

CHAPTER 204
HAZARDOUS MATERIALS CONTROL ORDINANCE
TOWN OF GRAY MAINE

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SECTION 204.1 – TITLE

This Ordinance shall be known and be cited as the Hazardous Materials Control Ordinance of the Town of Gray, Maine.

SECTION 204.2 – PURPOSE

The regulations set forth in this ordinance are adopted to:

- A. Provide for the protection of groundwater and surface water quality through the control of hazardous materials handling, storage, or disposal;
- B. Protect the health, safety, and welfare of the citizens of Gray.

SECTION 204.3 – LEGISLATIVE AUTHORITY

This ordinance is enacted pursuant to authority granted in 30 M.R.S.A. Section 1917, 38 M.R.S.A. Section 1320, and 38 M.R.S.A. Section 1321.

SECTION 204.4 – DEFINITIONS

- A. “Hazardous Materials” shall mean all materials in quantities controlled by this ordinance with the characteristics listed below, specifically excluding salt, solid wastes lawfully deposited in the Gray Landfill, domestic sewage, domestic sewage sludge, nonradioactive cooling water, boiler blow down water, sand and gravel washing waste, waste that is lawfully discharged to surface waters or any public sewerage system, virgin petroleum products for retail sales or use on site as a fuel, and agricultural organic wastes.
 - 1. “Type 1 Toxic Materials” shall mean a material which, due to toxicity, ability to harm genetic material, or persistence of a representative sample of a standard leachate from the waste, has any of the properties defined below.
 - a. Has a concentration of any substance, for which a federal drinking water standard exists, greater than or equal to ten (10) times that drinking water standard.
 - b. Has a concentration (mg/l) of any substance in the NIOSH Registry of Toxic Effects of Chemical Substances (“Registry”) greater than or equal to 0.35 times the lowest oral mammalian LD50 expressed in mg/kg units for that substance.
 - c. Has a concentration (mg/l) of any substance equal to 10 times the lowest 96 hour LC50 (mg/l) for that substance as listed in the “Registry”.
 - 2. “Type 2 – Reactive Materials” shall mean a material which has any of the following properties:
 - a. Materials which in themselves are normally unstable and readily undergo violent chemical change but do not detonate. Also materials which may react violently with water, which may form potentially explosive mixtures with water, or which generate toxic fumes when mixed with water.
 - b. Materials which in themselves are capable of detonation or explosive reaction but require a strong initiating source or which must be heated under confinement before initiation or which react explosively with water.

- c. Materials which in themselves are readily capable of detonation or explosive decomposition or reaction at normal temperatures and pressures.
 - d. Reactive materials can also be identified by the following tests:
 - (i) Thermally unstable liquid materials can be identified using the JANAF (Joint Army-Navy-Air Force) L.P. Test No. 6.
 - (ii) Thermally unstable liquid or nonfluid materials can be identified using the protocol specified in ASTM Standard Method E-476—73.
 - (iii) Materials unstable to mechanical shock can be identified using the Picatinny Arsenal Impact Test (Picatinny Arsenal Technical Report No. 1740 (Revision 1) (1958) or the Bureau of Mines Impact Test (U.S. Bureau of Mines Bulletin 346 (1931)).
3. “Type 3 – Radioactive Materials” shall mean low level liquid and gaseous radioactive materials and high level solid, liquid or gaseous materials. Low level liquid and gaseous radioactive materials shall mean all liquid and gaseous materials that exceed the maximum permissible concentrations for discharge to unrestricted areas as listed in Appendix B, Table II, Columns 1 and 2 of Title 10, Part 20 of the Code of Federal Regulations except that defined as high level liquid or gaseous radioactive waste. High level liquid and gaseous radioactive waste includes the liquid and gaseous wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing of irradiated reactor fuel; and, any other radioactive waste which the Planning Board shall subsequently specify as high level radioactive waste as adopted by order of the Council.
 4. “Type 4 – Flammable Waste” shall mean any waste such that any sample of that waste has a flash point less than 140 degrees Fahrenheit (60 degrees Centigrade) determined by the Pensky-Martens Closed Cup Tester, using the protocol specified in ASTM Standard D-93-73.
 5. “Type 5 – Corrosive Waste” shall mean any waste such that any sample of that waste has either of the following properties:
 - a. pH less than 2, or greater than 12, as determined by the pH meter, using the protocol specified in the “Manual of Methods for Chemical Analysis of Water and Wastes” (EPA-625-16-74 003).
 - b. A corrosion rate greater than 0.250 inch per year on steel (SAE 1020) at a test temperature of 130 degrees Fahrenheit as determined using the protocol specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69.
 6. “Type 6 – Infectious Waste” shall mean any waste which is generated from the following sources:
 - a. Health care facilities
 Certain departments of hospitals as defined by Standard Industrial Classification (SIC) Codes 8062 and 8069 in “Standard Industrial Classification Manual, 1972” U.S. Government Printing Office, Stock No. 4101-0066.
 - (i) Obstetrics department including patients’ rooms
 - (ii) Emergency department

- (iii) Surgery department including patients' rooms
- (iv) Morgue
- (v) Pathology department
- (vi) Autopsy department
- (vii) Isolation rooms
- (viii) Laboratories
- (ix) Intensive care unit
- (x) Pediatrics department

b. Laboratories, as defined by SIC Codes 7391, 8071 and 8922 but does not include any waste which is discharged directly to an underground seepage system at the site at which it is generated.

7. "Type 7 – Other Waste" shall mean any industrial waste which is not a Type 1 – Toxic Waste; Type 2 – Reactive Waste; Type 3 – Radioactive Waste; Type 4 – Flammable Waste; Type 5 – Corrosive Waste; or Type 6 – Infectious Waste; and which is not discharged directly to an underground seepage system at the site at which it is generated.

8. "Waste Oil" shall mean discarded oil generated by residential, institutional, commercial, industrial, agricultural sources or oil recovered from spills.

