shall be held by the Planning Board within thirty (30) days of the date that the Code Enforcement Officer determines that an application is complete.
4. An application for a proposed new Class A excavation permit shall be submitted to the Code Enforcement Officer. The following information shall be included with the application for a new permit:
   a. Name, address, telephone number, fax, and email address of current owner of the property.
   b. Name, address, telephone number, fax, and email address of operator if different from owner.
   c. If the applicant for an excavation has received a Maine Department of Environmental Protection permit or any other State or Federal permits that may be required, then copies of those permits shall be included with the application.
   d. Assessor's Tax Map and lot number(s), a copy of the most recently recorded deed for the parcel and, if the applicant is not the owner, verification of right, title, or interest in the property by purchase and sales agreement, option to purchase the property, or some other proof of interest.
   e. A site plan that includes the following information:

(i) A boundary survey of the parcel proposed for excavation, or if a portion of the parcel is proposed for excavation, a survey of the portion of property proposed for excavation shall be submitted.

(ii) Date, North arrow, legend, and scale.

(iii) Owner of record name and address.

(iv) All consultants working on the project.

(v) Location of structures, wells, streams, springs, intermittent streams, wetlands, and test borings on the parcel or within one hundred (100) feet of the parcel.

(vi) Contours of the parcel around the area of proposed excavation and within one hundred (100) feet of the parcel at five (5) foot intervals.

(vii) Existing and proposed buffering of the parcel or the excavation site from surrounding properties.

(viii) Location of any proposed material storage sites including proximity to abutters.

(ix) Location of all proposed accesses to and from public or private streets with plans for controlling access to the excavation site such as fencing, gates, or signs.

(x) Rehabilitation plans for closing out the site.

(xi) If a site plan has been accepted by the Maine Department of Environmental Protection, then a copy of that site plan shall be included with the application.

f. The depth to groundwater at the site of the proposed excavation as determined by test boring to substantiate that the groundwater will not be disturbed.

g. A description of any existing or planned security provisions which might include warning signs, fencing, and lighting.

h. A narrative description of the operations including methods of extraction, uses of on-site processing equipment, type and location of any structures, stockpiled materials, disposition of stumps, brush, or other materials, and on-site storage of any hazardous materials.

i. Present uses of abutting and nearby properties.

j. A statement clearly specifying any known easements that could potentially affect the property to be excavated or the rights of the owners of the easements. If no such easements exist, a statement to this effect shall be submitted.

k. Sufficient information for the Planning Board to make a determination that the standards contained in Section 402.11.6.A.7 below will be met and maintained.

l. A signed statement attesting that, to the best of the knowledge of the applicant for an excavation, the information contained in the application is true, accurate, and complete.

5. When the Code Enforcement Officer has verified that the application is complete, the Code Enforcement Officer shall notify the Planning Board that an application for a new Class A excavation has been received and that the Planning Board is required to hold a Public hearing within thirty (30) days.

6. No permit shall be issued for any new Class A excavation until the abutting property owners have been notified as specified in this Section.
    a. Within seven (7) days of the receipt of an application for a new excavation permit, the Code Enforcement Officer, or designee, shall notify in writing by First Class Mail all owners of abutting property that an application for an excavation permit has been received.
    b. For purposes of this section, abutting property owners shall be owners of property within five hundred (500) feet of the nearest boundary of the property which includes the proposed excavation.
    c. For purposes of this section, the owners of abutting property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed.
    d. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Planning Board.
    e. The letter notifying the abutting property owners shall state that an application has been received, where/how to view additional information, the specifics of the next step in the Town's review of the application (date, place, time), and the options available to ask questions, raise concerns, and provide input to the Town's review process.
7. The Planning Board shall have jurisdiction over the following matters that may have effects outside of the perimeter of the property and shall determine that adverse impacts to the public are minimized:
    a. Provisions to deal with any noise, dust, runoff, or other environmental considerations that may affect the public.
    b. Appropriate mitigation measures to minimize negative impacts of the project on surrounding or nearby properties or public facilities including, but not limited to public roads.
    c. Appropriate security provisions which might include warning signs, fencing, and lighting.
    d. Safe entrances and exits in accordance with the provisions of the Traffic Access and Parking section of Site Development Standards for Site Plan Review of this Ordinance.
    e. Appropriate buffer strips in accordance with the requirements of the Excavation Regulations of this Ordinance.
    f. Proximity of proposed material storage sites to abutters.