- B. "Hazardous Materials Use Permit" shall mean a certificate issued by the Gray Planning Board authorizing the handling, transportation, storage, or disposal of hazardous materials for a specific use site by a specific person or firm and specifying the types of records which must be kept, the types and schedules of reports which must be filed, and such other requirements which the Planning Board finds to be necessary for the protection of the health, safety, and welfare of the citizens of Gray.
- C. "Planning Board" or "Board" shall mean the Gray Planning Board.
- D. "Code Enforcement Officer" shall mean the Code Enforcement Officer of the Town of Gray or employees of the Town of Gray under his direction.
- E. "Storage" shall mean the placement of materials in drums, tanks, lagoons, or other structures intended to retain the materials for subsequent use or disposal.
- F. "Use" shall mean any employment of materials for any purpose unless specifically exempted by this ordinance.
- G. "Disposal" shall mean the discharge, dumping, spilling, leaking or placing of any materials into or on the land or water.
- H. "Ground Water" shall mean the water present in the saturated zone of an aquifer.
- I. "Aquifer" shall mean geologic deposits or structures from which useable quantities of ground water are available for households, municipalities or industries.
- J. "Industrial Waste" shall mean waste oil, liquid waste, containerized gaseous waste or waste sludge produced by an industrial process or produced by an industrial waste water treatment plant but does not include any solid waste nor any domestic sewage or domestic sewage sludge or cooling water or

boiler blow down water or sand washing or gravel washing waste or waste that is discharged directly into a municipal sewer system or waste that is lawfully discharged into any surface body of water.

- K. “Hazardous materials use, storage or disposal site” shall mean real and personal property acquired, constructed or operated for the purpose of the storage, use, or disposal of hazardous material. Such sites shall be placed in one of the following five classifications: Class I, Class II, Class III, Class IV, or Class V.
 - 1. “Industrial Waste Incinerator” shall mean an arrangement of chambers and equipment designed for burning industrial waste to a gaseous emission and a residue.
- L. “Liner” shall mean a layer of material used as a barrier to impede the movement of hazardous materials or industrial waste into ground or surface water. Liners may include but not be limited to natural soils, asphalt treatments, polymeric membranes and/or treated soils.
- M. “Load” shall mean a mass or weight of industrial waste or hazardous material contained in one transporting container.
- N. “Manifest” shall mean a separate record for identifying the quantity, composition, type and the origin, routing and destination of hazardous materials or industrial waste.
- O. “Oil” shall mean any of a class of substances typically unctuous, viscous, combustible, liquid at sixty (60) degrees Fahrenheit and soluble in either or alcohol but not in water.
- P. “Open Burning” shall mean the combustion of any material under such conditions that the products of combustion are emitted directly into the open atmosphere without passing through a stack or chimney.
- Q. “Operator” shall mean any authorized individual responsible for the control of the site.
- R. “Person” shall mean any individual, group of individuals, firm, corporation, association, partnership or private or public entity, including a district, county, city, town or other governmental unit or agent thereof, and in the case of a corporation, any individual having active and general supervision of the properties of such corporation.
- S. “Surface Water” shall mean a body of water whose top surface is exposed to the atmosphere including but not limited to rivers, ponds, lakes, streams, marshes and wetlands.
- T. “Solid Waste” shall mean garbage, refuse and other discarded solid materials generated by residential, institutional, commercial, industrial and agricultural sources but does not include solids or dissolved material in domestic sewage or sewage sludge.
- U. “Water Table” shall mean the upper level of the ground water.

SECTION 204.5 – REGULATION

- A. The construction, expansion, or utilization of facilities to handle, store, or dispose of hazardous materials Types 1, 2, 4, 5, 6, 7 and 8 in quantities in excess of 120 gallons, 16 cubic feet, or 1000 pounds at any one time, or 180 gallons, 24 cubic feet, or 1500 pounds per month, shall require a hazardous materials use permit. The construction, expansion, or utilization of facilities to handle,

transport, store, or dispose of Type 3 hazardous materials (radioactive materials) in quantities in excess of one pound shall require a hazardous materials use permit.

- B. No person shall construct, develop, establish, operate, manage, own or maintain an industrial or commercial site which will use, store, or dispose of hazardous material in quantities covered by the ordinance without having first obtained a permit from the Planning Board. A permit or permit renewal shall be issued for a period of one (1) year from the date of issuance, unless sooner suspended or revoked. Each permit or permit renewal shall be issued only for the site designated in the plans accompanying the application and shall not be transferable or assignable except with the written approval of the Planning Board.
- C. There shall be five classes of hazardous materials use, storage, and disposal permits issued by the Planning Board. These permits shall be issued to the respective classes of sites, categorized by the expected use of the site as described below. The five classes of hazardous materials use, storage, or disposal sites may accept or store hazardous materials in quantities covered by this ordinance in accordance with the following:
 - 1. Class I hazardous materials use, storage, or disposal sites may accept, use, process, and dispose of all types of hazardous materials, unless specifically prohibited by the Planning Board.
 - 2. Class II hazardous materials use, storage, or disposal sites may accept all types of materials for storage in tanks but only Types 4, 5, 6 and 7 hazardous materials and waste for storage in lagoons or for disposal unless specifically prohibited by the Planning Board.
 - 3. Class III hazardous materials use, storage, or disposal sites may accept all types of hazardous materials for storage in tanks preparatory to use on site or resale.
 - 4. Class IV hazardous materials use, storage or disposal sites may accept only Types 6 and 7 hazardous materials for storage in lagoons or pits or for disposal unless specifically prohibited by the Planning Board.
 - 5. Class V hazardous materials storage sites may drain hazardous materials, including waste crank case oils, hydraulic fluids, and coolants from automobiles and trucks and store such materials on site within the volume limitation of this ordinance and in accordance with their permit limitations.
 - 6. Where a particular hazardous material or an inseparable mixture of hazardous materials may be categorized into more than one type of hazardous materials that which has the lowest type number will be the basis for determining the class site that must be used for the disposal of this material or mixture of materials.