B. Expansion of a Class A excavation beyond the permitted excavation area and within the perimeter of the property which includes the proposed expansion without any change in access.
    1. The applicant is required to file the appropriate documents with the Maine Department of Environmental Protection and to supply two (2) complete copies of those documents to the Code Enforcement Officer of the Town of Gray.

C. Expansion of a Class A excavation beyond the permitted excavation area and within the perimeter of the property which includes the proposed expansion, with a proposed change in access
    1. The applicant is required to file the appropriate documents with the Maine Department of Environmental Protection and to include copies of those documents with an application for an expansion of an excavation permit with the Code Enforcement Officer of the Town of Gray

2. Planning Board approval is required before a permit is issued by the Town of Gray. The Planning Board shall hold a public hearing within thirty (30) days of the date that the Code Enforcement Officer determines that the application is complete.
3. The following information shall be included with the application for a permit:
   a. Name, address, telephone number, fax, and email address of current owner of the new property.
   b. Name, address, telephone number, fax, and email address of operator if different from owner of the new property.
   c. A sketch of the area proposed for expansion of an excavation. The sketch shall include, at a minimum:
      (i) Date, North arrow, legend, and scale.
      (ii) Owner of record name and address.
      (iii) All consultants working on the project.
      (iv) Locations of structures, wells, streams, springs, intermittent streams, wetlands, and test borings on the area proposed for expansion or within one hundred (100) feet of the area proposed for expansion.
      (v) Existing and proposed buffering of the area proposed for expansion from surrounding properties.
      (vi) Any proposed material storage sites, including proximity to abutters, in the area proposed for expansion.
      (vii) Detailed drawings of the proposed change in access including contours.
   d. A description of any existing or planned security provisions which might include warning signs, fencing, and lighting.
   e. A narrative description of the operations including methods of extraction, uses of on-site processing equipment, type and location of any structures, stockpiled materials, disposition of stumps, brush, or other materials, and on-site storage of any hazardous materials.
   f. Present uses of abutting and nearby properties.
   g. A statement clearly specifying any known easements that could potentially affect an excavation. If no such easements exist, a statement to this effect shall be submitted.
   h. Sufficient information for the Planning Board to make a determination that the standards contained in Section 402.11.6.C.6 below will be met and maintained.
   i. A signed statement attesting that, to the best of the knowledge of the applicant for an expansion of an excavation, the information contained in the application is true, accurate, and complete.
4. When the Code Enforcement Officer has verified that the application is complete, the Code Enforcement Officer shall notify the Planning Board that an application for an expansion of an excavation with a change of access has been received and a Public hearing is required to be held within thirty (30) days.

5. No permit shall be issued for expansion of a Class A excavation that includes a change in access until the property owners abutting the property which includes the expansion have been notified as specified in this Section that an application for an expansion of an excavation with a change of access has been received.
    a. Within seven (7) days of the receipt of an application for a permit for the expansion of the excavation, the Code Enforcement Officer, or designee, shall notify in writing by First Class Mail all owners of abutting property that an application for an expansion of an excavation permit has been submitted.
    b. For purposes of this section, abutting property owners shall be owner(s) of property within five hundred (500) feet of the nearest boundary of the area to be permitted for the proposed expansion of an excavation.
    c. Owners of abutting property shall be those listed in the most recent tax records of the Town of Gray.
    d. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.
    e. The letter notifying the abutting property owners shall state that an application for an expansion of an excavation beyond the permitted excavation area, but within the perimeter of the property which includes the proposed expansion, with a proposed change in access has been received, where/how to view additional information, the specifics of the next step in the Town's review of the application (date, place, time), and the options available to ask questions, raise concerns, and provide input to the Town's review process.
6. The Planning Board shall have jurisdiction over the following matters that may have effects outside of the perimeter of the property and shall determine that adverse impacts to the public are minimized:
    a. Provisions to deal with any noise, dust, runoff, or other environmental considerations that may affect the public.
    b. Appropriate mitigation measures to minimize negative impacts of the project on surrounding or nearby properties or public facilities including, but not limited to public roads.
    c. Safe entrances and exits in accordance with the provisions of the Traffic Access and Parking section of Site Development Standards for Site Plan Review of this Ordinance.
7. All requirements of the existing permit shall remain in effect unless specifically altered in the permit for an expansion.