SECTION 204.6 – ADMINISTRATIVE PROCEDURES

- A. The Planning Board shall receive applications from applicants desirous of being permitted to operate hazardous materials use, storage, or disposal sites. The application must be made upon forms provided by the Planning Board and shall contain plans and specifications required by this ordinance. The application shall also contain such other information as the Planning Board requires which may include affirmative evidence of ability to comply with this ordinance.
- B. Application for the renewal of a permit must be submitted three (3) months prior to the expiration date of the permit.

- C. Each application shall be accompanied by a list of direct and indirect owners, in affidavit form. If the entity is a corporation or association, the list shall include all officers, directors and other persons owning ten percent (10%) or more of the corporate stock.
- D. Applications for hazardous materials use permits shall contain the information required in Section 204.7 of this ordinance.
- E. The Planning Board shall issue permits for hazardous materials use, storage and/or disposal in accordance with the provisions of this ordinance.
- F. The Planning Board may impose such permit conditions as it determines are necessary for the protection of the health, safety, and welfare of the Town of Gray. Such conditions may include, but are not limited to, testing of ground and surface waters, specific limitations on the manner and methods by which hazardous materials are handled, transported, stored or disposed of, and/or such performance bonding as the Board determines to be necessary. No such limitation may be less restrictive than the requirements of this ordinance for Class I and II permits. Variance may be granted for Class III, Class IV and Class V permits providing that such variances do not increase the risks to the health, safety, and welfare of the citizens of Gray and meet the purposes of this ordinance.
- G. The Planning Board shall respond within sixty (60) days to persons submitting an application for a hazardous materials use permit. This response shall state whether or not the information supplied in the application is sufficient for the Board to determine that the health, safety and welfare of the citizens of Gray will be adequately protected. The Planning Board shall respond to each new set of information presented by the applicant within 60 days of its submittal. If the Planning Board determines that the information is sufficient to determine whether or not the proposed use will threaten the health, safety, and welfare of the citizens of Gray, it shall call a public hearing on the proposal within thirty (30) days of formal notice of that determination.
- H. The applicant shall respond to each determination by the Planning Board that the information contained in the application is not sufficient with the required information within forty-five (45) days, or some other period of time as specified by the Planning Board.
- I. The Planning Board shall grant a hazardous materials use permit within forty-five (45) days of public hearing if it determines that the proposed use will not threaten the health, safety, and welfare of the citizens of Gray. If issued, this permit shall contain record keeping requirements and such other conditions as it determines are necessary. If the Planning Board denies a hazardous materials use permit, it shall state the reasons for rejection of the application in its order for denial.
- J. A permit issued hereunder shall be kept posted in a conspicuous place on the permitted facility and must be kept legible and protected from the weather.
- K. The permit shall apply onto the operations and site which is delineated on plans submitted as part of the application. Additional areas or services shall be subject to the approval of the Planning Board in accordance with this ordinance.
- L. Separate permits shall be required for hazardous materials use sites which are located in separate geographical areas even though they are under the same management.
- M. A separate permit may be issued to a distinct part of a site which can be identified as a separate unit.
- N. A permittee shall notify the Planning Board of the impending closure of the site at least thirty (30) days prior to such closure.

- O. Permits shall expire one (1) year from the date of issue, unless sooner suspended or revoked, but may be renewed.

SECTION 204.7 – HAZARDOUS MATERIALS USE, STORAGE OR DISPOSAL SITE PERMIT APPLICATIONS

- A. Class I and Class II Hazardous Materials use Permits – A person shall be entitled to a Class I or Class II hazardous materials use permit if he or she meets the following:
1. The applicant must document his or her right, title and interest to the land on which the hazardous material use, storage, or disposal is to occur and the site must be at least twenty (20) acres in size.
 2. If the site is to be used for hazardous materials disposal, the applicant must have access to at least one piece of earth-moving equipment with a minimum weight of 17,000 pounds.
 3. The applicant must have obtained zoning approval from the Town of Gray for the proposed use and site.
 4. The applicant must have complied with the minimum criteria set forth for the particular class site for which the permit is sought as delineated in this ordinance.
 5. The applicant must have obtained all permits from the Department of Environment Protection which do not require the approval of the Town of Gray for the disposal, storage, or use of hazardous materials.
 6. The applicant must affirm that neither the site nor the owner is, in whole or in part, encumbered in any way whatsoever by any preexisting injunctive court order prohibiting the use of the site for the use, storage or disposal of hazardous materials.
 7. The applicant must have obtained a surety bond in the amount of \$1,000,000.00 guaranteeing the operation on the site in accordance with these rules and regulations, or the applicant must post a sum equal to or greater than \$1,000,000.00 with the Town of Gray, any or all of which may be used by the Town of Gray to correct failures to comply with this ordinance or to pay for actual damages it finds have been caused by the applicants hazardous materials use, storage, or disposal activities. Such surety bonds or cash deposits shall be held by the Town of Gray for a period of forty (40) years after the site is no longer in operation.
 8. The applicant must have submitted an application in accordance with the procedures and requirements set forth in the ordinance.
 9. The applicant must have paid the application fee.
- B. Class III and Class IV Hazardous Materials use Permits
1. A person shall be entitled to a Class III and Class IV hazardous materials use permit if he or she meets the following:
 - a. The applicant must document his or her right, title, and interest to the land on which the hazardous materials use site is to be operated.
 - b. The applicant must have obtained zoning approval from the Town of Gray for the site at which hazardous materials use, storage or disposal will occur.
 - c. The applicant must demonstrate compliance with the minimum criteria set forth for the particular class site for which the permit is sought as delineated in this ordinance.