D. Expansion of a Class A excavation beyond the permitted excavation area and beyond the perimeter of the property which includes the existing excavation without any change in access.
    1. The applicant is required to file the appropriate documents with the Maine Department of Environmental Protection and to include copies of those documents with an application for an expansion of an excavation permit with the Code Enforcement Officer of the Town of Gray.
    2. The following information shall be included with the application for a permit:
        a. Name, address, telephone number, fax, and email address of current owner of the new property.

b. Name, address, telephone number, fax, and email address of operator if different from owner of the new property.

c. A sketch of the area proposed for expansion of an excavation. The sketch shall include, at a minimum:

(i) Date, North arrow, legend, and scale.

(ii) Owner of record name and address.

(iii) All consultants working on the project.

(iv) Location of structures, wells, streams, springs, intermittent streams, wetlands, and test borings on the area proposed for expansion or within one hundred (100) feet of the area proposed for expansion.

(v) Existing and proposed buffering of the area proposed for expansion from surrounding properties.

(vi) Any proposed material storage sites, including proximity to abutters, in the area proposed for expansion

d. A description of any existing or planned security provisions which might include warning signs, fencing, and lighting.

e. A narrative description of the operations including methods of extraction, uses of on-site processing equipment, type and location of any structures, stockpiled materials, disposition of stumps, brush, or other materials, and on-site storage of any hazardous materials.

f. Present uses of abutting and nearby properties.

g. A statement clearly specifying any known easements that could potentially affect the property to be excavated or the rights of the owners of the easements. If no such easements exist, a statement to this effect shall be submitted.

h. A signed statement attesting that, to the best of the knowledge of the applicant for an expansion of an excavation, the information contained in the application is true, accurate, and complete.

3. When the Code Enforcement Officer has verified that the application is complete, the Code Enforcement Officer shall issue a permit for the expansion.

4. Within seven (7) days of the verification by the Code Enforcement Officer that the application is complete, the Code Enforcement Officer, or designee, shall notify in writing by First Class Mail the abutting property owners of the new property which includes the expansion that a permit for an expansion of an excavation without any change in access has been issued.

a. For purposes of this section, abutting property owners shall be owner(s) of property within five hundred (500) feet of the nearest boundary of the area to be permitted for the proposed expansion of an excavation.

b. Owners of abutting property shall be those listed in the most recent tax records of the Town of Gray.

c. Failure of any property owner to receive a notice shall not necessitate any review or invalidate any action of the Code Enforcement Officer.

d. The letter notifying the abutting property owners shall state that a permit for an expansion of an excavation that proposes to extend beyond the perimeter of the property which includes the existing excavation without any change in access has been received, where/how to view additional information, and the options available to ask questions, and raise concerns regarding applicable standards.

5. All requirements of the existing permit shall remain in effect unless specifically altered in the permit for an expansion.

E. Expansion of a Class A excavation beyond the permitted excavation area and beyond the perimeter of the property which includes the existing excavation and which also includes a change in access

1. The applicant is required to file the appropriate documents with the Maine Department of Environmental Protection and to include two (2) complete copies of those documents with an application for an expansion of an excavation permit with the Code Enforcement Officer of the Town of Gray.

2. Planning Board approval is required before a permit is issued by the Town of Gray. The Planning Board shall hold a public hearing within thirty (30) days of the date that the Code Enforcement Officer determines that the application is complete.

3. The following information shall be included with the application for a permit:

a. Name, address, telephone number, fax, and email address of current owner of the new property.

b. Name, address, telephone number, fax, and email address of operator if different from owner of the new property.

c. A sketch of the area proposed for expansion of the excavation. The sketch shall include, at a minimum:

(i) Date, North arrow, legend, and scale.

(ii) Owner of record name and address.

(iii) All consultants working on the project.

(iv) Locations of structures, wells, streams, springs, intermittent streams, wetlands, and test borings on the area proposed for expansion or within one hundred (100) feet of the area proposed for expansion.

(v) Existing and proposed buffering of the area proposed for expansion from surrounding properties.

(vi) Any proposed material storage sites including proximity to abutters.

(vii) Detailed drawings of the proposed change in access including contours.

d. The depth to groundwater at the site of the proposed expansion of the excavation as determined by test boring to substantiate that the groundwater will not be disturbed.

e. A narrative description of the operations including methods of extraction, uses of on-site processing equipment, type and location of any structures, stockpiled materials, disposition of stumps, brush, or other materials, and on-site storage of any hazardous materials.

f. Present uses of abutting and nearby properties.

g. A statement clearly specifying any known easements that could potentially affect the property to be excavated or the rights of the owners of the easements. If no such easements exist, a statement to this effect shall be submitted.

h. Sufficient information for the Planning Board to made a determination that the standards is Sections 402.11.6.E.6 and 7 below will be met and maintained.

i. A signed statement attesting that, to the best of the knowledge of the applicant for an expansion of an excavation, the information contained in the application is true, accurate, and complete.

4. When the Code Enforcement Officer has verified that the application is complete, the Code Enforcement Officer shall notify the Planning Board that an application for an expansion of an excavation with a change of access has been received and a Public hearing is required to be held within thirty (30) days.

5. No permit shall be issued for expansion of a Class A excavation that includes a change in access until the property owners abutting the property which includes the expansion have been notified as specified in this Section.

   a. Within seven (7) days of the receipt of an application for a permit for the expansion of the excavation, the Code Enforcement Officer, or designee, shall notify in writing by First Class Mail all owners of abutting property that an application for a permit for an expansion of an excavation with a change of access has been received.

   b. For purposes of this section, abutting property owners shall be owner(s) of property within five hundred (500) feet of the nearest boundary of the area to be permitted for the proposed expansion of an excavation.

   c. Owners of abutting property shall be those listed in the most recent tax records of the Town of Gray.

   d. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

   e. The letter notifying the abutting property owners shall state that an application for an expansion of an excavation that proposes to extend beyond the perimeter of the property which includes the existing excavation and also includes a change in access has been received, where/how to view additional information, the specifics of the next step in the Town's review of the application (date, place, time), and the options available to ask questions, raise concerns, and provide input to the Town's review process.

6. The Planning Board shall have jurisdiction over the following matters that may have effects outside of the perimeter of the property and shall determine that adverse impacts to the public are minimized:

   a. Provisions to deal with any noise, dust, runoff, or other environmental considerations that may affect the public.

   b. Appropriate mitigation measures to minimize negative impacts of the project on surrounding or nearby properties or public facilities including, but not limited to public roads.

   c. Safe entrances and exits in accordance with the provisions of the Traffic Access and Parking section of Site Development Standards for Site Plan Review of this Ordinance.

d. Appropriate buffer strips in accordance with the requirements of the Excavation Regulations of this Ordinance.

e. Proximity of proposed material storage sites to abutters.

7. The Planning Board shall determine that the following issues are met that are not more than fifty (50) feet inside of the perimeter of the property which includes the proposed expansion:

   a. Appropriate buffer strips in accordance with the requirements of the Excavation Regulations of this Ordinance.

   b. Proximity of proposed material storage sites to abutters.

8. All requirements of the existing permit shall remain in effect unless specifically altered in the permit for an expansion.

F. New Class B Excavations and Expansion of a Class B Excavation.

1. Any proposed new Class B excavation or expansion of a Class B excavation that is entirely within the Town of Gray is required to obtain a permit from the Town of Gray in accordance with the requirements of this Ordinance. For any proposed new Class B excavation or expansion of a Class B excavation that crosses municipal boundaries, this requirement for a permit applies only to that portion that lies within the Town of Gray.

2. The Planning Board shall have jurisdiction over all permitting matters related to the excavation.

3. Planning Board approval is required before a permit is issued by the Town of Gray. A public hearing shall be held by the Planning Board within thirty (30) days of the date that the Code Enforcement Officer determines that an application is complete.

4. For a proposed new Class B excavation or expansion of a Class B excavation, the applicant is required to file an application for an excavation permit with Gray's Code Enforcement Officer. The following information shall be included with the application for a permit:

   a. Name, address, telephone number, fax, and email address of current owner of the property.

   b. Name, address, telephone number, fax, and email address of operator if different from owner.

   c. For a Class B excavation, if the applicant for an excavation has received a Maine Department of Environmental Protection permit or any other State or Federal permits that may be required, then copies of those permits shall be included with the application.

   d. Assessor's Tax Map and lot number(s), a copy of the most recently recorded deed for the parcel and, if the applicant is not the owner, verification of right, title, or interest in the property by purchase and sales agreement, option to purchase the property, or some other proof of interest.

   e. A site plan that includes the following information:

      (i) A boundary survey of the parcel proposed for excavation, or if a portion of the parcel is proposed for excavation, a survey of the portion of property proposed for excavation shall be submitted.