- d. The applicant must have obtained the necessary permits and/or approval from the Department of Environmental Protection of the State of Maine which do not require the approval of the Town of Gray for the disposal, storage, or use of hazardous materials.
 - e. The applicant must affirm that neither the site nor the owner is, in whole or in part, encumbered in any way whatsoever by any preexisting injunctive court order prohibiting the use of the site for the use, storage or disposal of hazardous materials.
 - f. The applicant must have submitted an application in accordance with the procedures and requirements set forth in this ordinance.
 - g. The applicant must agree to:
 - (i) obtain a surety bond of not more than \$500,000 to guarantee the operation of the site in accordance with this ordinance, or
 - (ii) post a sum of not more than \$500,000 with the Town of Gray, any or all of which may be used by the Town of Gray to correct failures to comply with this ordinance or to pay for damages it finds have been caused by the applicants use, storage, or disposal of hazardous materials.
2. The amount of the bond or the amount of cash to be posted shall be determined by the Planning Board based upon its review of the application and its assessment of the risk associated with the activities for which the hazardous materials use permit is being sought. Such surety bonds or cash deposits shall be held by the Town of Gray throughout the life of the permitted facility, and shall terminate or be relinquished only after the prescribed closure period, from zero (0) to twenty (20) years, as set by the Planning Board, has elapsed.
- C. Class V Hazardous materials Storage Permits A person shall be entitled to a Class V hazardous materials storage permit if he or she meets the following criteria:
- 1. The applicant must demonstrate right, title, or interest to the site at which the proposed hazardous materials storage is to be located.
 - 2. The proposed use must be in accordance with the zoning ordinance of the Town of Gray, and any waivers, variances, special exceptions, and other permits for deviations from this ordinance must be obtained prior to making application for this permit.
 - 3. The applicant must have obtained the necessary permits and/or approvals from the Department of Environmental Protection, the Department of Human Services, or other departments of the State of Maine prior to making application for this permit.
 - 4. The applicant must have submitted an application in accordance with the procedures and requirements of this ordinance.
 - 5. The applicant must never have had a Class V hazardous materials storage permit revoked by the Town of Gray.
 - 6. The applicant must affirm that neither the site nor the owner is, in whole or in part, encumbered in any way by any preexisting injunctive court order prohibiting the use of the site for the storage of hazardous materials.
 - 7. The applicant must have paid all fees required by this ordinance.

- D. Industrial Waste Incinerator Permits – A person shall be entitled to an industrial waste incinerator permit if he or she meets the following criteria:
1. The applicant must document right, title and interest to the land on which the industrial waste incinerator is to be operated.
 2. The applicant must have obtained zoning approval from the Town of Gray for the location of the industrial waste incinerator.
 3. The applicant must have complied with the minimum criteria set forth as delineated in this ordinance.
 4. The applicant must have obtained the necessary permits and/or approval from the Department of Environmental Protection of the State of Maine.
 5. The applicant must affirm that neither the site nor the owner is, in whole or in part, encumbered in any way whatsoever by any preexisting injunctive court order prohibiting the use of the site for the operation of an industrial waste incinerator.
 6. The applicant must have obtained a surety bond in the amount of \$1,000,000.00 guaranteeing the operation on the incinerator site in accordance with this ordinance, or the applicant must post a sum equal to or greater than \$1,000,000.00 with the Town of Gray, any or all of which may be used by the Town of Gray to correct failures to comply with this ordinance or to pay for actual damages it finds have been caused by the applicants hazardous materials use, storage, or disposal activities. Such surety bonds or cash deposits shall be held by the Town of Gray for a period of five years after the site is no longer in operation.
 7. The applicant must have submitted an application in accordance with the procedures and requirements set forth in this ordinance.
 8. The applicant must have paid the application fee.
- E. The following plans and specifications shall be submitted as application supporting information for applications for Class I, II, III, and IV permits. All plans except the initial investigation plan must be stamped by a registered professional engineer (ME. Regis,) a registered land surveyor, a certified geologist, or a registered soil scientist, as is appropriate.
1. Initial Investigation Plan – A copy of the latest geologic survey map available, with the site outlined, should be submitted prior to all other required information. This will allow initial investigations of the area relating to wetlands, aquifers and impacts to shoreland zones before large investigation and development expenditures are made.
 2. Radius Plan – A radius plan including all of the information listed below shall be submitted. The radius plan shall include all areas within a one-half (1/2) mile radius out from all perimeter property lines of the site and shall locate and delineate the following:
 - a. Zoning of the areas
 - b. All building and dwellings
 - c. All water supplies (wells, etc.)
 - d. All surface water courses and other wetlands
 - e. All roads

- f. All boring locations
 - g. Site property lines
 - h. North arrow
 - i. Extent of 100 year flood plain
 - j. Monitoring well locations
3. Site Plan – A site plan including all of the information listed below for all areas within the site shall be submitted.
- a. All boring locations
 - b. All buildings
 - c. All water supply wells
 - d. All surface water courses and wetlands
 - e. All roads
 - f. Site property lines
 - g. Powerlines, pipe lines, rights of way and other utilities
 - h. All fences
 - i. North arrow
 - j. All disposal trenches (if any)
 - k. Ground contours at two foot intervals
 - l. All monitoring well locations
4. Hydrological Survey Plan – A hydrological study shall be made for each site. A plan including all of the information listed below shall be submitted.
- a. Ground water contours
 - b. Boring locations
 - c. Monitoring well locations
 - d. Top of monitoring well pipe elevation
 - e. Soil profiles including ground water location and impervious formations
 - f. Boring logs from borings and monitoring wells
5. Cross Section Plan – A minimum of two cross section plans, drawn at right angles, including all of the information listed below shall be submitted for Class I and II Permits, for Industrial Waste Incinerator Permits, and at the option of the Planning Board, for Class III and Class IV Permits.
- a. All disposal locations
 - b. Bedrock location
 - c. Ground water elevation
 - d. Soil profiles

- e. Location of liner (if any)
 - f. Design of liner system
 - g. Under-drain monitoring system (if any)
 - h. Trenches (if any)
6. Operating Plan – An operating plan including all of the information listed below shall be submitted.
- a. Proposed operations
 - b. Fire control and prevention provisions
 - c. Operating hours
 - d. Types of hazardous materials to be used, stored, or disposed
 - e. Personnel and duties
 - f. Projected use of completed site if used for disposal
 - g. Odor control program
 - h. Equipment to be on site during operation
 - i. Communication equipment available
 - j. Estimated life of site
 - k. Aesthetic considerations
 - l. Salvaging operations
 - m. Leachate treatment operations (if any)
 - n. Surface drainage control method
- F. The following plans and specifications shall be submitted as application supporting information for Class V Permits.
1. Radius Plan – A radius plan including all of the information listed below shall be submitted. The radius plan for an automobile service garage shall include all areas two hundred (200) feet in all directions for all perimeter property lines of the site. The radius plan for all automobile graveyards shall include all areas one thousand (1000) feet from the perimeter property lines of the site. Both radius plans shall locate and delineate the following:
- a. Zoning of the areas
 - b. All buildings and dwellings
 - c. All water supplies including public and private wells
 - d. All surface water courses and other wetlands
 - e. Site property lines
 - f. North arrow
 - g. Extent of the 100 year flood plain

2. Site Plan – A site plan including all information listed below for all areas within the site shall be submitted.
 - a. All buildings
 - b. All water supply wells
 - c. Site property lines
 - d. Roads
 - e. Tank locations and access points
 3. Operating Plan – An operating plan including all of the information listed below shall be submitted.
 - a. Proposed operation
 - b. Proposed removal schedule for hazardous materials stored on site
- G. The following plans and specifications shall be submitted as application supporting information for Class I Industrial Waste Incinerator Permits. All plans must be stamped by a registered professional engineer. (ME. Regis.).
1. Initial Investigation Plan – A copy of the latest geologic survey may available, with the incinerator site outlined, should be submitted prior to all other required information. This will allow initial investigations of the area relating to wetlands, aquifers and impacts to shoreland zones before large investigation and development expenditures are made.
 2. Radius Plan – A radius plan including all of the information listed below shall be submitted. The radius plan shall include all areas within a one-half (1/2) mile radius out from all perimeter property lines of the industrial waste incinerator site and shall locate and delineate the following:
 - a. Zoning of the areas
 - b. All buildings and dwellings
 - c. All water supplies (wells, etc.)
 - d. All surface water courses and other wetlands
 - e. All roads
 - f. All boring locations (if any)
 - g. Site property lines
 - h. North arrow
 3. Site Plan – A site plan including all of the information listed below for all areas within the site shall be submitted.
 - a. All boring locations (if any)
 - b. All buildings
 - c. All water supplies wells
 - d. All surface water courses and wetlands
 - e. All roads

- f. Site property lines
 - g. Power lines, pipe lines, rights of way and other utilities
 - h. All fences
 - i. North arrow
 - j. On site residue disposal and storage areas (if any)
 - k. Site drainage facilities
4. Construction and Engineering Plans – A complete set of construction and engineering plans and specifications relating to the incinerator and all associated buildings, equipment, and hazardous materials storage must be submitted.
 5. Operating Plan – An operating plan must be submitted including all of the information listed below.
 - a. Operating hours
 - b. Operating and design capacities
 - c. Personnel and duties
 - d. Odor control
 - e. Substitute disposal arrangements
 - f. Communication equipment
 - g. Provisions for limited access
 - h. Aesthetic considerations
 - i. Residue disposal arrangements
 - j. Fire control and prevention provisions
 - k. Routine overhaul and maintenance schedules
 - l. Industrial waste handling procedures
 - m. Water and waste water treatment and disposal
 - n. On site traffic control
 - o. Storage procedures
 - p. Industrial waste container disposal procedures

SECTION 204.8 – HAZARDOUS MATERIALS USE, STORAGE, OR DISPOSAL SITE DESIGN STANDARDS

- A. Class I sites shall be located, designed, constructed and maintained in accordance with the following:
 1. The containment vessel must be lined on all surfaces except the top surface with material that is equivalent to a five foot layer of soil with a permeability of 1.0×10^{-8} centimeters per second.
 2. The liner material may not be reactive with the hazardous material (s) to be placed in any storage or disposal site.
 3. Deposited material shall not have top surfaces directly exposed to the atmosphere.

4. The liner must be covered by at least four feet of suitable fill material that will minimize frost effects on the liner, or a registered professional engineer (ME. Regis.) must certify that any tanks used will not be subject to the effects of frost.
 5. Industrial waste shall not be disposed of within 2,500 feet of any dwelling or private drinking water supply well. Industrial waste shall not be disposed or stored in any watershed of an existing or planned public drinking water supply well.
 6. Sites shall not be located within any 100 year flood plain.
 7. All areas, including a 200 foot buffer zone, of the site shall be enclosed with a chain link fence six (6) feet in height.
 8. The site shall not be located within 1,000 feet of a surface body of water within its watershed.
- B. Class II sites shall be located, designed, constructed and maintained in accordance with the following:
1. The containment vessel must be lined on all surfaces except the top surface with material that is equivalent to a ten foot layer of soil with a permeability of 1.0×10^{-7} centimeters per second.
 2. The liner materials may not be reactive with the deposited hazardous materials.
 3. Deposited materials shall not have top surfaces directly exposed to the atmosphere.
 4. The liner must be covered by at least four feet of suitable fill materials that will minimize frost effects on the liner or a registered professional engineer (ME. Regis.) must certify that any tanks employed to store hazardous materials will not be subject to the effects of frost.
 5. Hazardous materials shall not be disposed of within 2,500 feet of any dwelling or private drinking water supply well. Hazardous materials shall not be disposed or stored on any watershed used as a surface public drinking water supply or any area likely to drain to a public drinking water supply.
 6. The site shall not be located within any 100 year flood plain.
 7. All areas, including a 200 foot buffer zone, of the site shall be enclosed with a chain link fence six feet in height.
 8. The site shall not be located within 1,000 feet of any residence.
- C. Class III hazardous materials use or storage sites shall be located, designed, constructed, and maintained in accordance with the following:
1. The material separating the deposited or stored material and the highest level of the ground water table must be equivalent to a five foot layer of soil with a permeability of 1.0×10^{-5} centimeters per second.
 2. The liner material may not be reactive with the stored or used hazardous materials.
 3. Hazardous materials stored on site shall not have its top surface directly exposed to the atmosphere.
 4. The storage area liner and the storage tanks must be certified by a registered professional engineer (ME. Regis.) to be designed in such a fashion that frost, normal wear, and foreseeable accidents will not adversely affect their functioning.