      (ii) Date, North arrow, legend, and scale.

      (iii) Owner of record name and address.

(iv) All consultants working on the project.

(v) Location of structures, wells, streams, springs, intermittent streams, wetlands, and test borings on the parcel or within one hundred (100) feet of the parcel.

(vi) Contours of the parcel around the area of proposed excavation and within one hundred (100) feet of the parcel at five (5) foot intervals.

(vii) Existing and proposed buffering of the parcel or the excavation site from surrounding properties.

(viii) Location of any proposed material storage sites including proximity to abutters.

(ix) Location of all proposed accesses to and from public or private streets with plans for controlling access to the excavation site such as fencing, gates, or signs.

(x) Rehabilitation plans for closing out the site.

f. The depth to groundwater at the site of the proposed excavation as determined by test boring to substantiate that the groundwater will not be disturbed.

g. A description of any existing or planned security provisions which might include warning signs, fencing, and lighting.

h. A narrative description of the operations including methods of extraction, uses of on-site processing equipment, type and location of any structures, stockpiled materials, disposition of stumps, brush, or other materials, and on-site storage of any hazardous materials.

i. Present uses of abutting and nearby properties.

j. A statement clearly specifying any known easements that could potentially affect an excavation. If no such easements exist, a statement to this effect shall be submitted.

k. Sufficient information for the Planning Board to make a determination that the standards in Section 402.11.6.F.7 below will be met and maintained.

l. A signed statement attesting that, to the best of the knowledge of the applicant for an excavation, the information contained in the application is true, accurate, and complete.

5. When the Code Enforcement Officer has verified that the application is complete, the Code Enforcement Officer shall notify the Planning Board that an application for a new Class B excavation or expansion of a Class B excavation has been received and that a Public hearing is required to be held within thirty (30) days.

6. No permit shall be issued for any new Class B excavations or expansion of a Class B excavation until the abutting property owners have been notified as specified in this Section.

a. Within seven (7) days of the receipt of an application for an excavation permit, the Code Enforcement Officer, or designee, shall notify in writing by First Class Mail all owners of abutting property that an application for an excavation permit has been received.

b. For purposes of this section, abutting property owners shall be owners of property within five hundred (500) feet of the nearest boundary of the property which includes the proposed excavation.

c. For purposes of this section, the owners of abutting property shall be considered to be the parties listed by the tax assessor for the Town of Gray as those against whom taxes are assessed.

d. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Board.

e. The letter notifying the abutting property owners shall state that an application has been received, where/how to view additional information, the specifics of the next step in the Town's review of the application (date, place, time), and the options available to ask questions, raise concerns, and provide input to the Town's review process.

7. The Planning Board shall determine that the following issues that may affect the public are met by the proposed Class B excavation operation:

a. Provisions to deal with any noise, dust, runoff, or other environmental considerations associated with the excavation operation.

b. Appropriate mitigation measures to minimize negative impacts of the project on surrounding or nearby properties or public facilities including, but not limited to public roads.

c. Appropriate security provisions which might include warning signs, fencing, and lighting.

d. Safe entrances and exits in accordance with the provisions of the Traffic Access and Parking section of Site Development Standards for Site Plan Review of this Ordinance.

e. Appropriate buffer strips in accordance with the requirements of the Excavation Regulations of this Ordinance.

f. Proximity of proposed material storage sites to abutters.

8. For applications involving expansions, all requirements of the existing permit shall remain in effect unless specifically altered in the permit for an expansion.

G. Expansion of a Class B excavation that will have a proposed total working excavation area of five (5) acres or more will be subject to the requirements for expansion of Class A excavations.

402.11.7 EXCAVATION REGULATIONS

A. In addition to Maine Department of Environmental Protection regulations, the standards in these Excavation Regulations (Section 402.11.7) are applicable for all operations in the Town of Gray.

B. All excavation operations shall be in accordance with the excavation and reclamation requirements of the most current version of the Maine Department of Environmental Protection 38 MRSA Sections 490-D Performance Standards, 38 MRSA Sections 490-Z Performance Standards for Quarries, or excavations that have a Site Location of Development permit issued under 38 MRSA Section 481, and the requirements of the applicable Sections of this Ordinance except that any areas that have not been disturbed or modified since July 4, 1985 are not subject to reclamation requirements.

C. Stockpiles: A minimum distance of one-hundred (100) feet shall be maintained between product stockpiles and any residence on an abutting property.

D. Buffers: If the owner or operator has permission from an abutter to reduce the width of a buffer in accordance with DEP regulations, then the written permission must be recorded in association with the deed of the affected abutting property at the Cumberland County Registry of Deeds.

E. Reclamation:

1. In addition to performing reclamation in accordance with DEP regulations, at the option of the owner reclamation may include, but is not limited to:
   a. Stabilization of slopes.
   b. Creation of safety benches.
   c. Planting of forests.
   d. Seeding of grasses and legumes.
   e. Seeding for grazing purposes.
   f. Planting of crops for harvest.
   g. Enhancement of wildlife and aquatic habitat.
   h. Enhancement of aquatic resources.
   i. Enhancement of recreational resources.
2. An owner or operator may apply to the Maine Department of Environmental Protection for approval of plans for alternative forms of reclamation provided that any such activity is in accordance with the Zoning Ordinance of the Town of Gray.
3. When applicable, the site must be returned to its pre-construction natural condition as much as may be feasible. All above ground structures, equipment, foundations, utilities, and access roads or driveways shall be removed unless specifically designated for new or continuing use by the owner in writing to the Code Enforcement Officer.

F. Surety for Reclamation

The Town may require an acceptable form of surety to cover the estimated cost to complete the reclamation of excavations with a working pit larger than ten (10) acres in size, excluding any reclaimed areas, unless the operator demonstrates that a bond or similar financial assurance has been secured for the Maine Department of Environmental Protection pursuant to 38 MRSA Section 490-D or 490-Z. The estimated cost to complete the reclamation shall be determined on the basis of usual, customary, and reasonable costs for similar reclamation and shall be calculated by the same rules as used by DEP. The applicant for excavation shall provide surety in the form of cash, certified bank checks, insurance bonds, or irrevocable letters of credit all payable to the Town of Gray. Any such surety shall be satisfactory to the Town Council and to the Town Attorney as to sufficiency, manner of execution, and amount.

G. Expansions of Non-Conforming Excavations

No nonconforming mineral exploration, excavation, or removal of lands for the purpose of creating a sand, fill, or gravel pit shall be extended to other land or parts of land unless the other land or parts of land were designated for such use prior to July 4, 1985. On any land or parts of land that were not designated for such use prior to July 4, 1985, excavation shall be permitted only upon the submittal and approval of an entirely new and separate application in accordance with the requirements of this Ordinance.

402.11.8 ADMINISTRATIVE REQUIREMENTS

A. Inspections

1. Inspections are required for all Class A and Class B excavations. The purpose of inspections is to determine or reaffirm that the excavation is in full compliance with the Excavation Regulations of this Ordinance.
2. Inspections of Class A excavations by the Maine Department of Environmental Protection shall be deemed sufficient provided that the owner or operator forwards a copy of the inspection report to the Code Enforcement Officer within thirty (30) days of receipt with payment of a fee as set forth in the Schedule of Fees adopted by the Town Council.
3. Annual inspections of Class B excavations shall be performed by persons who are qualified to determine the degree of compliance of the excavation with the requirements of this Ordinance. By submitting an application for a permit, or by submitting an Annual Report, the applicant for excavation agrees to authorize a properly escorted designated representative of the Town to enter the property including buildings, structures, or conveyances on the property at reasonable hours to determine compliance with the terms and conditions of a permit for a Class B excavation.
    a. As set forth in the Schedule of Fees adopted by the Town Council, a fee for the inspection shall be paid by the owner or operator of the excavation.
    b. The person performing the inspection shall be provided with an escort in accordance with the rules and regulations of the Federal Mining Safety and Health Administration (MSHA). Upon appropriate notice, the operator or a designee shall be the escort for inspection of the excavation.
    c. The person performing the inspection shall determine the extent of the compliance of the excavation with the requirements of this Ordinance. If there are any instances of non-compliance, those instances shall be noted on the inspection form in accordance with subsection B. 4 of this Section.
    d. The person performing the inspection shall complete the proper inspection form "Annual Inspection for Class B excavations", with any appropriate comments, and deliver the completed form to the owner or operator.
    e. The owner or operator shall forward a copy of the completed inspection report to the Code Enforcement Officer within thirty (30) days of receipt with payment of a fee as set forth in the Schedule of Fees adopted by the Town Council for the recording of the report.
4. If any additional inspection reports related to an excavation are received from any State or Federal Agency, the owner or operator shall forward a copy of the inspection report to the Code Enforcement Officer within thirty (30) days of receipt with payment of a fee of twenty-five (25) dollars for the recording of the report.