5. Hazardous materials covered by this permit shall not be stored or used within 500 feet of any residence, or public or private drinking supply well, and all lands within this area shall be controlled through ownership, easement, or other legal means to assure that such uses are not established within 500 feet during the life of the site. Nor shall they be stored or used in any watershed tributary to a public drinking water supply whether from surface waters or from wells.
 6. The site shall not be within the 100 year flood plain.
- D. Class IV sites shall be located, designed, constructed and maintained in accordance with the following:
1. The material separating the deposited or stored material and the highest level of the ground water table must be equivalent to a five foot layer of soil with a permeability of 1.0×10^{-2} centimeters per second.
 2. Hazardous materials to be disposed of on site shall not be disposed within 1,000 feet of any dwelling or within 500 feet of a private drinking water supply well. Industrial or commercial waste containing hazardous materials shall not be deposited on any watershed used as a surface public drinking water supply or any areas likely to drain to a public drinking water supply well.
 3. Any trenches used for the disposal of hazardous materials in the site must either be enclosed with six (6) foot chain link fencing or covered with grates constructed of chain link fence and supported by frames.
 4. The site shall not be located within 200 feet of any surface body of water.
 5. Hazardous materials stored for subsequent sale, or use on site shall be stored at least 200 feet from the nearest residence and shall be stored in a manner which the Planning Board deems to be protective of the health, welfare, and safety of the citizens of Gray.
 6. The site shall not be within the 100 year flood plain.
- E. Class V sites shall be located, designed, constructed, and maintained in accordance with the following:
1. The Class V hazardous materials storage site shall not be within the 100 year flood plain unless flood protection of the area in which hazardous materials are stored is provided by structures designed by a registered professional engineer (ME. Regis.).
 2. The Class V hazardous materials storage site shall provide not more than one (1) underground tank with 500 gallon capacity to store waste oil drained from automobiles or trucks serviced on site.
 3. Automobile graveyards with Class V hazardous materials storage permits shall use underground storage for hazardous materials drained from unserviceable, discarded, worn-out, or junked motor vehicles, or parts thereof, store or processed on site.
- F. There is only one class (Class I) of industrial waste incinerators. Class I incinerators may burn all types of industrial waste unless specifically prohibited by the Planning Board.

Class I Industrial Waste Incinerators- Class I industrial waste incinerators shall be located, designed, constructed and maintained in accordance with the following:

1. The minimum temperature at the exit of the final combustion chamber shall be retained in the combustion chamber for a minimum of two (2) seconds.
2. The rate of combustion shall not exceed the design limitations.
3. Gaseous and particulate emissions from the incinerator shall conform with the regulations of the Division of Air Quality of the Department of Environmental Protection of the State of Maine.
4. An alternate method of disposal using a class I industrial waste disposal site must be available for use in the event of breakdown.
5. The incinerator shall not be located within 1,000 feet of any private dwelling or private drinking water supply well. No incinerator shall be located on any watershed of a surface public drinking water supply or any area likely to drain to a public drinking water supply well.
6. The incinerator shall not be located within any 100 year flood plain.
7. All areas of the site, including as 200 foot buffer zone, shall be enclosed with a chain link fence six feet in height.
8. The site shall not be located within 1,000 feet of a surface body of water.
9. All industrial waste must be stored within a building or in an area that would meet the design criteria of a Class I industrial waster disposal site.
10. The residue from the incinerator must be disposed of at a Class I hazardous materials use, storage or disposal site, or at such other sites outside of the Town of Gray which meet the requirements of that town and the state in which it is located.
11. All water used to quench the incinerator residue, scrub the flue gas, clean and facility, as well as all drainings from the incinerator and the storage buildings, shall be disposed of in a manner that will not pollute any source of private or public water supply, any of the waters of the state or ground waters.
12. All incinerator facilities shall have a suitable means for extinguishing all types of fires.

SECTION 204.9 – HAZARDOUS MATERIALS USE, STORAGE, OR DISPOSAL SITE OPERATION

A. Class I, II, III, IV and V Hazardous Materials Use, Storage or Disposal Sites shall be operated as follows:

1. Water Contamination – Hazardous materials use, storage or disposal sites shall not be located or operated in a manner so that they will cause or contribute to the pollution of any source of private or public water supply or any surface water or any ground water.
2. Open Burning – Open burning of hazardous materials at hazardous materials use, storage or disposal sites shall be prohibited.
3. Inspection – All land, buildings, facilities and equipment used in the use, storage or disposal of hazardous materials must be available for inspection by the Code Enforcement Officer at any reasonable time.
4. Sampling – All industrial wastes must be available for sampling and testing by the Code Enforcement Officer at any reasonable time.

5. Odors- Suitable measures shall be taken to minimize odors originating at all hazardous materials use, storage or disposal sites. No odors shall be detectable off the site.
6. Safety – Hazardous materials use, storage or disposal sites shall be designed, operated and maintained in such a manner as to protect the health, safety and welfare of the users of the site, personnel associated with the operation of the site, and any other persons or their property who or which might come into contact with the site or with gaseous or liquid materials emanating from the operations of the site.
7. Record Keeping – Records shall be kept by the operator of the hazardous material use, storage or disposal site except Class V sites stating accurately and truthfully the source, quantity, type of hazardous materials, hauler and any other pertinent information for each load of hazardous material accepted for use, storage or disposal. These records shall be submitted monthly or at some other interval specified by the Planning Board to the Code Enforcement Officer and made available during inspections of the site and at other times as requested.
8. Signs – A sign shall be erected and maintained at the entrance to the Type I, II, III and IV hazardous material use, storage or disposal site, clearly legible and visible, which shall contain the following:
 - a. Name of site
 - b. Emergency phone number
 - c. Accepted types of hazardous materials
 - d. Operating hours
9. Fire Protection – All hazardous material use, storage or disposal sites shall arrange in writing for the Gray Fire Department to provide emergency service whenever called, and shall provide such special equipment and training as is necessary to reasonably prepare the Gray Fire Department to respond to emergencies at the site.
10. Labeling – No Class I, II, III, and IV hazardous materials use, storage or disposal site shall accept any hazardous material unless each load has an identifying label accurately describing the contents affixed to each transporting container.
11. Maintenance of Site – For a period specified in the permit and by Section 204.7 A7 and B7 of this ordinance following the last use, storage or disposal of hazardous material at permitted sites, the operator shall retain control of the site and maintain the site in a condition consistent with this ordinance unless the permitted use of a Class III site was for hazardous materials use and storage only. Such maintenance of the site shall be guaranteed by an escrow account established by the individual or firm operating the site through equal annual payments over the first half of the site's life expectancy. The total amount this account shall be determined by the Planning Board and shall be a condition of the permit.
12. Ground Water Separation – No land disposal of hazardous materials, and no lagoon storage of hazardous materials shall be conducted where the deposited material shall be within five feet of the maximum ground water table measured during the wet season as determined by the Planning Board at time of application.

13. Limited Access – Access to and all operations at hazardous materials use, storage or disposal sites where disposal of hazardous materials is occurring shall be limited to those hours between sunrise and one-half hour past sunset and only when authorized operating personnel are on duty.
14. Fire Extinguishers – All mobile equipment used at a hazardous material use, storage or disposal site shall be equipped with dry chemical fire extinguishers.
15. Surface Drainage – Adequate measures shall be taken to prevent surface water runoff from entering the area of hazardous material use, storage or disposal and to prevent the collection of standing water within the hazardous materials use, storage or disposal site.
16. Hazardous Materials Disposal Areas – The depositing, storing or disposing of any hazardous material at a hazardous material disposal site in places not designated for this purpose on the site plan shall be prohibited.
17. Borings- A sufficient number of borings, but not less than six (6) at Class I and II sites and not less than three at Class III and Class IV sites, shall be installed at each site in order to allow for the adequate determination of ground water contours, soil profiles and other data. The boring shall be installed to a depth of twenty (20) feet below the ground water table or to refusal whichever is first. Pipes shall be installed in each boring hole so that ground water level determinations can be made during the wet season as determined by the Planning Board a minimum of twenty-four (24) hours after the boring is installed. After these measurements have been made, the pipes shall be removed and the boring holes shall be filled with suitable material prior to the installation of any liner at the site and/or the acceptance of any hazardous material at the site.
18. Monitoring Wells – The operator of a Class I, II, III, or IV hazardous materials use, storage or disposal site shall install and maintain monitoring wells in locations selected by the Planning Board and shall be of a design approved by the Planning Board. It shall be the responsibility of the operator of the site to arrange for the sampling and analysis of these wells before the acceptance of any hazardous material and on a monthly schedule or other schedule as set by the Planning Board thereafter. Results of these analyses must be submitted to the Code Enforcement Officer monthly or as required by the permit if another sampling schedule is set.
19. Equipment – All operators shall have all equipment necessary for operating the site in accordance with this ordinance. All equipment shall be maintained in such a manner that it shall be fit for the purposes for which it was intended by the manufacturers.
20. Communication – A suitable means of communication (telephone, two-way radio, etc.) shall be available at the site.
21. Manifest – The operator of any site shall not accept any industrial waste unless a manifest is completed for each load of hazardous material.
22. Insurance – The operator of any hazardous materials use, storage or disposal site shall be insured for damages to employees and other persons and their property. The amount of such insurance may be a condition of the permit.
23. Automobile Graveyard Hazardous Materials Storage – Operators of an automobile graveyard shall drain, in so far as is practical, all hazardous materials contained in unserviceable, discarded, worn-out, or junked motor vehicles, or parts, thereof, to tanks provided on site immediately upon bringing such motor vehicles or parts on site.

24. Tank Inspections – All hazardous material storage tanks shall be pressure tested annually, and tanks failing such tests shall be reported immediately to the Code Enforcement Officer, drained or pumped to another permitted storage or disposal facility, and replaced within ten (10) days.

B. Industrial Waste Incinerators shall be operated as follows:

1. Water Contamination – Industrial waste incinerators shall not be located or operated in a manner so that they will cause or contribute to the pollution of any source of private or public water supply or any surface water or any ground water.
2. Open Burning – Open burning at an industrial waste incinerator site shall be prohibited.
3. Inspection – All land, building, facilities and equipment used in the disposal of industrial waste must be available for inspection by the Code Enforcement Officer at any reasonable time.
4. Sampling – All industrial wastes must be available for sampling and testing by the Code Enforcement Officer at any reasonable time.
5. Odors – Suitable measures shall be taken to minimize odors originating at all industrial waste incinerators. No odors shall be detectable off the incinerator site.
6. Safety – Industrial waste incinerators shall be designed, operated and maintained in such a manner as to protect the health, safety, and welfare of the users of the incinerator, personnel associated with the operation of the incinerator, and any other persons or their property who or which might come into contact with the incinerator or with gaseous or liquid materials emanating from the operations of the incinerator.
7. Record Keeping – Records shall be kept by the operator of the industrial waste incinerator stating accurately and truthfully the source, quantity, type of waste, hauler, and any other pertinent information for each load of industrial waste accepted for disposal. These records shall be submitted monthly to the Code Enforcement Officer or at such other intervals as the Planning Board shall require and they shall be made available during inspections of the incinerator and at other times as requested.
8. Signs – A sign shall be erected and maintained at the entrance to the industrial waste incinerator, clearly legible and visible, which shall contain the following:
 - a. Name of incinerator
 - b. Emergency phone number
 - c. Accepted types of waste
 - d. Operating hours
9. Emergency Protection – All industrial waste incinerators shall arrange in writing for the Gray Fire Department, The Gray Rescue Squad, and with such other organizations as are necessary to provide emergency service whenever called, and they shall provide whatever special equipment and training is reasonably necessary to enable these organizations to respond to emergencies or fires at the site. Documentation of this arrangement shall become a part of the emergency plan for the site, and copies of this plan shall be made available to all affected organizations.
10. Labeling – No industrial waste incinerator shall accept any industrial waste unless each load has an identifying label accurately describing the contents affixed to each transporting container.