B. Annual Report required

The owner or operator of each Class A or Class B excavation shall submit a report for each separately permitted excavation to the Code Enforcement Officer of the Town of Gray no later than March 15 of each year on a form specified by the Town of Gray. The report shall include the following information:

1. Name, address, telephone number, fax, and email address of owner.

2. Name, address, telephone number, fax, and email address of operator if different from owner.
3. Location of excavation with street address or directions to the excavation and Town of Gray Lot and Map designation.
4. Area in acres of working excavation.
5. Total area in acres that is currently permitted for excavation.
6. Total area in acres that is "grandfathered" in accordance with the provisions of this Ordinance.
7. Total area in acres that has been excavated.
8. Total area in acres that has been reclaimed.
9. An estimate of when the total area that is expected to be excavated will reach the limits of the area that has been permitted for excavation.
10. A statement of whether or not the Department of Environmental Protection has conducted an on-site inspection since the last report.
11. A signed statement attesting that the information submitted in the report is truthful, accurate, and correct to the best of the knowledge of the owner or operator and reaffirming that the excavation is in full compliance with the permit issued under this Ordinance.
12. A fee as set forth in the Schedule of Fees adopted by the Town Council shall be paid.

C. Change of Owner or Operator

Notice of a change of owner or operator shall be submitted to the Code Enforcement Officer of the Town of Gray in accordance with the following requirements:

1. For Class A excavations, the new owner or operator shall submit evidence to the Town that the excavation has either a valid Site Location of Development License or a valid borrow pit or rock quarry registration from the Maine Department of Environmental Protection.
2. For Class B excavations, the new owner or operator shall submit a notice of intent to comply with the requirements of this ordinance and any existing valid permit.
3. Where there is a change in ownership of an excavation operation for which a surety has been provided, the new owner shall be responsible for providing a new surety in accordance with the requirements of this Ordinance. Such surety shall be provided before the Town releases the original surety.

402.11.9 WAIVERS OF PROVISIONS

The Town of Gray shall accept waivers or variances granted by the Department of Environmental Protection as provided in the most current version of DEP Rules Chapter 378 Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products provided that such waivers or variances are in accordance with the provisions of the Town of Gray Zoning Ordinance and provided that the operator submits copies of the waivers or variances to the Code Enforcement Officer prior to commencing activities requiring the waivers or variances.

402.11.10 ENFORCEMENT

A. Failure to comply with any of the terms of the excavation permit granted under this Ordinance shall constitute sufficient cause for the Town of Gray to terminate that permit or to undertake any other appropriate enforcement action or penalties.

B. If the Gray Code Enforcement Officer (CEO) becomes aware of an apparent violation of a Maine Department of Environmental Protection (Maine DEP) regulation(s), the CEO shall ensure that the Town's file contains sufficient documentation and shall notify the appropriate person(s) at Maine DEP. In the event that the CEO determines that Maine DEP's response is unreasonable, such as untimely action(s) or not sufficiently thorough, the CEO shall have the authority, but not the obligation, to enforce Maine DEP regulations regarding excavation operations and associated adverse impacts.

C. Failure to comply with any approval granted under this Ordinance or any other requirement of this Ordinance shall be considered a violation, which may be subject to enforcement under the provisions of 30-A M.R.S.A. § 4452.

D. Failure to file the required Annual Report with payment of the required Annual Fee by March 15 of each year shall instigate a penalty fee as set forth in the schedule of fees adopted by the Town Council.