11. Fire Extinguishers – All mobile equipment used at an industrial waste incinerator shall be equipped with dry chemical fire extinguishers.
12. Surface Drainage – Adequate measures shall be taken to prevent surface water runoff from entering the area of the incinerator and to prevent the collection of standing water within the industrial waste incinerator site.
13. Waste Disposal Areas – The depositing, storing or disposing of any industrial waste at an industrial waste incinerator site in places not designated for this purpose on the site plan shall be prohibited.
14. Equipment – All operators shall have all equipment necessary for operating the industrial waste incinerator in accordance with these rules. All equipment shall be maintained in such a manner that it shall be fit for the purposed for which it was intended by the manufacturer.
15. Communication – A suitable means of communication (telephone, two-way radio, etc.) shall be available at the industrial waste incinerator.
16. Manifest – The operator of any industrial waste incinerator shall not accept any industrial waste unless a manifest is completed for each load of industrial waste.
17. Insurance – The operator of any industrial waste incinerator shall be insured for damages to employees and other persons and for damages to property. The amount of such insurance shall be determined by the Planning Board and shall be a condition of the permit.

SECTION 204.10 – DECISION MAKING CRITERIA

The Planning Board may adopt such a guidelines and regulations regarding the classification, use handling, storage, or disposal of hazardous materials as it may deem necessary to implement the provisions of this ordinance.

SECTION 204.11 – SUSPENSION AND REVOCATION OF PERMIT

- A. The Code Enforcement Officer is authorized to suspend or revoke a permit where he/she finds there has been a failure to comply with this ordinance.
- B. Whenever the Code Enforcement Officer determined that a hazardous materials use, storage or disposal site is not being operated in conformance with any portion of this ordinance, he/she may cause to have issued a notice of violation indicating corrective action necessary to comply with this ordinance. Such notice may include an order to cease the operation of the site where violations of the permit constitute a threat to the public health, safety, and welfare.
- C. The permit holder may appeal the Code Enforcement Officer's suspension or revocation of his/her permit of the Code Enforcement Officer's notice of violation to the Planning Board for Administrative review.

SECTION 204.12 – PRESENT HAZARDOUS MATERIALS USERS

- A. Existing persons to whom this ordinance applies shall submit an application for a hazardous materials use permit within sixty (60) days of the date at which this ordinance is in force in order to receive the protection afforded in Part B & C of this section.

- B. No applicant for a hazardous materials use permit Class I or Class II whose present business or hazardous materials use would require a permit under the conditions of this ordinance shall be held to be in violation of this ordinance until such time as the Planning Board either issues or denies the permit for which application is made. The Planning Board may consider the permit application made by persons to whom this section applies for a period not to exceed six (6) months plus the period of time set by the Planning Board for two extensions (to be granted at the Board's discretion). If the Planning Board does not grant the applicant the permit for which the application is made during the time specified above, the application shall be deemed to have been denied.
- C. No applicant for a hazardous materials use permit Class III, Class IV, or Class V, whose present business or hazardous materials use would require a permit under the conditions of this ordinance, shall be held to be in violation of this ordinance until such time as the Planning Board either issues or denies the permit for which application is made. The Planning Board may deny the permit application where it determines that the applicant has failed to provide an adequate application or where it determines that the applicant has failed to provide such additional information as the Planning Board has requested pursuant to the provisions of this ordinance.

SECTION 204.13 – AVAILABILITY OF RECORDS AND ACCESS FOR INSPECTIONS

- A. The permit holder shall keep such records as are required by the permit and shall make such records available upon the request of the Code Enforcement Officer of the Town of Gray, the Planning Board or designees of the Council during normal business hours.
- B. The permit holder shall make all lands, buildings, facilities, and equipment used in the handling, storage, transportation, or disposal of hazardous materials available to the Code Enforcement Officer, the Planning Board and/or other designees of the Council of the Town of Gray for purposes of inspection at any time.

SECTION 204.14 – CHANGE OF OWNERSHIP, ADMINISTRATION, LOCATION, OR SERVICES

- A. The permit(s) shall immediately become void and shall be returned to the Planning Board upon the sale, lease or change in ownership of the business or other use for which the hazardous materials use permit has been issued.
- B. The Planning Board may extend the expiration date of the permit for such time as is required for processing a new application for a hazardous materials use permit.
- C. The permit shall apply only to those sites, uses and methods specifically delineated in the application; additional services, changes in operation, uses, or methods, or changes in sites shall require a separate permit or a modification of the existing permit at the option of the Planning Board.
- D. The Planning Board shall issue a temporary permit to the purchaser, lessor, or other new operator of an existing, permitted hazardous materials use, storage, transport, or disposal site upon the return of the previous permit and upon the presentation of a bond or cash deposit in the amount required for the previous permit. The conditions of the temporary permit shall be identical to the conditions of the previous permit. The temporary permit shall be for a period of not more than six (6) months, but may be extended at the option of the Planning Board.

SECTION 204.15 – VIOLATIONS AND APPEALS

- A. Persons aggrieved by the conditions of a permit issued by the Planning Board or the denial of a permit by the Planning Board under the terms of this ordinance may, within thirty (30) days of permit issuance or notification of denial, appeal the conditions or denial to the Superior Court of the State of Maine.
- B. Any person found to be in violation of this ordinance shall be subject to a fine of not more than \$1,000 and not less than \$250 for each offense, each day during which a violation occurs shall constitute a separate offense.

SECTION 204.16 – PERMIT APPLICATION FEES AND ANNUAL PERMIT FEES

Section 204.16.A is hereby amended by deleting the entire subsection and substituting the following: *Applicants for a Class I, II, III, IV and V permit to operate a hazardous materials use, storage or disposal site shall pay an application fee to the Town of Gray in accordance with the Codified Fee and Fine Schedule. Applicants for Class I, II or Class I Industrial Waste Incinerator Permits shall also establish an escrow account from which the Gray Planning Board may make payments for professional review of an advice on the applications. The amount of this escrow account shall be determined by the Codified Fee and Fine Schedule for the Town of Gray.*

Section 204.16.B is hereby amended by deleting the entire subsection and substituting the following: *The annual permit fees shall be determined by the Codified Fee and Fine Schedule for the Town of Gray.*